

SENATE BILL No. 1418

September 12, 2006, Introduced by Senators BASHAM, McMANUS, BIRKHOLZ, JELINEK, BROWN, KUIPERS, CHERRY, GOSCHKA, ALLEN, SCOTT, OLSHOVE, BARCIA, SWITALSKI, CLARK-COLEMAN and BRATER and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 16901 and 16909 (MCL 324.16901 and 324.16909), as amended by 2002 PA 496.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 16901. (1) As used in this part:

2 (a) "Abandoned scrap tires" means an accumulation of scrap
3 tires on property where the property owner is not ~~—, as determined~~
4 ~~by the department,—~~ responsible in whole or in part for the
5 accumulation of the scrap tires. For the purposes of this
6 subdivision, an owner who purchased or willingly took possession of
7 an existing scrap tire collection site shall be considered by the
8 department to be responsible in whole or in part for the

1 accumulation of the scrap tires.

2 (B) "AUTOMOTIVE RECYCLER" MEANS THAT TERM AS DEFINED IN
3 SECTION 2A OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.2A.

4 (C) ~~(b)~~ "Bond" means a performance bond from a surety
5 company authorized to transact business in this state, a
6 certificate of deposit, a cash bond, or an irrevocable letter of
7 credit, in favor of the department.

8 (D) ~~(e)~~ "Collection site" means a site, other than a
9 disposal area licensed under part 115, a racecourse, or a feed
10 storage location, ~~that contains any of the following:~~

11 ~~— (i) One or more pieces of adjacent~~ **CONSISTING OF A PARCEL OR**
12 **ADJACENT PARCELS OF** real property where **ANY OF THE FOLLOWING ARE**
13 **ACCUMULATED:**

14 (i) 500 or more scrap tires. ~~are accumulated and that is not~~
15 ~~associated with a retail operation as provided in subparagraph (ii),~~
16 ~~an automotive recycler as provided in subparagraph (iii), or~~ **THIS**
17 **SUBPARAGRAPH DOES NOT APPLY IF THAT PROPERTY IS OWNED OR LEASED BY**
18 **AND ASSOCIATED WITH THE OPERATIONS OF A RETAILER OR AUTOMOTIVE**
19 **RECYCLER OR** a commercial contractor as ~~provided~~ **DESCRIBED** in
20 subparagraph (iv).

21 (ii) ~~One or more pieces of adjacent real property where~~ 1,500
22 or more scrap tires ~~are accumulated~~ if that property is owned or
23 leased by ~~a person who is~~ **AND ASSOCIATED WITH THE OPERATIONS OF** a
24 retailer. ~~and is not~~ **THIS SUBPARAGRAPH DOES NOT APPLY IF THE SITE**
25 **IS OWNED OR LEASED BY AND** associated with **THE OPERATIONS OF** an
26 automotive recycler. ~~as provided in subparagraph (iii).~~

27 (iii) ~~One or more pieces of adjacent real property where~~ 2,500

1 or more scrap tires ~~are accumulated~~ if that property is owned or
2 leased by ~~a person who is~~ **AND ASSOCIATED WITH THE OPERATIONS OF**
3 an automotive recycler. ~~as defined in section 2a of the Michigan~~
4 ~~vehicle code, 1949 PA 300, MCL 257.2a.~~

5 (iv) ~~One or more pieces of adjacent real property where more~~
6 **MORE** than 150 cubic yards of ~~scrap tire processed material is~~
7 ~~accumulated~~ **TIRE CHIPS** if that property is owned or leased by **AND**
8 **ASSOCIATED WITH THE OPERATIONS OF** a commercial contractor that is
9 authorized to use the ~~scrap tire processed material~~ **TIRE CHIPS** as
10 an aggregate replacement in a manner approved by a designation of
11 inertness for scrap tires or is otherwise authorized for such use
12 by the department under part 115.

13 (E) **"COMMODITY" MEANS CRUMB RUBBER, TIRE CHIPS, A RING OR SLAB**
14 **CUT FROM A TIRE FOR USE AS A WEIGHT, OR A PRODUCT DIE-CUT OR**
15 **PUNCHED FROM A TIRE, OR ANY OTHER PRODUCT THAT, AS DETERMINED BY**
16 **THE DEPARTMENT BASED ON THE PRODUCT'S PRODUCTION COST AND VALUE, IS**
17 **NOT LIKELY TO RESULT IN AN ACCUMULATION, AT THE SITE OF PRODUCTION**
18 **OR USE, THAT POSES A THREAT TO PUBLIC HEALTH OR THE ENVIRONMENT. A**
19 **PRODUCT IS NOT A COMMODITY UNLESS IT MEETS PUBLISHED NATIONAL**
20 **STANDARDS OR SPECIFICATIONS THAT THE DEPARTMENT DETERMINES ARE**
21 **RELEVANT TO ACCOMPLISHING THE PURPOSES OF THIS PART.**

22 (F) **"COMMODITY STORAGE AREA" MEANS 1 OR MORE LOCATIONS WITHIN**
23 **A COLLECTION SITE WHERE A COMMODITY IS STORED.**

24 (G) **"CRUMB RUBBER" MEANS RUBBER MATERIAL DERIVED FROM TIRES**
25 **THAT IS LESS THAN 1/8 INCH BY 1/8 INCH IN SIZE AND IS FREE OF STEEL**
26 **AND FIBER.**

27 (H) ~~(d)~~ "Department" means the department of environmental

1 quality.

2 (I) ~~(e)~~ "End-user" means any of the following:

3 (i) A person who possesses a permit to burn tires under part
4 55.

5 (ii) The owner or operator of a landfill that is authorized
6 under the landfill's operating license to use scrap tires.

7 (iii) **A PERSON WHO USES A COMMODITY TO MAKE A PRODUCT THAT IS**
8 **SOLD IN THE MARKET.**

9 (iv) ~~(iii)~~ A person who ~~converts scrap tires into scrap tire~~
10 ~~processed material used to manufacture other products that are sold~~
11 ~~in the market but does not manufacture the products that are sold~~
12 ~~in the market~~ **IS AUTHORIZED BY THIS PART TO ACCUMULATE SCRAP**
13 **TIRES, WHO ACQUIRES SCRAP TIRES, AND WHO CONVERTS SCRAP TIRES INTO**
14 **A PRODUCT THAT IS SOLD IN THE MARKET OR REUSED IN A MANNER**
15 **AUTHORIZED BY THIS PART.**

16 (J) "FARM" MEANS THAT TERM AS DEFINED IN SECTION 2 OF THE
17 MICHIGAN RIGHT TO FARM ACT, 1981 PA 93, MCL 286.472.

18 (K) "FARM OPERATION" MEANS THAT TERM AS DEFINED IN SECTION 2
19 OF THE MICHIGAN RIGHT TO FARM ACT, 1981 PA 93, MCL 286.472.

20 (l) ~~(f)~~ "Feed storage location" means a location on 1 or more
21 ~~pieces~~ **PARCELS** of adjacent real property containing a
22 ~~commercially operated farming~~ **FARM** operation where not more than
23 3,000 scrap tires are used ~~for the purpose of securing~~ **TO SECURE**
24 stored feed.

25 (M) ~~(g)~~ "Fund" means the scrap tire regulatory fund created
26 in section 16908.

27 (N) ~~(h)~~ "Landfill" means a landfill as defined in section

1 11504 that is licensed under part 115.

2 (O) "OUTDOOR" OR "OUTDOORS" MEANS IN A PLACE OTHER THAN A
3 BUILDING OR COVERED VEHICLE.

4 (P) "PORTABLE SHREDDING OPERATION" MEANS A PERSON WHO OPERATES
5 SCRAP TIRE SHREDDING EQUIPMENT, WHICH PRODUCES A COMMODITY OR TIRE
6 SHREDS, IF THE SHREDDING EQUIPMENT CAN BE MOVED FROM SITE TO SITE.

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

11 (R) ~~(j)~~ "Retailer" means a person who sells or offers for
12 sale new, retreaded, or remanufactured tires to consumers in this
13 state.

14 (S) "RETREADER" MEANS A PERSON WHO RETREADS, RECASES, OR
15 RECAPS TIRE CASINGS FOR REUSE.

16 (T) ~~(k)~~ "Scrap tire" means a tire that is no longer being
17 used for its original intended purpose including, but not limited
18 to, a used tire, a reusable tire casing, or portions of ~~tires~~ A
19 TIRE. Scrap tire does not include a vehicle support stand.

20 (U) ~~(l)~~ "Scrap tire hauler" means a person ~~who, as part of a~~
21 ~~commercial business, transports scrap tires. Except as otherwise~~
22 ~~provided in this section, a person~~ who transports more than 7
23 scrap tires ~~in any truckload shall be considered to be in the~~
24 ~~commercial business of transporting scrap tires~~ AT ONCE IN A
25 VEHICLE ON A PUBLIC ROAD OR STREET. Scrap tire hauler does not
26 include any of the following:

27 (i) A person ~~who is not operating a commercial business~~ who

1 is transporting his or her own tires to a location authorized in
2 section 16902(1).

3 (ii) A member of a nonprofit service organization who is
4 participating in a community service project and is transporting
5 scrap tires to a location authorized in section 16902(1).

6 (iii) The owner of a farm ~~as defined in section 2 of the~~
7 ~~Michigan right to farm act, 1981 PA 93, MCL 286.472,~~ who
8 ~~transports~~ **IS TRANSPORTING** only scrap tires that originated from
9 his or her farm operation, **TO A LOCATION AUTHORIZED IN SECTION**
10 **16902(1)**, or ~~is~~ **THAT ARE** intended for use in a feed storage
11 location.

12 (iv) A solid waste hauler ~~as defined in part 115~~ that is
13 transporting solid waste to a disposal area licensed under part
14 115.

15 (v) **A PERSON WHO IS TRANSPORTING ONLY A COMMODITY.**

16 (vi) **A RETREADER.**

17 ~~—— (m) "Scrap tire processed material" means rubber material~~
18 ~~derived from tires that is marketable and no larger than 2 inches~~
19 ~~by 2 inches in size. Scrap tire processed material also includes~~
20 ~~rubber material derived from tires that is larger than 2 inches by~~
21 ~~2 inches if the rubber material was produced by a scrap tire~~
22 ~~processor pursuant to a written contract that provides for the~~
23 ~~quantity and the quality of the material and a time frame in which~~
24 ~~the volume of material is to be provided, and the contract is made~~
25 ~~available to the department upon request.~~

26 (V) ~~(n)~~ "Scrap tire processor" means ~~a~~ **EITHER OF THE**
27 **FOLLOWING:**

1 (ii) A person who is authorized by this part to accumulate scrap
2 tires and is engaged in the business of buying or otherwise
3 acquiring scrap tires and reducing their volume by shredding or
4 otherwise facilitating recycling or resource recovery techniques
5 for scrap tires.

6 (ii) A PORTABLE SHREDDING OPERATION.

7 ~~(o) "Scrap tire recycler" means a person who is authorized by~~
8 ~~this part to accumulate scrap tires, who acquires scrap tires, and~~
9 ~~who converts scrap tires into a product that is sold or reused in a~~
10 ~~manner authorized by this part.~~

11 (w) ~~(p)~~ "Solid waste hauler" means a solid waste hauler as
12 defined in part 115 who transports less than 25% by weight or
13 volume of scrap tires along with other solid waste in any truckload
14 TO A DISPOSAL AREA LICENSED UNDER PART 115.

15 (x) ~~(q)~~ "Tire" means a continuous solid or pneumatic rubber
16 covering encircling the wheel of a tractor or other farm machinery
17 or of a vehicle.

18 (y) "TIRE CHIP" MEANS A PORTION OF A TIRE THAT IS ANY OF THE
19 FOLLOWING:

20 (i) NOT MORE THAN 2 INCHES BY 2 INCHES IN SIZE AND MEETS
21 REQUIREMENTS FOR SIZE, METAL CONTENT, AND CLEANLINESS AS SPECIFIED
22 IN AN EXECUTED CONTRACT FOR DELIVERY OF THE MATERIAL BY THE SCRAP
23 TIRE PROCESSOR.

24 (ii) NOT MORE THAN 3/8 INCH BY 3/8 INCH IN SIZE AND
25 SUFFICIENTLY FREE FROM STEEL TO BE USED IN THE CONSTRUCTION AND
26 MODIFICATION OF SPORTS SURFACES SUCH AS GOLF COURSE TURF, ATHLETIC
27 FIELD TURF, ATHLETIC TRACKS, HIKING SURFACES, LIVESTOCK SHOW ARENA

1 SURFACES, AND PLAYGROUNDS.

2 (iii) TO BE USED IN A DRAIN FIELD APPROVED UNDER A DISTRICT OR
3 COUNTY SANITARY CODE.

4 (iv) TO BE USED AS GROUND COVER OR MULCH, IF, IN AGGREGATE, 95%
5 OF THE MATERIAL IS EQUAL TO OR LESS THAN 3/4 INCH IN SIZE IN ANY
6 DIMENSION AND THE MATERIAL CONTAINS LESS THAN 1% BY WEIGHT OR
7 VOLUME OF STEEL AND FIBER.

8 (v) APPROVED BY THE DEPARTMENT FOR USE AT A LANDFILL AS DAILY
9 COVER OR A LEACHATE COLLECTION SYSTEM PROTECTIVE LAYER OR FOR
10 ACCESS ROAD CONSTRUCTION WITHIN A LINED CELL.

11 (z) "TIRE SHRED" MEANS A PORTION OF A TIRE THAT IS NOT A
12 COMMODITY.

13 (AA) ~~(r)~~ "Tire storage area" means a location within a
14 collection site where tires are accumulated.

15 (BB) ~~(s)~~ "Vehicle" means ~~every~~ A device in, upon, or by
16 which ~~any~~ A person or property is or may be transported or drawn
17 upon a highway. ~~—excepting devices—~~ **VEHICLE DOES NOT INCLUDE A**
18 **DEVICE THAT IS** exclusively moved by human power or used exclusively
19 upon stationary rails or tracks ~~and excepting~~ **OR** a mobile home as
20 defined in section 2 of the mobile home commission act, 1987 PA 96,
21 MCL 125.2302.

22 (CC) ~~(t)~~ "Vehicle support stand" means equipment used to
23 support a stationary vehicle consisting of an inflated tire and
24 wheel that is attached to another wheel.

25 (2) A REFERENCE IN THIS PART TO A NUMBER OF SCRAP TIRES MEANS
26 EITHER OF THE FOLLOWING, OR AN EQUIVALENT COMBINATION THEREOF:

27 (A) THAT NUMBER OF WHOLE TIRES OR REUSABLE TIRE CASINGS.

1 **(B) A QUANTITY OF A COMMODITY OR TIRE SHREDS EQUIVALENT IN**
2 **WEIGHT TO THAT NUMBER OF WHOLE TIRES.**

3 Sec. 16909. (1) A person who violates this part when fewer
4 than 50 **SCRAP** tires are involved is guilty of a misdemeanor
5 punishable by imprisonment for not more than 90 days or a fine of
6 not less than \$200.00 or more than \$500.00, or both, **FOR EACH**
7 **VIOLATION.**

8 (2) A person who violates this part when 50 or more **SCRAP**
9 tires are involved is guilty of a misdemeanor punishable by
10 imprisonment for not more than 180 days or a fine of not less than
11 \$500.00 or more than \$10,000.00, or both, for each violation.

12 (3) A person convicted of a second or subsequent violation of
13 this part is guilty of a misdemeanor punishable by imprisonment for
14 not more than 1 year or a fine of not less than \$1,000.00 or more
15 than \$25,000.00, or both, for each violation.

16 (4) In addition to any other penalty provided for in this
17 section, the court may order a person who violates this part to
18 perform not more than 100 hours of community service.

19 (5) For any violation of this part, each day that a violation
20 continues ~~may constitute~~ **CONSTITUTES** a separate violation.

21 (6) A peace officer may issue an appearance ticket as
22 described and authorized by sections 9c to 9g of chapter IV of the
23 code of criminal procedure, 1927 PA 175, MCL 764.9c to 764.9g, to a
24 person who ~~is in violation of~~ **VIOLATES** this part.

25 (7) This section does not apply to a violation of section
26 16903c.

27 (8) The penalties provided for in this section shall not be

1 applied against a person in violation of section 16903(1)(a), (b),
2 (c), (d), ~~-(f), or (i)~~ **(E), (G), OR (J) OR 16903(4) BEFORE**
3 **SEPTEMBER 1, 2002** if the person is in compliance with these
4 provisions ~~within 60 days after the effective date of the~~
5 ~~amendatory act that added this subsection~~ **BY SEPTEMBER 1, 2002** and
6 the person maintains compliance with those provisions. This
7 subsection does not apply to a person who, ~~prior to the effective~~
8 ~~date of the amendatory act that added this subsection~~ **BEFORE JULY**
9 **3, 2002**, was convicted under this section.

10 Enacting section 1. This amendatory act does not take effect
11 unless all of the following bills of the 93rd Legislature are
12 enacted into law:

13 (a) Senate Bill No. 1423.

14

15 (b) Senate Bill No.____ or House Bill No.____ (request no.
16 06892'06).

17 (c) Senate Bill No. 1424.

18

19 (d) Senate Bill No. 1419.

20

21 (e) Senate Bill No. 1420.

22

23 (f) Senate Bill No.____ or House Bill No.____ (request no.
24 07328'06).

25 (g) Senate Bill No. 1422.

26

27 (h) Senate Bill No. 1421.

1

2 (i) Senate Bill No.____ or House Bill No.____ (request no.
3 07338'06).

4 (j) Senate Bill No.____ or House Bill No.____ (request no.
5 07348'06).