

Act No. 209
Public Acts of 1993
Approved by the Governor
October 21, 1993
Filed with the Secretary of State
October 21, 1993

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993**

Introduced by Reps. Leland, Pitoniak, Rivers, Rocca, Murphy, Shepich, Bennane, Freeman, Wetters, Saunders, Wallace, Hood, Gagliardi, Kilpatrick, Gubow, Gire, Schroer, Keith, Berman, Jondahl, Ciaramitaro, Cropsey, Randall, Johnson, Bankes, Mathieu, Middaugh, Bender, Bobier, Bullard, Jaye, Dalman, London, Dolan, Sikkema, O'Neill, Voorhees, McBryde, Gustafson, Rhead, Hill, Vorva, Whyman, Kukuk and Griffin

Reps. Alley, Anthony, Baade, Barns, Bodem, DeMars, Dobronski, Gernaat, Gilmer, Harder, Hollister, Jacobetti, Llewellyn, Olshove, Parks, Points, Porreca, Profit, Scott, Shugars, Stille, Varga, Weeks, Willard and Joe Young, Jr. named co-sponsors

ENROLLED HOUSE BILL No. 4691

AN ACT to amend sections 2, 3, 4, 5, and 6 of Act No. 133 of the Public Acts of 1990, entitled "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," sections 2 and 4 as amended by Act No. 33 of the Public Acts of 1992, being sections 299.562, 299.563, 299.564, 299.565, and 299.566 of the Michigan Compiled Laws, and to add section 3a.

The People of the State of Michigan enact:

Section 1. Sections 2, 3, 4, 5, and 6 of Act No. 133 of the Public Acts of 1990, sections 2 and 4 as amended by Act No. 33 of the Public Acts of 1992, being sections 299.562, 299.563, 299.564, 299.565, and 299.566 of the Michigan Compiled Laws, are amended and section 3a is added to read as follows:

Sec. 2. As used in this act:

(a) "Bond" means a performance bond from a surety company authorized to transact business in this state, a certificate of deposit, a cash bond, or an irrevocable letter of credit, in favor of the director.

(b) "Collection site" means a site, other than a landfill, a racecourse, or a feed storage location 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 a retailer.

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

(d) "Feed storage location" means a location on 1 or more pieces of adjacent real property containing a commercially operated farming operation where not more than 3,000 scrap tires are used for the purpose of securing stored feed.

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

(f) "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.

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

(h) "Racecourse" means a commercially operated track for go-carts, vehicles, off-road recreational vehicles, or motorcycles that uses not more than 3,000 scrap tires for bumpers along the track for safety purposes.

(i) "Retailer" means a person who sells or offers for sale new, retreaded, or remanufactured tires to consumers in this state.

(j) "Scrap tire" means a tire that is no longer being used for its original intended purpose. Scrap tire does not include a vehicle support stand.

(k) "Scrap tire hauler" means a person who, as part of a commercial business, transports scrap tires, other than a solid waste hauler as defined in Act No. 641 of the Public Acts of 1978, who transports 7 or fewer scrap tires along with other solid waste in any truckload.

(l) "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.

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

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

(o) "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.

(p) "Vehicle support stand" means equipment used to support a stationary vehicle consisting of an inflated tire and wheel that is attached to another wheel.

Sec. 3. (1) A person shall not discard a tire on any property that is not in compliance with sections 4 and 5.

(2) A person shall not dispose of a scrap tire in any manner other than a manner authorized by this act or a manner authorized by 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, or the air pollution act, Act No. 348 of the Public Acts of 1965, being sections 336.11 to 336.36 of the Michigan Compiled Laws.

Sec. 3a. (1) A retailer who receives scrap tires in this state shall dispose of the scrap tires at a registered scrap tire collection site, at a licensed landfill, or by contracting with a scrap tire hauler who is registered pursuant to section 6.

(2) A retailer shall maintain records indicating the number of scrap tires and the final disposition of scrap tires disposed of under subsection (1). These records shall be maintained for a period of 5 years and shall be made available, upon request, to the department or to a law enforcement officer at reasonable hours.

Sec. 4. (1) A person who owns or operates a collection site where less than 2,500 scrap tires have been accumulated 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 who owns a collection site shall maintain a bond in favor of the director in an amount, as determined by the director, sufficient to cover the cost of removing the tires from the tire storage area. However, for collection sites with fewer than 2,500 tires, the bond shall not exceed \$2,500.00. A person who elects to use a certificate of deposit as bond shall receive any accrued interest on that certificate of deposit upon release of the bond by the director. A person who elects to post cash as bond shall accrue interest on that bond at the annual rate of 6%, to be accrued quarterly, except that the interest rate payable to an applicant shall not exceed the rate of interest accrued on the state common cash fund for the quarter in which an accrual is determined. Interest shall be paid to the applicant upon release of the bond by the director. Any interest greater than 6% shall be deposited into the fund. The director may utilize a bond required under this act for removing scrap tires from a collection site in case of an emergency at the collection site, insolvency of the collection site owner, or if the owner or operator of the collection site fails to comply with the requirements of this section and does not cause the removal of the tires at the direction of the director or a court of competent jurisdiction.

(2) A person who owns or operates a collection site where at least 2,500 but less than 100,000 scrap tires have been accumulated 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) A person who owns or operates a collection site where 100,000 or more scrap tires have been accumulated 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) By January 31 of each year, 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) The owner of a scrap tire collection site shall annually submit to the department, documentation indicating that the collection site is currently bonded. The department shall not register a scrap tire collection site until the owner submits documentation that the collection site is bonded in accordance with the requirements of section 4(1)(g) for the registration period.

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

Sec. 6. (1) By January 31 of each year, a scrap tire hauler shall annually register with the department on a form provided by, and containing the information required by, the department. A scrap tire hauler who does not provide all of the information required by the department shall not be considered registered under this act.

(2) A scrap tire hauler when transporting scrap tires shall have in his or her possession a copy of the current unexpired scrap tire hauler registration and shall present it upon demand of a peace officer. The scrap tire hauler registration number issued by the department shall be visibly displayed on a vehicle transporting scrap tires.

(3) A scrap tire hauler shall maintain a record of each load of scrap tires he or she transports on forms approved by the department. These records shall be maintained for a period of 5 years and shall be made available, upon request, to the department or to a peace officer at reasonable hours. These records shall contain at least the following information:

(a) The name, address, telephone number, authorized signature, and registration number of the scrap tire hauler.

(b) The name, address, telephone number, and authorized signature of the person who contracts for the removal of the scrap tires.

(c) The date of removal, number of scrap tires, and intended final destination of the scrap tires.

(4) A scrap tire hauler shall not dispose of scrap tires at a site other than the site identified on the record required by subsection (3).

(5) The original record as required by subsection (3) shall be in the possession of the scrap tire hauler during the actual transportation of the scrap tires. A copy of the record provided for in subsection (3) shall be provided to the person who contracts for the removal of scrap tires at the time of removal of the tires from the originating site. A copy shall also be provided to the registered scrap tire collection site or licensed landfill to which the scrap tires are delivered at the time of delivery.

(6) A person who contracts for the removal of scrap tires shall contract with a scrap tire hauler who is registered under subsection (1).

This act is ordered to take immediate effect.

Co-Clerk of the House of Representatives.

Secretary of the Senate.

Approved _____

Governor.