
By: **Delegates Branch, C. Davis, Kirk, Harrison, Valderrama, Patterson,
Cole, V. Jones, Marriott, Oaks, A. Jones, McHale, and Phillips**

Introduced and read first time: January 28, 2000

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Scrap Tires - Disposal - Penalties**

3 FOR the purpose of prohibiting the disposal of scrap tires in a certain manner;
4 providing certain criminal and civil penalties for persons who violate certain
5 scrap tire procedures; requiring the Attorney General to take certain actions;
6 allowing the Department of the Environment to assess certain penalties and
7 take certain enforcement actions; and generally relating to the disposal of scrap
8 tires.

9 BY repealing and reenacting, without amendments,
10 Article - Environment
11 Section 9-228(a)
12 Annotated Code of Maryland
13 (1996 Replacement Volume and 1999 Supplement)

14 BY repealing
15 Article - Environment
16 Section 9-228(f)
17 Annotated Code of Maryland
18 (1996 Replacement Volume and 1999 Supplement)

19 BY adding to
20 Article - Environment
21 Section 9-228(f) and 9-267.1
22 Annotated Code of Maryland
23 (1996 Replacement Volume and 1999 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article - Environment
26 Section 9-268
27 Annotated Code of Maryland
28 (1996 Replacement Volume and 1999 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - Environment**

4 9-228.

5 (a) In this section, "approved facility" means a facility located in or outside of
6 the State for collecting, recycling, or otherwise processing scrap tires that is approved
7 or licensed by the Department in accordance with regulations adopted by the
8 Department.

9 [(f) (1) Except as provided in paragraph (2) of this subsection, after January
10 1, 1994 scrap tires may not be disposed of in a landfill.

11 (2) The Secretary may waive the requirements of paragraph (1) of this
12 subsection under such terms and conditions and for such periods as the Department
13 considers appropriate if the Department determines that a scrap tire recycling
14 system:

15 (i) Does not exist; or

16 (ii) Has insufficient capacity to accommodate the amount of scrap
17 tires generated in the State.]

18 (F) A PERSON MAY NOT DISPOSE OF OR CAUSE TO BE DISPOSED OF SCRAP
19 TIRES EXCEPT BY DELIVERING THE TIRES TO AN APPROVED FACILITY.

20 9-267.1.

21 (A) (1) A PERSON WHO VIOLATES § 9-228 OF THIS SUBTITLE, OR A
22 REGULATION, ORDER, OR PERMIT ADOPTED OR ISSUED UNDER § 9-228 OF THIS
23 SUBTITLE IS SUBJECT TO THE PENALTIES PROVIDED IN THIS SUBSECTION.

24 (2) A PERSON WHO VIOLATES § 9-228(F) OF THIS SUBTITLE IS GUILTY OF
25 A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING
26 \$1,000, OR IMPRISONMENT NOT EXCEEDING 30 DAYS OR BOTH.

27 (3) A PERSON WHO VIOLATES § 9-228(F) OF THIS SUBTITLE FOR
28 COMMERCIAL GAIN IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT
29 TO A FINE NOT EXCEEDING \$25,000 OR IMPRISONMENT NOT EXCEEDING 5 YEARS OR
30 BOTH.

31 (4) A PERSON WHO VIOLATES § 9-228(B), (H), (I), OR (J) OF THIS SUBTITLE,
32 OR A REGULATION, ORDER, OR PERMIT ADOPTED OR ISSUED UNDER § 9-228(B), (H), OR
33 (J) OF THIS SUBTITLE, IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS
34 SUBJECT TO A FINE NOT EXCEEDING \$10,000.

35 (B) THE DEPARTMENT MAY BRING AN ACTION TO ENJOIN A PERSON WHO
36 VIOLATES ANY PROVISION OF § 9-228 OF THIS SUBTITLE OR A REGULATION, ORDER,

1 OR PERMIT ADOPTED OR ISSUED BY THE DEPARTMENT UNDER § 9-228 OF THIS
2 SUBTITLE.

3 (C) A PERSON WHO VIOLATES § 9-228 OF THIS SUBTITLE OR A
4 REGULATION, ORDER, OR PERMIT ADOPTED OR ISSUED UNDER § 9-228 OF THIS
5 SUBTITLE IS LIABLE FOR A CIVIL PENALTY NOT EXCEEDING \$10,000, TO BE
6 COLLECTED IN A CIVIL ACTION BROUGHT BY THE DEPARTMENT.

7 (D) (1) A PERSON ACCUSED OF A VIOLATION MAY WAIVE AN OPPORTUNITY
8 FOR A HEARING UNDER THIS SUBSECTION IN WRITING.

9 (2) THE DEPARTMENT MAY IMPOSE A PENALTY FOR A VIOLATION § 9-228
10 OF THIS SUBTITLE OR A REGULATION, ORDER, OR PERMIT ADOPTED OR ISSUED
11 UNDER § 9-228 OF THIS SUBTITLE.

12 (3) THE PENALTY IMPOSED ON A PERSON UNDER THIS SUBSECTION
13 SHALL BE:

14 (I) UP TO \$1,000 FOR EACH VIOLATION, BUT NOT EXCEEDING
15 \$50,000 TOTAL; AND

16 (II) ASSESSED WITH CONSIDERATION GIVEN TO:

17 1. THE WILLFULNESS OF THE VIOLATION, THE EXTENT TO
18 WHICH THE EXISTENCE OF THE VIOLATION WAS KNOWN TO BUT UNCORRECTED BY
19 THE VIOLATOR, AND THE EXTENT TO WHICH THE VIOLATOR EXERCISED
20 REASONABLE CARE;

21 2. ANY ACTUAL HARM TO THE ENVIRONMENT OR TO HUMAN
22 HEALTH;

23 3. THE COST OF CLEANUP AND THE COST OF RESTORATION
24 OF NATURAL RESOURCES;

25 4. THE NATURE AND DEGREE OF INJURY TO OR
26 INTERFERENCE WITH GENERAL WELFARE, HEALTH, AND PROPERTY;

27 5. THE EXTENT TO WHICH THE LOCATION OF THE
28 VIOLATION CREATES THE POTENTIAL FOR HARM TO THE ENVIRONMENT OR TO
29 HUMAN HEALTH OR SAFETY;

30 6. THE AVAILABLE ECONOMIC REASONABLENESS OF
31 CONTROLLING, REDUCING, OR ELIMINATING THE VIOLATION; AND

32 7. THE EXTENT TO WHICH THE CURRENT VIOLATION IS
33 PART OF A RECURRENT PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION
34 COMMITTED BY THE VIOLATOR.

1 (4) A PENALTY IMPOSED UNDER THIS SUBSECTION IS PAYABLE TO THIS
2 STATE AND COLLECTIBLE IN ANY MANNER PROVIDED FOR THE COLLECTION OF
3 DEBTS.

4 (5) IF A PERSON WHO IS LIABLE TO PAY A PENALTY IMPOSED UNDER
5 THIS SECTION FAILS TO PAY IT AFTER DEMAND, THE AMOUNT, TOGETHER WITH
6 INTEREST AND ANY COSTS THAT MAY ACCRUE, SHALL BE:

7 (I) A LIEN IN FAVOR OF THIS STATE ON ANY PROPERTY OF THE
8 PERSON; AND

9 (II) RECORDED IN THE OFFICE OF THE CLERK OF THE COURT FOR
10 THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

11 (E) (1) THE ATTORNEY GENERAL SHALL REPRESENT THE STATE IN EVERY
12 CASE ARISING UNDER § 9-228 OF THIS SUBTITLE.

13 (2) THIS SUBSECTION MAY NOT LIMIT OR AFFECT THE POWER OF THE
14 STATE'S ATTORNEY FOR A COUNTY UNDER ARTICLE 10, § 34 OF THE CODE.

15 9-268.

16 Except for violations of Part III of this subtitle and violations enforced under [§
17 9-267] §§ 9-267 AND § 9-267.1 of this subtitle, the provisions of §§ 9-334 through
18 9-342 of Subtitle 3 of this title shall be used and shall apply to enforce violations of:

19 (1) This subtitle;

20 (2) Any regulation adopted under this subtitle; or

21 (3) Any order or permit issued under this subtitle.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2000.