

HOUSE BILL 481

Unofficial Copy
M3

2001 Regular Session
1lr2123

By: **Delegates Branch, V. Jones, Dypski, Harrison, C. Davis, Doory, Marriott,
Oaks, Dobson, Hammen, Krysiak, Gladden, Phillips, Fulton, Montague,
Hubers, Burns, and A. Jones**

Introduced and read first time: February 2, 2001

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 except 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 2000 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article - Environment
16 Section 9-228(f) and 9-268
17 Annotated Code of Maryland
18 (1996 Replacement Volume and 2000 Supplement)

19 BY adding to
20 Article - Environment
21 Section 9-267.1
22 Annotated Code of Maryland
23 (1996 Replacement Volume and 2000 Supplement)

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

Article - Environment

9-228.

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

(f) (1) (I) Except as provided in [paragraph (2) of this subsection] SUBPARAGRAPH (II) OF THIS PARAGRAPH, after January 1, 1994 scrap tires may not be disposed of in a landfill.

[(2)] (II) The Secretary may waive the requirements of [paragraph (1) of this subsection] SUBPARAGRAPH (I) OF THIS PARAGRAPH under such terms and conditions and for such periods as the Department considers appropriate if the Department determines that a scrap tire recycling system:

[(i)] 1. Does not exist; or

[(ii)] 2. Has insufficient capacity to accommodate the amount of scrap tires generated in the State.

(2) A PERSON MAY NOT DISPOSE OF SCRAP TIRES EXCEPT THROUGH A LICENSED SCRAP TIRE HAULER OR BY DELIVERING THE TIRES TO AN APPROVED FACILITY.

9-267.1.

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

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

(3) A PERSON WHO VIOLATES § 9-228(F)(2) OF THIS SUBTITLE FOR MONETARY OR FINANCIAL GAIN IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$25,000 OR IMPRISONMENT NOT EXCEEDING 5 YEARS OR BOTH.

(4) A PERSON WHO VIOLATES § 9-228(B), (H)(1), (I)(1), OR (J)(1) OF THIS SUBTITLE, OR A REGULATION, ORDER, OR PERMIT ADOPTED OR ISSUED UNDER § 9-228(B), (H)(1), (I)(1), OR (J)(1) OF THIS SUBTITLE, IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$10,000.

(B) THE DEPARTMENT MAY BRING AN ACTION TO ENJOIN A PERSON WHO 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 REGULATION,
4 ORDER, OR PERMIT ADOPTED OR ISSUED UNDER § 9-228 OF THIS SUBTITLE IS LIABLE
5 FOR A CIVIL PENALTY NOT EXCEEDING \$10,000, TO BE COLLECTED IN A CIVIL ACTION
6 BROUGHT BY THE DEPARTMENT. EACH DAY A VIOLATION OCCURS IS A SEPARATE
7 VIOLATION UNDER THIS SUBSECTION.

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

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

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

15 (I) UP TO \$1,000 FOR EACH VIOLATION, BUT NOT EXCEEDING
16 \$50,000 TOTAL; AND

17 (II) ASSESSED WITH CONSIDERATION GIVEN TO:

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

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

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

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

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

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

33 7. THE EXTENT TO WHICH THE CURRENT VIOLATION IS
34 PART OF A RECURRENT PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION
35 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 9-342
18 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, 2001.