

Legislative Analysis



SCRAP TIRES

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 941 (Substitute S-1)
Sponsor: Sen. Mike Kowall

Senate Bill 942
Sponsor: Sen. Tom Casperson

House Committee: Natural Resources
Senate Committee: Natural Resources, Environment, and Great Lakes
Complete to 12-11-14

A SUMMARY OF SENATE BILLS 941 & 942 AS REPORTED BY COMMITTEE 12-9-14

Senate Bills 941 and 942 would amend the Natural Resources and Environmental Protection Act (NREPA) and the Code of Criminal Procedure, respectively, by making changes related to crimes involves the improper transportation and storage of scrap tires.

SB 942 is tie-barred to SB 941, meaning that it cannot take effect unless SB 941 is enacted. SB 941 is not tie-barred, meaning if passed, it could go into effect alone.

Senate Bill 941 would amend NREPA by modifying existing definitions and adding new ones, and by making changes to regulations relating to the handling and storage of scrap tires.

Notable new or amended definitions

The term "collection site" would be amended to specifically "not include a disposal area licensed under Part 115 (Solid Waste Management), a community cleanup site, a racecourse, or a feed storage location."

"Community cleanup site" would be added and defined as "a site owned by a local unit of government or nonprofit organization that has received a scrap tire cleanup grant and uses this site for the purpose of collecting scrap tires from residents as part of a community cleanup day or resident drop off."

Record keeping requirements

If a complete scrap tire transportation record is not obtained from the registered scrap tire hauler, owner, operator, or authorized agent of the owner or operator, the person arranging for the removal of scrap tires would have an obligation to "promptly notify" the department of the missing record or information. The bill also would remove a current provision which states the person arranging for the removal of the scrap tires does not have an affirmative duty to obtain these records. Also eliminated would be the current exemption a property owner removing seven or fewer tires has from the record keeping requirement.

At present, the person arranging for the removal of tires has only a duty to keep the records at the site of removal for three years and make them available to the department upon request during reasonable hours. The bill would also require the records be made available to a law enforcement officer.

SB 941 would require the party receiving a shipment of scrap tires to reconcile any discrepancy between the number of tires the record states as having been shipped with the actual number received by contacting the person who arranged for the tires' removal and/or the hauler to see where any missing tires may have been taken.

Scrap tire haulers

Section 16902 contains regulations regarding the transportation of scrap tires. The bill would add subsections with language stating that in violations stemming from the transportation of tires, the owner/operator of the vehicle, or that person's agent that transported the tires illegally discarded would be presumed to be responsible for the violation.

Other changes

The bill also would prohibit the intentional burning of a scrap tire and making, or causing another to make, a false statement in a registration application, scrap tire transport record or grant application.

Senate Bill 942 would amend the Code of Criminal Procedure to include two additional felonies in the sentencing guidelines. Making a false statement on a record required related to scrap tires would be a Class G felony punishable by up to two years in jail. This reflects the NREPA amendment added by SB 941.

Also added to the code is "Hazardous Substance- Substantial Endangerment," which would be a Class E felony punishable by up to five years in jail. The offense is described in MCL 324.20139(4), an existing section of law, but is not currently listed in the Code of Criminal Procedure.

FISCAL IMPACT:

Senate Bill 941 would have an indeterminate fiscal impact on the Department of Environmental Quality and a positive fiscal impact on local units of government. This bill requires scrap tire haulers to maintain a bond in favor of the DEQ unless the scrap tire hauler is also a scrap tire processor and therefore covered under the existing bond requirement for collection site owners or operators.

The bill sets this new bond requirement for scrap tire haulers at \$10,000. If the bond is posted in cash then interest accrues on the bond quarterly at an annual rate of 6%. However, the interest rate payable to the scrap tire hauler cannot exceed the quarterly interest rate accrued on the State Common Cash Fund. Interest that accrues on a cash bond at a rate beyond 6% will be deposited into the Scrap Tire Regulatory Fund. The bill also provides for the use of these scrap tire hauler bonds by the DEQ to address environmental problems perpetrated by delinquent or negligent scrap tire haulers. The DEQ does not anticipate a fiscal impact on the department from SB 941.

Senate Bill 941 also gives the DEQ the authority to issue grants to local units of government to collect scrap tires at community cleanup sites. The DEQ would then remove the collected scrap tires at a time designated by the grant. The bill exempts these community cleanup sites from the definition of "collection site," which precludes local governments from maintaining bonds in favor of the DEQ for these community cleanup sites.

These collection site bonds amount to at least \$25,000 per quarter acre of outdoor scrap tire storage so it is to a local government's advantage to accept a DEQ grant and operate their respective scrap tire site as a designated community cleanup site. These grants would help cover the new costs of starting a community cleanup site for those local governments who do not operate one at present (neutral fiscal impact), and would help cover the existing costs of operating a community cleanup site for those local governments who presently operate one (positive fiscal impact).

Finally, SB 941 gives the DEQ authority to issue grants from the Scrap Tire Regulatory Fund to local law enforcement agencies to help cover the cost of enforcing the scrap tire laws enumerated in this amendment to NREPA. This addition to the specified uses of the fund would help local units of government offset law enforcement costs.

Senate Bill 942 would have no fiscal impact on the Department of Environmental Quality of local units of government.

The bills would increase costs on state and local correctional systems. Information is not available on the number of persons that might be convicted under the provisions of the bills. New felony convictions would result in increased costs related to state prisons and state probation supervision. The average cost of prison incarceration in a state facility is roughly \$34,900 per prisoner per year, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision average about \$3,700 per supervised offender per year. Increased collection of penal fine revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

Also, the bills would increase costs on the judiciary and local court funding units. The fiscal impact would depend on how the provisions of the bills affected caseloads and related administrative costs.

POSITIONS:

The following indicated support for the bill:

Michigan Biomass (12-9-14)
Michigan Township Association (12-9-14)
Department of Environmental Quality (12-9-14)
Michigan Environmental Council (12-9-14)

Legislative Analyst: Josh Roesner
Fiscal Analyst: Austin Scott

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.