

Act No. 133
Public Acts of 1990
Approved by the Governor
June 25, 1990
Filed with the Secretary of State
June 26, 1990

**STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1990**

Introduced by Reps. Trim, Bartnik, Hollister, DeMars, Ouwinga, Sikkema, Honigman, Sparks, Bandstra, Dolan, Ostling, Knight, Mathieu, Ciaramitaro, Hickner, DeBeaussaert and Owen

ENROLLED HOUSE BILL No. 4068

AN ACT to regulate the storage and disposal of certain tires; to regulate certain transactions related to certain tires; to provide for the registration of certain scrap tire haulers; to create a fund and provide for its use; to prescribe the powers and duties of certain state agencies and officials; and to prescribe penalties.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as the "scrap tire regulatory act".

Sec. 2. As used in this act:

(a) "Collection site" means a site, other than a landfill, that contains either of the following:

(i) One or more pieces of adjacent real property where 500 or more scrap tires are accumulated and that is not associated with a retail operation as provided in subparagraph (ii).

(ii) One or more pieces of adjacent real property where 1,500 or more scrap tires are accumulated if that property is adjacent to and owned or leased by a person who is in the business of selling tires at retail.

(b) "Department" means the department of natural resources.

(c) "Fund" means the scrap tire regulatory fund created in section 9.

(d) "Landfill" means that term as it is defined in the solid waste management act, Act No. 641 of the Public Acts of 1978, being sections 299.401 to 299.437 of the Michigan Compiled Laws.

(e) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(f) "Scrap tire" means a tire that is no longer being used for its original intended purpose.

(g) "Scrap tire hauler" means a person who, as part of a commercial business, transports scrap tires.

(h) "Scrap tire processor" means a person engaged in the business of storing, buying, or otherwise acquiring scrap tires, and reducing their volume by shredding or otherwise facilitating recycling or resource recovery techniques for scrap tires. A scrap tire processor includes a person who, in addition to processing the scrap tires, incinerates the tires or converts the tires into a product or another end use.

(i) "Tire" means a continuous solid or pneumatic rubber covering encircling the wheel of a tractor, other farm machinery, or a vehicle.

(j) "Tire storage area" means a location within a collection site where tires are accumulated.

(k) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices exclusively moved by human power or used exclusively upon stationary rails or tracks and excepting a mobile home as defined in section 2 of the mobile home commission act, Act No. 96 of the Public Acts of 1987, being section 125.2302 of the Michigan Compiled Laws.

Sec. 3. A person shall not discard a tire on any property, other than property owned by that person, without the written permission of the person who owns the property.

Sec. 4. (1) Beginning 1 year after the effective date of this act, a person who accumulates less than 2,500 scrap tires at a collection site that are not stored in a building or stored in a covered vehicle shall comply with all of the following:

(a) Only tires shall be accumulated in a tire storage area.

(b) Except as provided in subdivision (f), the tires shall be accumulated in piles no greater than 15 feet in height with horizontal dimensions no greater than 200 by 40 feet.

(c) Except as provided in subdivision (f), the tires shall not be within 20 feet of the property line or within 60 feet of a building or structure.

(d) The tires shall be maintained in a manner that limits the potential of mosquito breeding by complying with 1 or more of the following:

(i) The tires shall be covered by plastic sheets or other impermeable barriers to prevent the accumulation of precipitation.

(ii) The tires shall be chemically treated to eliminate mosquito breeding.

(iii) The tires shall be shredded or chipped into pieces no larger than 4 inches by 6 inches and stored in piles that allow complete water drainage.

(e) Except as provided in subdivision (f), there shall be a minimum separation of 20 feet between tire piles. The open space between tire piles shall at all times be free of rubbish, equipment, and other materials.

(f) Tire piles shall be accessible to fire fighting equipment. If the requirement of this subdivision is met, the local fire department that serves the jurisdiction in which the collection site is located may approve a variance from the requirements of subdivisions (b), (c), and (e). Such an approval, if granted, shall be in writing.

(g) The person accumulating the tires shall maintain a surety bond in favor of the state in an amount, as determined by the department, sufficient to cover the cost of removing the tires from the collection site in the case of an emergency at the collection site or the insolvency of the person accumulating the tires. However, for collection sites with fewer than 2,500 tires, the surety bond shall not exceed \$2,500.00.

(2) Beginning 1 year after the effective date of this act, a person who accumulates at least 2,500 but less than 100,000 scrap tires at a collection site that are not stored in a building shall comply with all of the following:

(a) All of the requirements of subsection (1).

(b) The area in which the tires are accumulated shall be completely enclosed with a fence that is at least 6 feet tall with lockable gates and is designed to prevent easy access.

(c) An earthen berm not less than 5 feet in height shall be positioned outside of the fence in which the tires are enclosed.

(d) The collection site shall contain sufficient drainage so that water does not pool or collect on the property.

(e) The approach road to the tire storage area and on-site access roads to the tire storage area shall be of all-weather construction and maintained in good condition so that it is passable at all times for fire fighting equipment vehicles.

(f) Tire storage areas shall be mowed regularly or otherwise kept free of weeds, vegetation, and other growth at all times.

(g) An emergency procedures plan shall be prepared and displayed at the collection site. The plan shall include telephone numbers of the local fire and police departments. The plan shall be reviewed by the local fire department prior to being posted.

(3) Beginning 1 year after the effective date of this act, a person who accumulates 100,000 or more scrap tires at a collection site that are not stored in a building shall comply with all of the requirements of subsections (1) and (2) and that person shall operate as a scrap tire processor.

Sec. 5. (1) Within 6 months after the effective date of this act and by January 31 of each year thereafter, a person who owns a collection site shall annually register with the department. The registration shall be on a form provided by the department and shall contain information as required by the department.

(2) A \$200.00 registration fee shall accompany each annual registration under this section. The department shall deposit money collected under this section into the state treasury to be credited to the fund.

Sec. 6. (1) Within 6 months after the effective date of this act and by January 31 of each year thereafter, a scrap tire hauler shall register with the department on a form provided by, and containing the information required by, the department.

(2) A person who is in the business of selling tires at retail who contracts for the removal of scrap tires shall contract with a scrap tire hauler who is registered under subsection (1).

Sec. 7. The department shall contact each local health department as defined in section 1105 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.1105 of the Michigan Compiled Laws, and shall request that local health department to provide a list, including the location and owner, if known, of all known significant tire piles within its jurisdiction.

Sec. 8. Within 5 years after the effective date of this act, the department shall report to the legislature on all of the following:

- (a) The effectiveness of this act and whether the department recommends any changes in the act.
- (b) The volume of tires that are being disposed of in landfills and whether the department recommends banning tires from landfills in the future.
- (c) Whether a manifest system to track scrap tires would be useful in the enforcement of this act.
- (d) Whether, under certain circumstances, the fund should be used for the cleanup of abandoned scrap tires on land owned by persons other than the state or a city, village, township, or county.
- (e) Whether sufficient collection sites are available for the disposal of scrap tires from private individuals.

Sec. 9. (1) The scrap tire regulatory fund is created in the state treasury. The fund shall receive money as provided by law and any gifts or contributions to the fund. The state treasurer shall direct the investment of the fund. Interest and earnings of the fund shall be credited to the fund. Money in the fund at the close of the fiscal year shall remain in the fund and shall not revert to the general fund.

(2) Money in the fund shall be used, upon appropriation, for all of the following purposes:

- (a) Not more than 50% of the money in the fund, annually, for administrative costs of the department associated with this act including the implementation and enforcement of this act, or for the employment of not more than 13.5 full-time equated positions.
- (b) For the administrative costs of the secretary of state associated with the collection of the tire disposal surcharge pursuant to section 806 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.806 of the Michigan Compiled Laws.
- (c) For the cleanup or collection of abandoned scrap tires on land owned by the state or a city, village, township, or county.

(3) The department shall annually report to the legislature on the utilization of revenues of the fund.

Sec. 10. (1) A person who violates this act is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$10.00 for each tire that is disposed of or accumulated in violation of this act, or both.

(2) In addition to, or as an alternative to, the penalties provided under subsection (1), the court may order a person who violates this act to perform not more than 100 hours of community service.

(3) Each day that a violation continues may constitute a separate violation.

(4) A law enforcement officer or a conservation officer may issue an appearance ticket to a person who is in violation of this act.

Sec. 11. This act shall take effect January 1, 1991.

Sec. 12. This act shall not take effect unless House Bill No. 5339 of the 85th Legislature is enacted into law.

This act is ordered to take immediate effect.

.....
Clerk of the House of Representatives.

.....
Secretary of the Senate.

Approved.....

.....
Governor.