
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 754 Session of
2001

INTRODUCED BY DALLY, MUNDY, ARGALL, WOJNAROSKI, LEDERER,
DeWEESE, B. SMITH, READSHAW, ROEBUCK, JOSEPHS, BARD, WALKO,
GORDNER, MICOZZIE, LEVDANSKY, CORRIGAN, ROONEY, TIGUE,
CALTAGIRONE, FEESE, RUBLEY, CRUZ, THOMAS, FREEMAN, BASTIAN,
MAJOR, LAUGHLIN, HENNESSEY, SOLOBAY, EACHUS, YOUNGBLOOD,
DAILEY, WANSACZ, HERSHEY, HORSEY, WILT, ROSS, CIVERA, GEORGE,
BELARDI, SEMMEL, STEELMAN, SAYLOR, ORIE, R. MILLER, BEBKO-
JONES, SCRIMENTI, MELIO, GRUCELA, MYERS, SHANER, YUDICHAK,
HARHAI, McCALL, CURRY, PISTELLA, MANDERINO, FRANKEL, BROWNE,
TURZAI AND FLEAGLE, FEBRUARY 14, 2001

SENATOR M. WHITE, ENVIRONMENTAL RESOURCES AND ENERGY, IN SENATE,
AS AMENDED, MARCH 19, 2002

AN ACT

1 Amending the act of December 19, 1996 (P.L.1478, No.190),
2 entitled "An act relating to the recycling and reuse of waste
3 tires; providing for the proper disposal of waste tires and
4 the cleanup of stockpiled tires; authorizing investment tax
5 credits for utilizing waste tires; providing remediation
6 grants for the cleanup of tire piles and for pollution
7 prevention programs for small business and households;
8 establishing the Small Business and Household Pollution
9 Prevention Program and management standards for small
10 business hazardous waste; providing for a household hazardous
11 waste program and for grant programs; making appropriations;
12 and making repeals," adding definitions; further providing
13 for disposal of whole waste tires, for the priority
14 enforcement list and for remediation grants; providing for
15 remediation liens, for an authorization program, for
16 documentation and recordkeeping, for revocation of
17 authorization and for collection programs; authorizing civil
18 penalties; and repealing provisions relating to tire
19 recycling investment tax credits.

20 The General Assembly of the Commonwealth of Pennsylvania
21 hereby enacts as follows:

1 Section 1. ~~Section~~ THE DEFINITION OF "WASTE TIRE" IN SECTION <—
2 104 of the act of December 19, 1996 (P.L.1478, No.190),
3 entitled, "An act relating to the recycling and reuse of waste
4 tires; providing for the proper disposal of waste tires and the
5 cleanup of stockpiled tires; authorizing investment tax credits
6 for utilizing waste tires; providing remediation grants for the
7 cleanup of tire piles and for pollution prevention programs for
8 small business and households; establishing the Small Business
9 and Household Pollution Prevention Program and management
10 standards for small business hazardous waste; providing for a
11 household hazardous waste program and for grant programs; making
12 appropriations; and making repeals," is amended ~~by adding a~~ <—
13 ~~definition~~ AND THE SECTION IS AMENDED BY ADDING DEFINITIONS to <—
14 read:

15 Section 104. Definitions.

16 The following words and phrases when used in this chapter
17 shall have the meanings given to them in this section unless the
18 context clearly indicates otherwise:

19 * * *

20 "ENERGY RECOVERY." THE USE OF WHOLE OR PROCESSED WASTE TIRES <—
21 TO SUPPLEMENT THE COMBUSTION OF FOSSIL FUELS OR THE COMBUSTION
22 OF WHOLE OR PROCESSED WASTE TIRES IN A RESOURCE RECOVERY
23 FACILITY.

24 * * *

25 "WASTE TIRE." A TIRE THAT WILL NO LONGER BE USED FOR THE
26 PURPOSE FOR WHICH IT WAS ORIGINALLY INTENDED. THE TERM INCLUDES
27 A TIRE THAT HAS BEEN DISCARDED.

28 "Waste tire hauler." Any person that transports whole used
29 or waste tires in this Commonwealth for business-related
30 purposes. The Secretary of Environmental Protection shall <—

1 ~~promulgate regulations that establish a standard for determining~~
2 ~~the registration of an individual or business that transports~~
3 ~~whole used or waste tires.~~ This term does not include persons
4 who haul their own waste tires in the course of routine tire
5 replacement.

6 Section 2. Section 106(a) of the act is amended to read:

7 Section 106. Disposal of whole waste tires.

8 (a) Landfill disposal prohibited.--No person shall knowingly
9 mix any whole used or waste tires with solid waste for disposal
10 IN A LANDFILL. Owners or operators of landfills shall not accept <—
11 whole used or waste tires for disposal. Nothing in this section
12 shall be construed:

13 (1) to prohibit the disposal at landfills of occasional
14 whole used or waste tires unknowingly and inadvertently mixed
15 with solid waste[.]; or

16 (2) to preclude the department from such disposal if it
17 determines that such disposal is necessary.

18 * * *

19 Section 3. The act is amended by adding sections to read:

20 Section 106.1. Registration AUTHORIZATION program. <—

21 (a) Duty of department.--The department shall establish an
22 authorization program for waste tire haulers.

23 (b) Authorization number to be issued.--The department shall
24 issue an authorization number for each waste tire hauler.

25 (c) Renewal required.--Authorization expiration and renewal
26 shall be determined by the department.

27 (d) Authorization fee.--Each waste tire hauler shall pay an
28 annual authorization fee of \$50. ALL FEES RECEIVED BY THE <—
29 DEPARTMENT PURSUANT TO THIS SUBSECTION SHALL BE DEPOSITED INTO
30 THE USED TIRE PILE REMEDIATION RESTRICTED ACCOUNT ESTABLISHED IN

1 SECTION 110, AND SHALL BE USED BY THE DEPARTMENT FOR THE
2 IMPLEMENTATION AND MANAGEMENT OF THE AUTHORIZATION PROGRAM. THE
3 DEPARTMENT SHALL EVALUATE AND MODIFY THE AUTHORIZATION FEE IN AN
4 AMOUNT TO COVER THE ACTUAL COSTS OF THE DEPARTMENT IN
5 IMPLEMENTING AND MANAGING THE AUTHORIZATION PROGRAM. THE
6 DEPARTMENT SHALL PUBLISH ANY SUCH MODIFICATION AS A NOTICE IN
7 THE PENNSYLVANIA BULLETIN.

8 (e) Authorization required.--It shall be unlawful for a
9 waste tire hauler to transport waste tires without obtaining
10 authorization from the department under this section.

11 (f) Nontransferability.--An authorization for a waste tire
12 hauler shall not be transferable.

13 (G) POWERS AND DUTIES OF ENVIRONMENTAL QUALITY BOARD.--THE <—
14 ENVIRONMENTAL QUALITY BOARD SHALL HAVE THE POWER AND DUTY TO
15 ADOPT THE REGULATIONS OF THE DEPARTMENT TO ACCOMPLISH THE
16 PURPOSES AND TO CARRY OUT THE PROVISIONS OF THIS ACT.

17 Section 106.2. Documentation and recordkeeping.

18 (a) Duty of waste tire haulers.--Each waste tire hauler
19 shall maintain records of waste tires transported. The record
20 shall be on a form approved by the department.

21 (b) Nature of records to be maintained.--Recordkeeping
22 requirements shall be determined by the department and shall
23 include at least the following:

24 (1) The number of waste tires transported.

25 (2) The waste tire hauler authorization number.

26 (3) THE LOCATION WHERE THE WASTE TIRES WERE DISPOSED OF <—
27 OR TRANSPORTED TO.

28 (c) Records retention.--All records shall be retained by the
29 waste tire hauler for a period of five years. The records shall
30 be made available to the department upon request.

1 Section 106.3. Waste tire registry.

2 (a) Establishment.--The department shall establish and
3 maintain a registry of authorized waste tire haulers in this
4 Commonwealth. The registry shall include the information
5 required for issuance of an authorization under this section and
6 any other relevant information as the department deems necessary
7 and appropriate. The information in the registry shall be a
8 matter of public record and shall be made readily available to
9 the public.

10 (b) Toll-free number.--The department shall establish and
11 maintain a toll-free number which any person in this
12 Commonwealth may call to request information contained in the
13 registry established under subsection (a). Any person suspecting
14 a violation of this act may also call this toll-free number to
15 report a suspected violation to the department.

16 (C) DUTY TO USE AUTHORIZED HAULER.--NO PERSON MAY ACCEPT <—
17 WHOLE USED OR WASTE TIRES FROM A WASTE TIRE HAULER THAT DOES NOT
18 HAVE A VALID AUTHORIZATION AS PROVIDED UNDER THIS ACT. FAILURE
19 TO COMPLY WITH THIS PROVISION SHALL RESULT IN A CIVIL PENALTY
20 ASSESSMENT AS PROVIDED UNDER SECTION 108.1.

21 Section 106.4. Revocation.

22 The department may suspend, revoke or deny any authorization
23 issued under this act for a specified length of time to be
24 determined by the department for:

25 (1) Failure to maintain a complete and accurate record
26 of waste tires transported.

27 (2) Alteration of recordkeeping documents.

28 (3) Failure to comply with any rule or regulation
29 established by the department under this act or the act of
30 July 7, 1980 (P.L.380, No.97), known as the Solid Waste

1 Management Act.

2 Section 4. Section 107 of the act is amended to read:

3 Section 107. Priority enforcement list.

4 (a) Development of list of waste tire sites.--Within 90 days
5 of the effective date of this act, the department shall identify
6 and develop a Statewide list of waste tire sites with more than
7 10,000 waste tires known or estimated to be stockpiled. The
8 department shall rank the waste tire sites according to their
9 potential for creating environmental health and safety hazards
10 and designate these sites as priority sites to those facilities
11 requesting tax investment credits under section 109.

12 (b) Maintenance of updated list.--The department shall
13 review and update the priority enforcement list every two years.

14 (c) Municipal notification.--For the purposes of section
15 112, the department shall notify in writing the counties and
16 municipalities of the waste tire sites selected to be listed on
17 the priority enforcement list that are located within their
18 borders.

19 (d) Additional waste tire sites to be listed.--Within one
20 year from the effective date of this subsection, each
21 municipality shall report to the department the existence and
22 location of waste tire sites within its jurisdiction that
23 contain more than 1,500 but less than 10,000 waste tires known
24 or estimated to be stockpiled. Upon receipt of this information,
25 the department shall develop and maintain a Statewide list of
26 waste tire sites containing the amount of waste tires specified
27 in this subsection.

28 Section 5. Section 108 heading of the act is amended to
29 read:

30 Section 108. [Penalties] Criminal penalties.

1 * * *

2 Section 6. The act is amended by adding a section to read:

3 Section 108.1. Civil penalties.

4 (a) Authority to issue.--

5 (1) In addition to proceeding under any other remedy
6 available at law or in equity for a violation of any
7 provision of this act, any rule or regulation of the
8 department or order of the department or any term or
9 condition of any permit issued by the department, the
10 department may assess a civil penalty upon a person for such
11 violation. Such a penalty may be assessed whether or not the
12 violation was willful or negligent.

13 (2) In determining the amount of the penalty, the
14 department shall consider the willfulness of the violation,
15 damage to air, water, land or other natural resources of the
16 Commonwealth or their uses, cost of restoration and
17 abatement, savings resulting to the person in consequence of
18 such violation, and other relevant factors.

19 (b) Notice and appeal.--

20 (1) When the department assesses a civil penalty, it
21 shall inform the person or municipality of the proposed
22 amount of said penalty.

23 (2) The person charged with the penalty shall then have
24 30 days to pay the penalty in full or, if the person wishes
25 to contest either the amount of the penalty or the fact of
26 the violation, the person shall within such 30 day period
27 file an appeal of such action with the Environmental Hearing
28 Board.

29 (3) Failure to appeal within 30 days shall result in a
30 waiver of all legal rights to contest the violation or the

1 amount of the penalty.

2 (c) Amount.--The maximum civil penalty which may be assessed
3 pursuant to this section is \$25,000 per offense. Each violation
4 for each separate day and each violation of any provision of
5 this act, any rule or regulation under this act, any order of
6 the department, or any term or condition of a permit shall
7 constitute a separate and distinct offense under this section.

8 (D) DEPOSIT OF PENALTIES COLLECTED.--ALL PENALTIES COLLECTED <—
9 UNDER THIS SECTION AND SECTION 108 SHALL BE DEPOSITED INTO THE
10 USED TIRE PILE REMEDIATION RESTRICTED ACCOUNT ESTABLISHED IN
11 SECTION 106.1(D).

12 Section 7. ~~Section 109 of the act is~~ SECTIONS 109 AND 110(C) <—
13 OF THE ACT ARE repealed.

14 Section 8. Section 111(e) of the act is amended to read:
15 Section 111. Remediation grants.

16 * * *

17 (e) Limitation.--

18 (1) Grants under this section shall not be used for the
19 purchase of equipment.

20 (2) No grant recipient may dispose of whole used or
21 waste tires in landfills if the whole used or waste tires are
22 acceptable for recycling, reuse or energy recovery.

23 (3) Grant recipients shall make the whole used or waste
24 tires or processed tires available to an appropriate facility
25 for reuse, recycling or energy recovery, INCLUDING RESOURCE <—
26 RECOVERY.

27 * * *

28 Section 9. The act is amended by adding a section to read:
29 Section 111.1. Remediation liens.

30 (a) Effect of remediation activity.--The amount of a grant

issued under section 111 for remediation that is attributable to or expended on a specific site where the grant recipient conducts remediation activity and the benefits accruing to the land on which the site is located shall be chargeable against the land and shall mitigate or offset any claim in or any action brought by any owner of any interest in the land for any damages by virtue of the remediation activity. This subsection shall not be construed to establish a new right of action or eliminate any existing immunity.

(b) Statement to be filed with prothonotary.--Within six months after the completion of remediation activity by a grant recipient on a site, the department shall itemize the amount of grant moneys expended on remediation of the site and may file a statement thereof in the office of the prothonotary of the county in which the land is situated. The department shall affix to the statement a notarized appraisal by an independent appraiser of the value of the land before and after the remediation, if the moneys so expended shall result in a significant increase in property value. The statement shall constitute a lien upon the land as of the date of the expenditure of the moneys and shall have priority as a lien second only to the lien of real estate taxes imposed on the land.

(c) Amount of lien.--The amount of the lien shall not exceed the amount determined by the appraisal to be the increase in the market value of the land as a result of the remediation immediately after the grant recipient has completed its work and the lien shall extend only to that portion of the land directly involved in the remediation activity.

(d) Rights of landowner.--The landowner may proceed as

1 provided in the act of June 22, 1964 (Sp.Sess., P.L.84, No.6),
2 known as the Eminent Domain Code, to petition for a board of
3 view within 60 days of the filing of the lien to determine the
4 increase in the market value of that portion of the land
5 directly involved in the remediation activity. The amount
6 reported by the board of viewers to be the increase in value of
7 the land shall constitute the amount of the lien and shall be
8 recorded with the statement required by subsection (b).

9 (e) Right of appeal.--Any party aggrieved by the decision of
10 the board of viewers may appeal as provided in the Eminent
11 Domain Code.

12 (f) Entry and enforcement of lien.--The lien authorized by
13 this section shall be entered in the judgment index and shall be
14 given the effect of a judgment against the land. The lien shall
15 be enforced by the direct issuance of a writ of execution
16 without prosecution to judgment of a writ of scire facias in the
17 manner provided by law for enforcement, collection and
18 enforcement of Commonwealth liens.

19 (g) Construction.--Entry by a grant recipient upon lands for
20 the purpose of remediation under this act shall not be construed
21 as an act of condemnation of property or of trespass thereon.

22 Section 10. Section 113 of the act is amended to read:

23 Section 113. Commonwealth recycling and use of waste tires.

24 ~~(a) Use of waste tires by Commonwealth agencies. Within two~~ <—
25 ~~years after the effective date of this act, the Department of~~
26 ~~Conservation and Natural Resources, the Department of~~
27 ~~Corrections, the Department of Education, the Department of~~
28 ~~Environmental Protection [and], the Department of~~
29 ~~Transportation, the State System of Higher Education and the~~
30 ~~State related universities shall, to the maximum extent~~

~~practicable and feasible, give due consideration to the use of waste tires in all appropriate construction and engineering activities which are paid with public funds.~~

~~(b) Reports. Within three years after the effective date of this act, the Department of Conservation and Natural Resources, the Department of Corrections, the Department of Education, the Department of Environmental Protection [and], the Department of Transportation, the State System of Higher Education and the State related universities shall submit a report to the Environmental Resources and Energy Committee of the Senate and the Environmental Resources and Energy Committee of the House of Representatives concerning the implementation of this section. The report shall include a description of what actions the agencies have taken in the previous two years to implement this section.~~

(A) USE OF WASTE TIRES BY COMMONWEALTH AGENCIES.--WITHIN TWO YEARS AFTER THE EFFECTIVE DATE OF THIS [ACT] AMENDMENT, THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES, THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND THE DEPARTMENT OF TRANSPORTATION SHALL, TO THE MAXIMUM EXTENT PRACTICABLE AND FEASIBLE, GIVE DUE CONSIDERATION TO THE USE OF WASTE TIRES IN ALL APPROPRIATE CONSTRUCTION AND ENGINEERING ACTIVITIES WHICH ARE PAID WITH PUBLIC FUNDS.

(B) REPORTS.--WITHIN [THREE] TWO YEARS AFTER THE EFFECTIVE DATE OF THIS [ACT, THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES, THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND THE DEPARTMENT OF TRANSPORTATION] AMENDMENT, THE DEPARTMENT OF GENERAL SERVICES SHALL SUBMIT A REPORT TO THE ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE OF THE SENATE AND THE ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE OF THE HOUSE OF

1 REPRESENTATIVES CONCERNING THE IMPLEMENTATION OF THIS SECTION.
2 THE REPORT SHALL INCLUDE A DESCRIPTION OF WHAT ACTIONS THE
3 AGENCIES HAVE TAKEN IN THE PREVIOUS TWO YEARS TO IMPLEMENT THIS
4 SECTION.

5 Section 11. The act is amended by adding sections to read:

6 Section 114. Waste tire collection programs.

7 (a) General rule.--~~A person~~ AN INDIVIDUAL, local government, <—
8 business, corporation or other organization shall operate waste
9 tire collection programs only in accordance with requirements
10 established by the department.

11 (b) ~~Registration and department~~ DEPARTMENT approval.--No <—
12 person, local government, business, corporation or other
13 organization shall establish a program for the collection of
14 whole used or waste tires without approval from the department.

15 (c) Qualifications.--No ~~person~~ INDIVIDUAL, local government, <—
16 business, corporation or other organization may be selected to
17 operate a waste tire collection program unless the ability to
18 properly collect, transport and process waste tires is
19 demonstrated to the satisfaction of the department.

20 (d) Program recordkeeping.--Each approved program shall
21 maintain records regarding the collection, transportation and
22 processing of whole used or waste tires. Recordkeeping
23 requirements shall be determined by the department and shall
24 include at least the following:

25 (1) The number of whole used or waste tires collected.

26 (2) The number of tires transported.

27 (3) The waste tire hauler authorization number.

28 (e) Availability of records.--All records shall be made
29 available to the department upon request.

30 Section 115. Grants for waste tire collection programs.

1 (a) General rule.--The department may provide grants to
2 ~~persons~~ INDIVIDUALS, local governments, businesses, corporations <—
3 or other organizations for reimbursement of eligible costs for
4 waste tire collection programs approved by the department.

5 (b) Grant disbursement.--The department shall establish a
6 grant ceiling for each proposed collection program based on the
7 number of tires to be collected and the estimated processing
8 costs.

9 (c) Restrictions.--Grants awarded under this section shall
10 be subject to the following:

11 (1) Grant recipients shall apply the funds received from
12 the department only to those purposes and activities
13 authorized by the department or otherwise approved by the
14 department.

15 (2) The department may not award the grants to any
16 ~~person~~ INDIVIDUAL, local government, business, corporation or <—
17 other organization that has contributed in any manner to the
18 creation of a waste tire pile.

19 (3) Any additional restrictions which the ~~department~~ <—
20 ENVIRONMENTAL QUALITY BOARD, by regulation, may designate so <—
21 long as the restriction is promulgated in regulation.

22 (d) Funding limitation.--Beginning with fiscal year 2001 and
23 continuing through fiscal year 2006, the department may not
24 expend more than \$250,000 each fiscal year from the Recycling
25 Fund created by section 706 of the act of July 28, 1988
26 (P.L.556, No.101), known as the Municipal Waste Planning,
27 Recycling and Waste Reduction Act, for awarding grants under
28 this section.

29 Section 12. This act shall take effect in 60 days.