

Act No. 520
Public Acts of 2006
Approved by the Governor
December 28, 2006
Filed with the Secretary of State
December 29, 2006
EFFECTIVE DATE: December 29, 2006

**STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2006**

Introduced by Senators Basham, McManus, Birkholz, Jelinek, Brown, Kuipers, Cherry, Goschka, Allen, Scott, Olshove, Barcia, Switalski, Clark-Coleman and Brater

ENROLLED SENATE BILL No. 1418

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," 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:

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

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

(b) "Automotive recycler" means that term as defined in section 2a of the Michigan vehicle code, 1949 PA 300, MCL 257.2a.

(c) "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 department.

(d) "Collection site" means a site, other than a disposal area licensed under part 115, a racecourse, or a feed storage location, consisting of a parcel or adjacent parcels of real property where any of the following are accumulated:

(i) 500 or more scrap tires. This subparagraph does not apply if that property is owned or leased by and associated with the operations of a retailer or automotive recycler or a commercial contractor as described in subparagraph (iv).

(ii) 1,500 or more scrap tires if that property is owned or leased by and associated with the operations of a retailer. This subparagraph does not apply if the site is owned or leased by and associated with the operations of an automotive recycler.

- (iii) 2,500 or more scrap tires if that property is owned or leased by and associated with the operations of an automotive recycler.
- (iv) More than 150 cubic yards of tire chips if that property is owned or leased by and associated with the operations of a commercial contractor that is authorized to use the tire chips as an aggregate replacement in a manner approved by a designation of inertness for scrap tires or is otherwise authorized for such use by the department under part 115.
- (e) “Commodity” means crumb rubber, tire chips, a ring or slab cut from a tire for use as a weight, or a product die-cut or punched from a tire, or any other product that, as determined by the department based on the product’s production cost and value, is not likely to result in an accumulation, at the site of production or use, that poses a threat to public health or the environment. A product is not a commodity unless it meets published national standards or specifications that the department determines are relevant to accomplishing the purposes of this part.
- (f) “Commodity storage area” means 1 or more locations within a collection site where a commodity is stored.
- (g) “Crumb rubber” means rubber material derived from tires that is less than 1/8 inch by 1/8 inch in size and is free of steel and fiber.
- (h) “Department” means the department of environmental quality.
- (i) “End-user” means any of the following:
- (i) A person who possesses a permit to burn tires under part 55.
- (ii) The owner or operator of a landfill that is authorized under the landfill’s operating license to use scrap tires.
- (iii) A person who uses a commodity to make a product that is sold in the market.
- (iv) A person who is authorized by this part to accumulate scrap tires, who acquires scrap tires, and who converts scrap tires into a product that is sold in the market or reused in a manner authorized by this part.
- (j) “Farm” means that term as defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.
- (k) “Farm operation” means that term as defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.
- (l) “Feed storage location” means a location on 1 or more parcels of adjacent real property containing a farm operation where not more than 3,000 scrap tires are used to secure stored feed.
- (m) “Fund” means the scrap tire regulatory fund created in section 16908.
- (n) “Landfill” means a landfill as defined in section 11504 that is licensed under part 115.
- (o) “Outdoor” or “outdoors” means in a place other than a building or covered vehicle.
- (p) “Portable shredding operation” means a person who operates scrap tire shredding equipment, which produces a commodity or tire shreds, if the shredding equipment can be moved from site to site.
- (q) “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.
- (r) “Retailer” means a person who sells or offers for sale new, retreaded, or remanufactured tires to consumers in this state.
- (s) “Retreader” means a person who retreads, recases, or recaps tire casings for reuse.
- (t) “Scrap tire” means a tire that is no longer being used for its original intended purpose including, but not limited to, a used tire, a reusable tire casing, or portions of a tire. Scrap tire does not include a vehicle support stand.
- (u) “Scrap tire hauler” means a person who transports more than 7 scrap tires at once in a vehicle on a public road or street. Scrap tire hauler does not include any of the following:
- (i) A person who is transporting his or her own tires to a location authorized in section 16902(1).
- (ii) A member of a nonprofit service organization who is participating in a community service project and is transporting scrap tires to a location authorized in section 16902(1).
- (iii) The owner of a farm who is transporting only scrap tires that originated from his or her farm operation, to a location authorized in section 16902(1), or that are intended for use in a feed storage location.
- (iv) A solid waste hauler that is transporting solid waste to a disposal area licensed under part 115.
- (v) A person who is transporting only a commodity.
- (vi) A retreader.
- (v) “Scrap tire processor” means either of the following:
- (i) A person who is authorized by this part to accumulate scrap tires and is engaged in the business of buying or otherwise acquiring scrap tires and reducing their volume by shredding or otherwise facilitating recycling or resource recovery techniques for scrap tires.
- (ii) A portable shredding operation.

(w) "Solid waste hauler" means a solid waste hauler as defined in part 115 who transports less than 25% by weight or volume of scrap tires along with other solid waste in any truckload to a disposal area licensed under part 115.

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

(y) "Tire chip" means a portion of a tire that is any of the following:

(i) Not more than 2 inches by 2 inches in size and meets requirements for size, metal content, and cleanliness as specified in an executed contract for delivery of the material by the scrap tire processor.

(ii) Not more than 3/8 inch by 3/8 inch in size and sufficiently free from steel to be used in the construction and modification of sports surfaces such as golf course turf, athletic field turf, athletic tracks, hiking surfaces, livestock show arena surfaces, and playgrounds.

(iii) To be used in a drain field approved under a district or county sanitary code.

(iv) To be used as ground cover or mulch, if, in aggregate, 95% of the material is equal to or less than 3/4 inch in size in any dimension and the material contains less than 1% by weight or volume of steel and fiber.

(v) Approved by the department for use at a landfill as daily cover or a leachate collection system protective layer or for access road construction within a lined cell.

(z) "Tire shred" means a portion of a tire that is not a commodity.

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

(bb) "Vehicle" means a device in, upon, or by which a person or property is or may be transported or drawn upon a highway. Vehicle does not include a device that is exclusively moved by human power or used exclusively upon stationary rails or tracks or a mobile home as defined in section 2 of the mobile home commission act, 1987 PA 96, MCL 125.2302.

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

(2) A reference in this part to a number of scrap tires means either of the following, or an equivalent combination thereof:

(a) That number of whole tires or reusable tire casings.

(b) A quantity of a commodity or tire shreds equivalent in weight to that number of whole tires.

Sec. 16909. (1) A person who violates this part when fewer than 50 scrap tires are involved is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$200.00 or more than \$500.00, or both, for each violation.

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

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

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

(5) For any violation of this part, each day that a violation continues constitutes a separate violation.

(6) A peace officer may issue an appearance ticket as described and authorized by sections 9c to 9g of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.9c to 764.9g, to a person who violates this part.

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

(8) The penalties provided for in this section shall not be applied against a person in violation of section 16903(1)(a), (b), (c), (d), (e), (g), or (j) or 16903(4) before September 1, 2002 if the person is in compliance with these provisions by September 1, 2002 and the person maintains compliance with those provisions. This subsection does not apply to a person who, before July 3, 2002, was convicted under this section.

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

(a) Senate Bill No. 1423.

(b) House Bill No. 6477.

(c) Senate Bill No. 1424.

(d) Senate Bill No. 1419.

- (e) Senate Bill No. 1420.
- (f) House Bill No. 6474.
- (g) Senate Bill No. 1422.
- (h) Senate Bill No. 1421.
- (i) House Bill No. 6476.
- (j) House Bill No. 6475.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Jay E. Randall

Clerk of the House of Representatives

Approved

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Governor