

SENATE BILL 663

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2000 Regular Session  
0lr1832  
CF 0lr2805

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By: **Senator Della**

Introduced and read first time: February 4, 2000

Assigned to: Economic and Environmental Affairs

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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.