

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

House Bill 710

(Delegate Costa)

Environmental Matters

Education, Health, and Environmental Affairs

Scrap Tires - Reimbursement of Costs - Interest in Site

This bill expands the existing inheritance exemption under the State's scrap tire law to include legal entities that meet specified requirements. Such entities would be exempt from the requirement to reimburse the Used Tire Cleanup and Recycling Fund within the Maryland Department of the Environment for costs incurred by MDE to clean up illegal scrap tire sites; those entities also would be exempt from related cost recovery actions. An entity exempt under the bill must place the site under an agricultural preservation or land conservation easement or waive its exemption.

Fiscal Summary

State Effect: Special fund revenues to MDE's Tire Fund from cost recovery actions related to one known site could decrease by an estimated \$481,000 due to the bill's expanded exemption. The extent to which any other sites would become exempt from future cost recovery actions cannot be predicted. Expenditures would not be directly affected.

Local Effect: None.

Small Business Effect: Minimal overall impact, although the bill could have a positive impact on any small business that would become exempt from cost recovery actions as a result of the bill. Any such entity, however, would be required to place the site under easement.

Analysis

Bill Summary: To qualify for exemption, a legal entity must have a tangible net worth of less than \$1.7 million; have an annual net income of less than \$100,000, averaged over

the past three years; be independently owned and operated; and not be a publicly traded entity. In addition, the ownership interest in the legal entity must have been obtained at the death of the transferor 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; the current fee is \$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. With one exception, 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 related to removal, restoration, or remedial action in response to the disposal or storage of scrap tires in violation of the law if the owner of a site where scrap tires were stored, disposed of, or processed only before July 1, 1989 • is not engaged in the business of storage, disposal, or processing of scrap tires, hazardous substances, or other waste; • did not cause or allow scrap tires to be stored, disposed of, or processed on the site; and • obtained the site by inheritance prior to January 1, 2000.

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 2007, over 8.6 million scrap tires had been recovered from 690 stockpile cleanup sites. Through fiscal 2007, 134 cleanups had been performed using the Tire Fund. Cost recovery actions had been pursued against 36 scrap tire cleanups initiated by the State and using the Tire Fund; cost recovery actions were not performed against six sites because they qualified for the inheritance exemption. Through fiscal 2007, MDE has sought a total of approximately \$3.4 million and has collected a total of \$319,998 in cost recovery actions.

In fiscal 2007, approximately 80% of all stockpile site cleanups were accomplished using administrative means (without using the Tire Fund).

MDE advises that currently it is aware of only one case that would be eligible for the bill's expanded exemption. The Suraci Family LTD/Davidsonville site has approximately 56,800 scrap tires. A preliminary cost estimate for the cleanup of this site is \$481,000. According to MDE, after MDE sued the family that is the beneficiary of the trust which owns the property for access to the property for cleanup and for cost recovery, the family's attorney appealed the circuit court's decision and argued that the inheritance exemption should be extended to the family trust. The Court of Special

Appeals upheld the circuit court's decision that the current exemption did not apply to a family trust.

State Fiscal Effect: MDE advises that the proposed fiscal 2009 budget includes \$350,000 in special funds for the cleanup of the Suraci Family LTD/Davidsonville site, although according to MDE, cost estimates related to that cleanup have now increased to \$481,000. MDE advises that it is anticipated that the cleanup on this site will occur over the next two years, although MDE will encumber the cleanup funds in fiscal 2009.

The immediate impact of this bill would be to prevent MDE from seeking to recover the cleanup costs with respect to that one known site. Accordingly, special fund revenues from cost recovery actions could decrease by \$481,000, although the exact amount that would be recovered by MDE under current law in any specific fiscal year is unknown.

The extent to which future sites would be found that would qualify for the expanded exemption is unknown. Accordingly, future special fund revenues from cost recovery actions could also decrease, but any such decrease cannot be reliably estimated at this time. MDE advises, however, that the average cleanup cost is \$500,000 per site.

The bill's provision requiring affected entities to place sites under an agricultural preservation or land conservation easement would not materially affect State operations or finances.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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