

By: **Delegate Oaks**

Introduced and read first time: February 25, 2004

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Environment - Scrap Tire Recycling - Fee Termination**

3 FOR the purpose of eliminating a certain fee imposed on the first sale of a new tire in
4 the State by a tire dealer; repealing a prohibition imposed on counties,
5 municipal corporations, or agencies of a county against charging a certain tax,
6 fee, or charge on the first sale of a new tire; making certain conforming changes;
7 and generally relating to the scrap tire recycling fee.

8 BY repealing and reenacting, with amendments,
9 Article - Environment
10 Section 9-228, 9-268.1, and 9-274
11 Annotated Code of Maryland
12 (1996 Replacement Volume and 2003 Supplement)

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

15 **Article - Environment**

16 9-228.

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

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

- 24 (1) Returned to the marketplace;
- 25 (2) Used as fuel in an approved resource recovery incinerator;
- 26 (3) Used as a tire derived fuel in an approved facility; or

1 (4) Transferred, by means of a scrap tire hauler, to any facility within the
2 scrap tire recycling system established under subsection (c) of this section.

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

5 (i) Scrap tire recyclers; and

6 (ii) 1. An approved resource recovery facility that uses tires as a
7 fuel substitute; or

8 2. An approved facility that uses tires as a tire derived fuel.

9 (2) A person may not incinerate tires except in:

10 (i) An approved resource recovery facility that uses tires as a fuel
11 substitute; or

12 (ii) An approved facility that uses tires as a tire derived fuel.

13 (3) A facility that processes scrap tires for use as a fuel in an incinerator,
14 boiler, or resource recovery facility or a facility that burns or incinerates scrap tires
15 may not be approved or licensed under this subtitle, unless:

16 (i) There is no reasonable and economically available opportunity
17 to process the tires and return them to the marketplace for reuse; and

18 (ii) The burning or incineration meets all federal and State air
19 quality standards.

20 (d) Scrap tire collection facilities, haulers, or recyclers may be publicly or
21 privately owned and operated.

22 (e) (1) After consultation with other State agencies, representatives of the
23 tire industry, and representatives of local government, the service shall place in
24 operation a scrap tire recycling system:

25 (i) By January 1, 1993 for any county with a population of 150,000
26 or more according to the most recent projections by the Department of Planning; and

27 (ii) By January 1, 1994 for any county with a population of less
28 than 150,000 according to the most recent projections by the Department of Planning.

29 (2) The service may establish a scrap tire recycling system required
30 under paragraph (1) of this subsection on a regional basis.

31 (3) In establishing the scrap tire recycling system, the service:

32 (i) Shall give preference to existing private or public scrap tire
33 collection, processing, or recycling programs or facilities that meet the requirements
34 of this subtitle; and

1 (ii) May include in-State facilities licensed by the Department as
2 well as out-of-state facilities approved by the Department.

3 (4) Each scrap tire recycling system established under this subsection
4 shall:

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

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

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

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

15 1. Does not exist; or

16 2. Has insufficient capacity to accommodate the amount of
17 scrap tires generated in the State.

18 (2) A person may not dispose of scrap tires except through a licensed
19 scrap tire hauler or by delivering the tires to an approved facility.

20 [(g) (1) (i) Beginning on February 1, 1992, a tire recycling fee shall be
21 imposed on the first sale of a new tire in the State by a tire dealer, including new tires
22 sold as part of a new or used vehicle, trailer, farm implement, or other similar
23 machinery.

24 (ii) A county, municipal corporation, or any agency of a county or
25 municipal corporation may not impose any tax, fee, or other charge on the first sale of
26 a new tire by a tire dealer.

27 (2) The tire recycling fee:

28 (i) May not exceed 40 cents per tire; and

29 (ii) Shall be established by the Board of Public Works.

30 (3) For a sale made by a tire dealer to a person who resells tires, the tire
31 dealer shall separately state its recycling fees paid by the tire dealer on the invoice or
32 other document of sale.

33 (4) Each tire dealer shall:

34 (i) Pay the tire recycling fee; and

1 (ii) Complete and submit, under oath, a return and remit the fees to
2 the Comptroller of the Treasury on or before the 21st day of the month that follows
3 the month in which the sale was made, and for other periods and on other dates that
4 the Comptroller specifies by regulation, including periods for which no fees were due.

5 (5) A tire dealer who timely files a tire recycling fee return and pays the
6 tire recycling fees due is allowed, for the expense of administering and paying the fee,
7 a credit equal to 0.6% of the gross amount of tire recycling fees that the tire dealer is
8 to pay to the Comptroller.

9 (6) If the amount of the tire recycling fee is separately stated in a retail
10 sale, the tire recycling fee is not subject to any tax under Title 11 of the Tax - General
11 Article or Title 13 of the Transportation Article.

12 (7) At the end of each quarter, the Comptroller shall forward all tire
13 recycling fees to the Used Tire Cleanup and Recycling Fund, less the costs of
14 administration.

15 (8) Except to the extent they are inconsistent with this subsection, the
16 provisions of Title 13 of the Tax - General Article applicable to the sales and use tax
17 shall govern the administration, collection, and enforcement of the tire recycling fee
18 under this subsection.

19 (9) The Comptroller:

20 (i) Shall administer the tire recycling fee; and

21 (ii) May adopt any regulations that are necessary or appropriate to
22 administer, collect, and enforce the tire recycling fee.]

23 [(h)] (G) Beginning on July 1, 1992, each scrap tire hauler shall:

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

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

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

30 [(i)] (H) Beginning on July 1, 1992, each scrap tire collection facility shall:

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

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

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

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

1 (2) The Department may require the delivery of scrap tires in this State
2 to 1 or more facilities, in the State or outside of the State, designated by the service as
3 part of the tire recycling system.

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

7 9-268.1.

8 (a) In addition to other penalties authorized under this subtitle:

9 (1) A person who violates § 9-228(f)(2) of this subtitle is guilty of a
10 misdemeanor and on conviction is subject to a fine not exceeding \$1,000, or
11 imprisonment not exceeding 30 days or both;

12 (2) A person who violates § 9-228(f)(2) of this subtitle for monetary or
13 financial gain is guilty of a misdemeanor and on conviction is subject to a fine not
14 exceeding \$25,000 or imprisonment not exceeding 5 years or both; and

15 (3) A person who violates [§ 9-228(b), (h)(1), (i)(1), or (j)(1)] § 9-228(B),
16 (G)(1), (H)(1), OR (I)(1) of this subtitle, or a regulation, order, or permit adopted or issued
17 under [§ 9-228(b), (h)(1), (i)(1), or (j)(1)] § 9-228(B), (G)(1), (H)(1), OR (I)(1) of this
18 subtitle, is guilty of a misdemeanor and on conviction is subject to a fine not exceeding
19 \$10,000.

20 (b) (1) The Attorney General shall represent the State in every case arising
21 under § 9-228 of this subtitle.

22 (2) This subsection may not limit or affect the power of the State's
23 Attorney for a county under Article 10, § 34 of the Code.

24 9-274.

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

27 (1) Loan authorizations;

28 (2) Funds appropriated in the State budget;

29 (3) [Fees collected for the sale of tires by retail dealers under § 9-228(g)
30 of this subtitle; or

31 (4)] Bond and security forfeitures collected under [§ 9-228(k)] § 9-228(J)
32 of this subtitle.

33 (b) (1) The Fund is limited to a maximum of \$10,000,000.

34 (2) If the sum of unallocated funds in the Fund and the projected fees for
35 the next fiscal year exceeds \$10,000,000, the Board of Public Works shall adjust the

1 fees for the next fiscal year on a pro rata basis so that the sum of unallocated and
2 actual fees does not exceed \$10,000,000.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
4 effect October 1, 2004.