
By: **Delegates Oaks, Cane, McHale, Cole, Dypski, Gladden, Fulton, D. Davis, Klausmeier, and Phillips**

Introduced and read first time: February 11, 2000

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **State Used Tire Cleanup and Recycling Fund**

3 FOR the purpose of transferring the State Used Tire Cleanup and Recycling Fund to
4 the Maryland Environmental Service from the Department of the Environment;
5 reestablishing a certain tire recycling fee; altering the purposes of the Fund;
6 transferring certain authority concerning uses of the Fund to the Director of the
7 Service; providing for the continuity of certain matters; providing for the
8 application of this Act; and generally relating to scrap tire recycling and
9 disposal.

10 BY transferring

11 Article - Environment
12 Section 9-273 through 9-278 and the part "Part VI. State Used Tire Cleanup
13 and Recycling Fund", respectively
14 Annotated Code of Maryland
15 (1996 Replacement Volume and 1999 Supplement)
16 (As enacted by Chapter 627 of the Acts of the General Assembly of 1997)

17 to be

18 Article - Natural Resources
19 Section 3-133 through 3-138 and the amended part "Part II. State Used Tire
20 Cleanup and Recycling Fund", respectively
21 Annotated Code of Maryland
22 (1997 Replacement Volume and 1999 Supplement)

23 BY repealing and reenacting, with amendments,

24 Article - Environment
25 Section 9-228
26 Annotated Code of Maryland
27 (1996 Replacement Volume and 1999 Supplement)
28 (As enacted by Chapter 627 of the Acts of the General Assembly of 1997)

29 BY repealing and reenacting, with amendments,

1 Article - Natural Resources
 2 Section 3-134 through 3-138
 3 Annotated Code of Maryland
 4 (1997 Replacement Volume and 1999 Supplement)
 5 (As enacted by Section 1 of this Act)

6 BY adding to
 7 Article - Natural Resources
 8 The part designation "Part I. In General" immediately preceding Section 3-101
 9 Annotated Code of Maryland
 10 (1997 Replacement Volume and 1999 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 12 MARYLAND, That Section(s) 9-273 through 9-278, respectively, and the part "Part
 13 VI. State Used Tire Cleanup and Recycling Fund" of Article - Environment of the
 14 Annotated Code of Maryland be transferred to be Section(s) 3-133 through 3-138,
 15 respectively, and the amended part "Part II. State Used Tire Cleanup and Recycling
 16 Fund" of Article - Natural Resources of the Annotated Code of Maryland.

17 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 18 read as follows:

19 **Article - Environment**

20 9-228.

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

25 (b) A person may not store scrap tires in the State unless the person
 26 demonstrates to the satisfaction of the Department that, within 90 days of the time
 27 that the person stores the scrap tires, the scrap tires will be:

- 28 (1) Returned to the marketplace;
- 29 (2) Used as fuel in an approved resource recovery incinerator;
- 30 (3) Used as a tire derived fuel in an approved facility; or
- 31 (4) Transferred, by means of a scrap tire hauler, to any facility within the
 32 scrap tire recycling system established under subsection (c) of this section.

33 (c) (1) The service shall establish a scrap tire recycling system that includes
 34 scrap tire collection facilities, scrap tire haulers, and in the following order of priority:

- 35 (i) Scrap tire recyclers; and

- 1 (ii) 1. An approved resource recovery facility that uses tires as a
2 fuel substitute; or
- 3 2. An approved facility that uses tires as a tire derived fuel.
- 4 (2) A person may not incinerate tires except in:
- 5 (i) An approved resource recovery facility that uses tires as a fuel
6 substitute; or
- 7 (ii) An approved facility that uses tires as a tire derived fuel.
- 8 (3) A facility that processes scrap tires for use as a fuel in an incinerator,
9 boiler, or resource recovery facility or a facility that burns or incinerates scrap tires
10 may not be approved or licensed under this subtitle, unless:
- 11 (i) There is no reasonable and economically available opportunity
12 to process the tires and return them to the marketplace for reuse; and
- 13 (ii) The burning or incineration meets all federal and State air
14 quality standards.
- 15 (d) Scrap tire collection facilities, haulers, or recyclers may be publicly or
16 privately owned and operated.
- 17 (e) (1) After consultation with other State agencies, representatives of the
18 tire industry, and representatives of local government, the service shall place in
19 operation a scrap tire recycling system:
- 20 (i) By January 1, 1993 for any county with a population of 150,000
21 or more according to the most recent projections by the Office of Planning; and
- 22 (ii) By January 1, 1994 for any county with a population of less
23 than 150,000 according to the most recent projections by the Office of Planning.
- 24 (2) The service may establish a scrap tire recycling system required
25 under paragraph (1) of this subsection on a regional basis.
- 26 (3) In establishing the scrap tire recycling system, the service:
- 27 (i) Shall give preference to existing private or public scrap tire
28 collection, processing, or recycling programs or facilities that meet the requirements
29 of this subtitle; and
- 30 (ii) May include in-state facilities licensed by the Department as
31 well as out-of-state facilities approved by the Department.
- 32 (4) Each scrap tire recycling system established under this subsection
33 shall:

1 (i) Meet all zoning and land use requirements of the county or
2 municipal corporation in which the system is to be located; and

3 (ii) Be provided for in the county plan required under § 9-503 of
4 this title.

5 (f) (1) Except as provided in paragraph (2) of this subsection, after January
6 1, 1994 scrap tires may not be disposed of in a landfill.

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

11 (i) Does not exist; or

12 (ii) Has insufficient capacity to accommodate the amount of scrap
13 tires generated in the State.

14 (G) (1) (I) BEGINNING ON JUNE 1, 2000, A TIRE RECYCLING FEE SHALL BE
15 IMPOSED ON THE FIRST SALE OF A NEW TIRE IN THE STATE BY A TIRE DEALER,
16 INCLUDING NEW TIRES SOLD AS PART OF A NEW OR USED VEHICLE, TRAILER, FARM
17 IMPLEMENT, OR OTHER SIMILAR MACHINERY.

18 (II) A COUNTY, MUNICIPAL CORPORATION, OR ANY AGENCY OF A
19 COUNTY OR MUNICIPAL CORPORATION MAY NOT IMPOSE ANY TAX, FEE, OR OTHER
20 CHARGE ON THE FIRST SALE OF A NEW TIRE BY A TIRE DEALER.

21 (2) THE TIRE RECYCLING FEE:

22 (I) MAY NOT EXCEED \$1 PER TIRE; AND

23 (II) SHALL BE ESTABLISHED BY THE BOARD OF PUBLIC WORKS.

24 (3) FOR A SALE MADE BY A TIRE DEALER TO A PERSON WHO RESELLS
25 TIRES, THE TIRE DEALER SHALL SEPARATELY STATE ITS RECYCLING FEES PAID BY
26 THE TIRE DEALER ON THE INVOICE OR OTHER DOCUMENT OF SALE.

27 (4) EACH TIRE DEALER SHALL:

28 (I) PAY THE TIRE RECYCLING FEE; AND

29 (II) COMPLETE AND SUBMIT, UNDER OATH, A RETURN AND REMIT
30 THE FEES TO THE COMPTROLLER OF THE TREASURY ON OR BEFORE THE 21ST DAY
31 OF THE MONTH THAT FOLLOWS THE MONTH IN WHICH THE SALE WAS MADE, AND
32 FOR OTHER PERIODS AND ON OTHER DATES THAT THE COMPTROLLER SPECIFIES BY
33 REGULATION, INCLUDING PERIODS FOR WHICH NO FEES WERE DUE.

34 (5) A TIRE DEALER WHO TIMELY FILES A TIRE RECYCLING FEE RETURN
35 AND PAYS THE TIRE RECYCLING FEES DUE IS ALLOWED, FOR THE EXPENSE OF
36 ADMINISTERING AND PAYING THE FEE, A CREDIT EQUAL TO 1.2% OF THE GROSS

1 AMOUNT OF TIRE RECYCLING FEES THAT THE TIRE DEALER IS TO PAY TO THE
2 COMPTROLLER.

3 (6) IF THE AMOUNT OF THE TIRE RECYCLING FEE IS SEPARATELY
4 STATED IN A RETAIL SALE, THE TIRE RECYCLING FEE IS NOT SUBJECT TO ANY TAX
5 UNDER TITLE 11 OF THE TAX - GENERAL ARTICLE OR TITLE 13 OF THE
6 TRANSPORTATION ARTICLE.

7 (7) AT THE END OF EACH QUARTER, THE COMPTROLLER SHALL
8 FORWARD ALL TIRE RECYCLING FEES TO THE USED TIRE CLEANUP AND RECYCLING
9 FUND UNDER TITLE 3, SUBTITLE 1 OF THE NATURAL RESOURCES ARTICLE, LESS THE
10 COSTS OF ADMINISTRATION.

11 (8) EXCEPT TO THE EXTENT THEY ARE INCONSISTENT WITH THIS
12 SUBSECTION, THE PROVISIONS OF TITLE 13 OF THE TAX - GENERAL ARTICLE
13 APPLICABLE TO THE SALES AND USE TAX SHALL GOVERN THE ADMINISTRATION,
14 COLLECTION, AND ENFORCEMENT OF THE TIRE RECYCLING FEE UNDER THIS
15 SUBSECTION.

16 (9) THE COMPTROLLER:

17 (I) SHALL ADMINISTER THE TIRE RECYCLING FEE; AND

18 (II) MAY ADOPT ANY REGULATIONS THAT ARE NECESSARY OR
19 APPROPRIATE TO ADMINISTER, COLLECT, AND ENFORCE THE TIRE RECYCLING FEE.

20 (h) Beginning on July 1, 1992, each scrap tire hauler shall:

21 (1) Be licensed by the Department to transport scrap tires from scrap
22 tire collection facilities to scrap tire recyclers;

23 (2) Apply for a scrap tire hauler's license on a form provided by the
24 Department; and

25 (3) Transport each load of scrap tires to the scrap tire recyclers in
26 accordance with regulations adopted by the Department.

27 (i) Beginning on July 1, 1992, each scrap tire collection facility shall:

28 (1) If located in the State, be licensed by the Department to receive tires
29 from a consumer or a scrap tire hauler;

30 (2) Apply for a license on a form provided by the Department;

31 (3) Meet all zoning and land use requirements of the county or municipal
32 corporation in which the tire collection facility is to be located;

33 (4) Manage scrap tires in accordance with regulations adopted by the
34 Department;

35 (5) By means of a scrap tire hauler, transfer scrap tires to:

- 1 (i) A scrap tire recycler; or
- 2 (ii) Another scrap tire collection facility; and
- 3 (6) In accordance with regulations adopted by the Department and on
4 forms provided by the Department, provide:
- 5 (i) The Department with:
- 6 1. A record of the destination;
- 7 2. The name of the hauler that is registered with the
8 Department; and
- 9 3. The quantity of each shipment of scrap tires; and
- 10 (ii) Each hauler with:
- 11 1. A record of the destination; and
- 12 2. The quantity of each shipment of scrap tires.
- 13 (j) (1) Beginning on July 1, 1992, a person may not operate as a scrap tire
14 recycler in the State unless the person is licensed by the Department.
- 15 (2) To apply for a license an applicant shall submit:
- 16 (i) An application to the Department on the form that the
17 Department requires; and
- 18 (ii) Any document or other information required in regulations
19 adopted by the Department.
- 20 (k) (1) The [Department] DEPARTMENT, IN CONSULTATION WITH THE
21 MARYLAND ENVIRONMENTAL SERVICE, shall adopt regulations necessary to
22 administer the provisions of this section, including:
- 23 (i) Minimum standards for the operation, maintenance,
24 monitoring, reporting, and suspension of each scrap tire recycling system;
- 25 (ii) Requisite evidence of financial ability to properly establish,
26 operate, and maintain a scrap tire recycling system, including the posting of bonds
27 and other securities; and
- 28 (iii) The forfeiture of bonds and other securities TO THE STATE USED
29 TIRE CLEANUP AND RECYCLING FUND for noncompliance with the requirements of
30 this section or any applicable regulation.
- 31 (2) The Department may require the delivery of scrap tires in this State
32 to 1 or more facilities, in the State or outside of the State, designated by the service as
33 part of the tire recycling system.

1 (3) A scrap tire hauler or scrap tire collection facility may not transport
2 or transfer scrap tires to any place other than a facility designated under paragraph
3 (2) of this subsection.

4 **Article - Natural Resources**

5 3-131. RESERVED.

6 3-132. RESERVED.

7 **Part II. State Used Tire Cleanup and Recycling Fund.**

8 3-134.

9 (a) The State Used Tire Cleanup and Recycling Fund shall consist of moneys
10 made available under:

11 (1) Loan authorizations;

12 (2) Funds appropriated in the State budget; [or]

13 (3) FEES COLLECTED FOR THE SALE OF TIRES BY RETAIL DEALERS
14 UNDER § 9-228(G) OF THE ENVIRONMENT ARTICLE; OR

15 (4) Bond and security forfeitures collected under § 9-228(k) of [this
16 subtitle] THE ENVIRONMENT ARTICLE.

17 (b) (1) The Fund is limited to a maximum of \$15,000,000.

18 (2) IF THE SUM OF UNALLOCATED FUNDS IN THE FUND AND THE
19 PROJECTED FEES FOR THE NEXT FISCAL YEAR EXCEEDS \$15,000,000, THE BOARD OF
20 PUBLIC WORKS SHALL ADJUST THE FEES FOR THE NEXT FISCAL YEAR ON A PRO
21 RATA BASIS SO THAT THE SUM OF UNALLOCATED AND ACTUAL FEES DOES NOT
22 EXCEED \$15,000,000.

23 3-135.

24 (a) Subject to the appropriation process in the annual operating budget, the
25 [Department] SERVICE shall use the State Used Tire Cleanup and Recycling Fund
26 solely:

27 (1) [For] ON OR BEFORE JUNE 30, 2000, FOR removal, restoration,
28 emergency, or remedial action, including the restoration of natural resources where
29 feasible, site maintenance and monitoring, and fire cessation, if requested by a local
30 government, not to exceed \$100,000 for each fire cessation emergency action in that
31 jurisdiction, in response to the disposal or storage of scrap tires in violation of [this
32 subtitle] TITLE 9, SUBTITLE 2 OF THE ENVIRONMENT ARTICLE, including:

33 (i) All costs incurred by the State in inspecting and monitoring any
34 site where scrap tires are processed, stored, or disposed of in violation of [this

1 subtitle] TITLE 9, SUBTITLE 2 OF THE ENVIRONMENT ARTICLE and assessing the
2 threat to the public health and the environment of the site, the costs of investigations
3 conducted for the purpose of defining necessary remedial action, and the costs of
4 litigation expenses incurred in obtaining reimbursement for expenditures; and

5 (ii) All costs incurred in providing public information concerning a
6 site where scrap tires are processed, stored, or disposed of; and

7 (2) With the approval of the Board of Public Works, to provide financial
8 assistance:

9 (i) [Through the service for] FOR projects approved by the
10 [Department] SERVICE to reduce, recover, and recycle scrap tires; and

11 (ii) [To the service for] FOR costs related to the implementation of
12 scrap tire recycling systems, including the costs of:

13 1. Preparation of a scrap tire recycling system under §
14 9-228(e) of [this subtitle] THE ENVIRONMENT ARTICLE;

15 2. Implementation of any program established by the service
16 as a part of a scrap tire recycling system; and

17 3. Assisting in funding the establishment of a private or
18 public scrap tire collection, processing, or recycling facility.

19 (b) Subject to § 2-1246 of the State Government Article, the [Department]
20 SERVICE shall provide the standing committees of the Maryland General Assembly
21 with primary jurisdiction over this section with a status report on the Fund on or
22 before July 1 of each year. The report shall include an accounting of all moneys
23 expended for each of the purposes specified in subsection (a) of this section.

24 3-136.

25 (a) All expenditures from the State Used Tire Cleanup and Recycling Fund
26 made by the [Department] SERVICE under [§ 9-275(a)(1)] § 3-135(A)(1) of this
27 subtitle in response to the storage or disposal of used tires at a particular site shall be
28 reimbursed to the [Department] SERVICE for the State Used Tire Cleanup and
29 Recycling Fund by the owner or operator of the site or any other person who caused
30 the tires to be stored or disposed of at the site in violation of [this subtitle] TITLE 9,
31 SUBTITLE 2 OF THE ENVIRONMENT ARTICLE.

32 (b) In addition to any other legal action authorized by this subtitle, the
33 Attorney General may bring an action to recover costs and interest from any person
34 who fails to make reimbursement as required under subsection (a) of this section.

35 (c) The [Department] SERVICE may recover costs incurred by the
36 [Department] SERVICE under [§ 9-275(a)(1)] § 3-135(A)(1) of this subtitle whether or
37 not the discarded tires were disposed of or stored at the site before July 1, [1989]
38 2000.

1 3-137.

2 (a) With the approval of the Board of Public Works, the [Secretary] DIRECTOR
3 shall adopt regulations that establish application procedures and criteria for the
4 award of financial assistance under [§ 9-275(a)(2)] § 3-135(A)(2) of this subtitle.

5 (b) The criteria shall provide the basis for project priority rankings and shall
6 include, as appropriate:

7 (1) The environmental or public health impacts caused by existing
8 circumstances;

9 (2) Previous efforts expended to correct any existing problem;

10 (3) Financial capacity of the applicant;

11 (4) The problem prevention aspects of a proposed project;

12 (5) Cost effectiveness of a proposed project;

13 (6) Provisions for monitoring and review;

14 (7) The contribution of the proposed project toward meeting State and
15 local solid waste plans and goals; and

16 (8) Measures to assure accountability for all funds awarded under [§
17 9-275(a)(2)] § 3-135(A)(2) of this subtitle.

18 3-138.

19 (a) To the extent not inconsistent with this subtitle, a grant, or loan, or loan
20 guarantee agreement shall contain those conditions that the [Secretary] DIRECTOR
21 requires by regulation and that the Board of Public Works requires on a specific
22 application for financial assistance in order to achieve the goals of this [subtitle]
23 SUBTITLE, AND TITLE 9, SUBTITLE 2 OF THE ENVIRONMENT ARTICLE WITH RESPECT
24 TO SCRAP TIRE RECYCLING AND DISPOSAL, and to otherwise protect the interests of
25 the State.

26 (b) A State loan extended under this subtitle:

27 (1) Shall bear at least the same rate of interest as the most recent State
28 general obligation bond sale preceding the date of approval by the Board of Public
29 Works; and

30 (2) Shall be repaid within 30 years.

31 (c) A loan guarantee of the principal of or interest on any commercial loan or
32 obligation to finance the eligible cost of a project under this subtitle may only be made
33 if:

1 (1) The applicant certifies that the applicant is unable to obtain on
2 reasonable terms sufficient credit to finance its actual needs without the guarantee;
3 and

4 (2) The Board of Public Works determines that there is a reasonable
5 assurance of repayment of the loan obligation.

6 (d) The eligible cost of a project for State financial assistance under [§
7 9-275(a)(2)] § 3-135(A)(2) of this subtitle may include only the costs of plans,
8 specifications, equipment, construction, and rehabilitation or improvement as
9 approved by the [Department] SERVICE.

10 (e) State financial assistance under [§ 9-275(a)(2)] § 3-135(A)(2) of this
11 subtitle may not exceed 50 percent of the eligible costs.

12 SECTION 3. AND BE IT FURTHER ENACTED, That the part designation
13 "Part I. In General" be added to immediately precede Section 3-101 of Article -
14 Natural Resources of the Annotated Code of Maryland.

15 SECTION 4. AND BE IT FURTHER ENACTED, That, except as expressly
16 provided to the contrary in this Act, any transaction affected by or flowing from any
17 statute here amended or repealed, and validly entered into before the effective date of
18 this Act and every right, duty, or interest following from it remains valid after the
19 effective date of this Act and may be terminated, completed, consummated, or
20 enforced by law.

21 SECTION 5. AND BE IT FURTHER ENACTED, That, except as expressly
22 provided to the contrary in this Act, all permits, grants, loans and loan guarantees,
23 applications for permits, grants, loans and loan guarantees, rules and regulations,
24 proposed rules and regulations, standards and guidelines, proposed standards and
25 guidelines, orders and other directives, forms, plans, special funds, appropriations,
26 grants, applications for grants, contracts, properties, investigations, administrative
27 and judicial proceedings, rights to sue and be sued, and all other duties and
28 responsibilities associated with the State Used Tire Cleanup and Recycling Fund
29 transferred by this Act shall continue in effect under the Maryland Environmental
30 Service, until completed, withdrawn, canceled, modified, or otherwise changed by law.

31 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 July 1, 2000.