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19 BY adding to

20 21 22 Article - Environment
Section 9-228(g)
Annotated Code of Maryland

2000 Regular Session 0lr1170

| 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 | | | | |
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| Committee Report: Favorable with amendments | | | | |
| House action: Adopted Read second time: February 29, 2000 | | | | |
| CHAPTER | | | | |
| 1 AN ACT concerning | | | | |
| 2 Scrap Tires - Disposal - Penalties | | | | |
| FOR the purpose of prohibiting the disposal of scrap tires except in a certain manner; providing certain criminal and civil penalties for persons who violate certain scrap tire procedures; requiring the Attorney General to take certain actions; allowing the Department of the Environment to assess certain penalties and take certain enforcement actions; and generally relating to the disposal of scrap tires. | | | | |
| 9 BY repealing and reenacting, without amendments, 10 Article - Environment 11 Section 9-228(a) and (f) 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) | | | | |

| 1 2 | (1996 Replacement Volume and 1999 Supplement) (As enacted by Chapter 627 the Acts of the General Assembly of 1997) | | | |
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| | BY adding to Article - Environment Section 9-228(f) and 9-267.1 Annotated Code of Maryland (1996 Replacement Volume and 1999 Supplement) | | | |
| 8 9 10 11 | Section 9-268 Annotated Code of Maryland | | | |
| 13 14 | SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows: | | | |
| 15 | Article - Environment | | | |
| 16 | 9-228. | | | |
| 19 | 7 (a) In this section, "approved facility" means a facility located in or outside of 8 the State for collecting, recycling, or otherwise processing scrap tires that is approved 9 or licensed by the Department in accordance with regulations adopted by the Department. | | | |
| 21 22 | {(f) (1) Except as provided in paragraph (2) of this subsection, after January 1, 1994 scrap tires may not be disposed of in a landfill. | | | |
| 25 | The Secretary may waive the requirements of paragraph (1) of this subsection under such terms and conditions and for such periods as the Department considers appropriate if the Department determines that a scrap tire recycling system: | | | |
| 27 | (i) Does not exist; or | | | |
| 28 29 | (ii) Has insufficient capacity to accommodate the amount of scrap tires generated in the State. | | | |
| | (F) (G) A PERSON MAY NOT DISPOSE OF OR CAUSE TO BE DISPOSED OF SCRAP TIRES EXCEPT THROUGH A LICENSED SCRAP TIRE HAULER OR BY DELIVERING THE TIRES TO AN APPROVED FACILITY. | | | |

- 1 9-267.1.
- 2 (A) (1) A PERSON WHO VIOLATES § 9-228 OF THIS SUBTITLE, OR A
- 3 REGULATION, ORDER, OR PERMIT ADOPTED OR ISSUED UNDER § 9-228 OF THIS
- 4 SUBTITLE IS SUBJECT TO THE PENALTIES PROVIDED IN THIS SUBSECTION.
- 5 (2) A PERSON WHO VIOLATES § 9-228(F) (G) OF THIS SUBTITLE IS GUILTY
- 6 OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING
- 7 \$1,000, OR IMPRISONMENT NOT EXCEEDING 30 DAYS OR BOTH.
- 8 (3) A PERSON WHO VIOLATES § 9-228(F) (G) OF THIS SUBTITLE FOR
- 9 COMMERCIAL MONETARY OR FINANCIAL GAIN IS GUILTY OF A MISDEMEANOR AND
- 10 ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$25,000 OR IMPRISONMENT
- 11 NOT EXCEEDING 5 YEARS OR BOTH.
- 12 (4) A PERSON WHO VIOLATES § 9-228(B), (H), (I), OR (J) (H)(1), (I)(1), OR (J)(1)
- 13 OF THIS SUBTITLE, OR A REGULATION, ORDER, OR PERMIT ADOPTED OR ISSUED
- 14 UNDER § 9-228(B), (H) (H)(1), OR (J) (J)(1) OF THIS SUBTITLE, IS GUILTY OF A
- 15 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$10,000.
- 16 (B) THE DEPARTMENT MAY BRING AN ACTION TO ENJOIN A PERSON WHO
- 17 VIOLATES ANY PROVISION OF § 9-228 OF THIS SUBTITLE OR A REGULATION, ORDER,
- 18 OR PERMIT ADOPTED OR ISSUED BY THE DEPARTMENT UNDER § 9-228 OF THIS
- 19 SUBTITLE.
- 20 (C) A PERSON WHO VIOLATES § 9-228 OF THIS SUBTITLE OR A
- 21 REGULATION, ORDER, OR PERMIT ADOPTED OR ISSUED UNDER § 9-228 OF THIS
- 22 SUBTITLE IS LIABLE FOR A CIVIL PENALTY NOT EXCEEDING \$10,000, TO BE
- 23 COLLECTED IN A CIVIL ACTION BROUGHT BY THE DEPARTMENT. EACH DAY A
- 24 VIOLATION OCCURS IS A SEPARATE VIOLATION UNDER THIS SUBSECTION.
- 25 (D) (1) A PERSON ACCUSED OF A VIOLATION MAY WAIVE AN OPPORTUNITY
- 26 FOR A HEARING UNDER THIS SUBSECTION IN WRITING.
- 27 (2) THE DEPARTMENT MAY IMPOSE A PENALTY FOR A VIOLATION § 9-228
- 28 OF THIS SUBTITLE OR A REGULATION, ORDER, OR PERMIT ADOPTED OR ISSUED
- 29 UNDER § 9-228 OF THIS SUBTITLE.
- 30 (3) THE PENALTY IMPOSED ON A PERSON UNDER THIS SUBSECTION
- 31 SHALL BE:
- 32 (I) UP TO \$1,000 FOR EACH VIOLATION, BUT NOT EXCEEDING
- 33 \$50,000 TOTAL; AND
- 34 (II) ASSESSED WITH CONSIDERATION GIVEN TO:
- 35 1. THE WILLFULNESS OF THE VIOLATION, THE EXTENT TO
- 36 WHICH THE EXISTENCE OF THE VIOLATION WAS KNOWN TO BUT UNCORRECTED BY
- 37 THE VIOLATOR, AND THE EXTENT TO WHICH THE VIOLATOR EXERCISED
- 38 REASONABLE CARE;

HOUSE BILL 307

| 1 2 | 1 2. A 2 HEALTH; | NY ACTUAL HARM TO THE ENVIRONMENT OR TO HUMA |
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| 3 4 | 3 3. T 4 OF NATURAL RESOURCES; | HE COST OF CLEANUP AND THE COST OF RESTORATION |
| 5 6 | 5 4. T 6 INTERFERENCE WITH GENERAL WE | HE NATURE AND DEGREE OF INJURY TO OR LIFARE, HEALTH, AND PROPERTY; |
| | | HE EXTENT TO WHICH THE LOCATION OF THE AL FOR HARM TO THE ENVIRONMENT OR TO |
| | 10 6. T 11 CONTROLLING, REDUCING, OR ELII | HE AVAILABLE ECONOMIC REASONABLENESS OF MINATING THE VIOLATION; AND |
| 13 | | HE EXTENT TO WHICH THE CURRENT VIOLATION IS OF THE SAME OR SIMILAR TYPE OF VIOLATION |
| 16 | * / | OSED UNDER THIS SUBSECTION IS PAYABLE TO THIS MANNER PROVIDED FOR THE COLLECTION OF |
| 19 | | O IS LIABLE TO PAY A PENALTY IMPOSED UNDER TER DEMAND, THE AMOUNT, TOGETHER WITH MAY ACCRUE, SHALL BE: |
| 21 22 | 21 (I) A LIEN IN 22 PERSON; AND | N FAVOR OF THIS STATE ON ANY PROPERTY OF THE |
| | 23 (II) RECORDI 24 THE COUNTY IN WHICH THE PROPE | ED IN THE OFFICE OF THE CLERK OF THE COURT FOR ERTY IS LOCATED. |
| | 25 (E) (1) THE ATTORNEY 26 CASE ARISING UNDER § 9-228 OF TH | GENERAL SHALL REPRESENT THE STATE IN EVERY IIS SUBTITLE. |
| | * / | N MAY NOT LIMIT OR AFFECT THE POWER OF THE Y UNDER ARTICLE 10, § 34 OF THE CODE. |
| 29 | 29 9-268. | |
| 31 | Except for violations of Part III of thi 31 9-267] §§ 9-267 AND § 9-267.1 of this su 32 9-342 of Subtitle 3 of this title shall be use | |
| 33 | 33 (1) This subtitle; | |
| 34 | 34 (2) Any regulation adop | pted under this subtitle; or |
| 35 | 35 (3) Any order or permit | t issued under this subtitle. |
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- SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 2 October 1, 2000.