

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1245

(Delegate Frush, *et al.*)

Environmental Matters

Education, Health, and Environmental Affairs

Scrap Tires - Reimbursement of Costs and Grants

This bill modifies an existing exemption provision under the State's scrap tire law to provide specified property owners an exemption from the requirement to reimburse the Used Tire Cleanup and Recycling Fund (Tire Fund) within the Maryland Department of the Environment (MDE) for costs incurred by MDE to clean up illegal scrap tire sites; these entities also would be exempt from related cost recovery actions by MDE.

Fiscal Summary

State Effect: Special fund revenues from reimbursements and cost recovery actions would decrease. Special fund expenditures for MDE to finance cleanups that otherwise would have been paid for by property owners could increase.

Local Effect: It is assumed that the bill would not have a significant impact on local government operations or finances.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill exempts from the reimbursement requirement and cost recovery provision owners of sites where scrap tires were stored, disposed of, or processed only before July 1, 1989 if the owner: (1) is not engaged in the business of storage, disposal, or processing of scrap tires, hazardous substances, or other waste; (2) did not cause or allow scrap tires to be stored, disposed of, or processed on the site; and (3) obtained the site by inheritance prior to January 1, 2000.

Current Law: A tire recycling fee of up to \$1 is required to be imposed by a tire dealer on the first sale of a new tire in the State; as of April 1, 2005, the fee established by BPW will increase from \$0.40 to \$0.80. The fee is collected by the Comptroller who forwards all fees, less the cost of administration, to the Tire Fund. Except under specified conditions, all expenditures from the Tire Fund made by MDE for removal, restoration, emergency, or remedial action in response to illegal disposal or storage of scrap tires must be reimbursed to MDE. MDE is authorized to recover such costs regardless of whether or not the discarded tires were disposed of or stored at the site before July 1, 1989. The reimbursement requirement and the cost recovery provision do not apply to expenditures of \$10,000 or less related to the removal, restoration, or remedial action in response to the illegal disposal or storage of scrap tires if the owner acquired the property prior the January 1, 2000 by inheritance and the tires were stored or disposed of at the site prior to that date.

Background: Chapter 667 of 1989 established the Tire Fund to support activities related to the cleanup of stockpiled scrap tires and for the collection, transportation, recycling, and processing of scrap tires in the State. Through fiscal 2004, over 8.3 million scrap tires had been recovered from stockpile cleanup sites.

During fiscal 2004, the program completed cleanup of 34 illegal scrap tire stockpiles, consisting of approximately 482,114 scrap tires. Approximately 82% of all stockpile site cleanups in fiscal 2004 was achieved by using administrative means, allowing responsible property owners to perform (and pay for) their own cleanups. The remaining 18% was conducted using the Tire Fund; cost recovery is being pursued for these sites. Through fiscal 2004, MDE had sought a total of approximately \$3.4 million in cost recovery actions and had collected a total of about \$286,000. Many of the cases are still in litigation, and some cases are on payment plans. Some cases settled out-of-court for less than the amount originally sought.

Twenty-four large stockpile cleanups (over 5,000 tires each) had been targeted for either continuation of cleanup efforts or completion in fiscal 2005; there are over 1.8 million tires at these targeted sites. According to MDE, the average cleanup cost is approximately \$1.50 per tire but can vary from site to site.

State Fiscal Effect: Currently, property owners are required to pay for cleanups, regardless of responsibility for disposal of the scrap tires. If property owners do not voluntarily clean up scrap tire stockpiles, MDE uses the Tire Fund to pay for the cleanups, but then seeks cost recovery. Under the bill, special fund revenues from foregone reimbursements/cost recovery actions would decrease. Because future reimbursements/cost recovery actions cannot be predicted, any such decrease cannot be reliably estimated at this time. In general, cost recovery revenues usually make up only a small percentage of the fund's total revenues. For example, in fiscal 2004, revenues to

the fund totaled over \$2.7 million, and cost recovery revenues accounted for only about \$30,000 of that total. However, MDE advises that it is currently in litigation regarding cleanups on four large sites (involving almost 1 million tires) for which estimated costs total over \$4.3 million. Under current law, if MDE were to clean up those sites, MDE would seek to recover all costs incurred. Under the bill, however, MDE would be prohibited from seeking cost recovery for three of those sites, as well as any other sites that would become exempt from the existing reimbursement/cost recovery provisions.

In addition, by exempting certain sites from the reimbursement/cost recovery provisions, the bill removes the incentive for affected entities to perform cleanups voluntarily; accordingly, this would likely put more pressure on the Tire Fund to finance additional cleanups.

Small Business Effect: Property owners could benefit from becoming exempt from existing reimbursement/cost recovery provisions. The extent to which any small businesses would become exempt is unknown.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of the Environment, Maryland Environmental Service, Department of Legislative Services

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