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**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2014**

Introduced by Senators Kowall and Casperson

ENROLLED SENATE BILL No. 941

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 protect the people’s right to hunt and fish; 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, 16902, 16903, 16903b, 16903c, 16904, 16905, 16906, 16908, 16909, 16909a, and 16911 (MCL 324.16901, 324.16902, 324.16903, 324.16903b, 324.16903c, 324.16904, 324.16905, 324.16906, 324.16908, 324.16909, 324.16909a, and 324.16911), sections 16901 and 16909 as amended by 2006 PA 520, section 16902 as amended by 2006 PA 521, section 16903 as amended by 2006 PA 522, section 16903b as amended by 2006 PA 523, section 16903c as added by 2002 PA 496, sections 16904 and 16905 as amended by 2006 PA 527, section 16906 as amended by 2006 PA 529, section 16908 as amended by 2006 PA 524, section 16909a as added by 2006 PA 530, and section 16911 as added by 2006 PA 525, and by adding sections 16904b and 16908c.

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, subject to subdivision (e), a site 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 that is not also 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) “Collection site” does not include a disposal area licensed under part 115, a community cleanup site, a racecourse, or a feed storage location.

(f) “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.

(g) “Commodity storage area” means 1 or more locations within a collection site where a commodity is stored.

(h) “Community cleanup site” means a site owned by a local unit of government or nonprofit organization that has received a scrap tire cleanup grant under section 16908(2)(c) and uses this site for the purpose of collecting scrap tires from residents as part of a community cleanup day or resident drop off.

(i) “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.

(j) “Department” means the department of environmental quality.

(k) “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.

(l) “Farm” means that term as defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

(m) “Farm operation” means that term as defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

(n) “Feed storage location” means a location on a parcel or adjacent parcels of real property containing a farm operation where not more than 3,000 scrap tires are used to secure stored feed.

(o) “Fund” means the scrap tire regulatory fund created in section 16908.

(p) “Landfill” means a landfill as defined in section 11504 that is licensed under part 115.

(q) “Law enforcement officer” means any law enforcement officer who is trained and certified pursuant to the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616, or an officer appointed by the director of the department of state police pursuant to section 6d of 1935 PA 59, MCL 28.6d.

(r) “Outdoor” or “outdoors” means in a place other than a building or covered vehicle.

(s) “Portable shredding operation” means a person who operates scrap tire shredding equipment that produces a commodity or tire shreds and that can be moved from site to site.

(t) “Racecourse” means a commercially operated track for go-carts, off-road recreational vehicles, motorcycles, or other vehicles that uses scrap tires as bumpers along the track for safety purposes and that meets 1 or more of the following requirements:

(i) Uses not more than 3,000 scrap tires for bumpers.

(ii) Is operated on a temporary basis and, between races, stores the scrap tires at a collection site bonded under section 16903 and registered under section 16904.

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

(v) “Retreader” means a person who retreads, recases, or recaps tire casings for reuse.

(w) “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.

(x) “Scrap tire hauler” means a person who transports more than 10 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, other than a commercial business, who transports that person’s 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 who is transporting scrap tires for the purpose of retreading, recasing, or recapping and who has the documentation required in section 16906(5).

(y) “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.

(z) “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.

(aa) “Storage requirements” means the requirements of section 16903(1) and, if applicable, (2).

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

(cc) “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.

(dd) “Tire shred” means a portion of a tire that is not a commodity.

(ee) “Tire storage area” means a location within a collection site where tires are accumulated.

(ff) “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.

(gg) “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. 16902. (1) A person shall deliver a scrap tire only to, and only with the consent of the owner or operator of, 1 of the following that is in compliance with this part:

(a) A collection site registered under section 16904.

(b) A location that has legally accumulated scrap tires below the regulatory threshold for qualifying as a collection site as specified in section 16901(d).

(c) A disposal area licensed under part 115.

- (d) An end-user.
- (e) A scrap tire processor.
- (f) A retailer.

(2) A person shall not by contract, agreement, or otherwise arrange for the removal of scrap tires except with 1 of the following:

(a) A scrap tire hauler that is registered pursuant to section 16905 and that by contract, agreement, or otherwise is obligated to deliver the scrap tires to the destination as identified under section 16905(3)(c).

(b) If the scrap tires are a commodity, a person hauling only a commodity.

(c) If the scrap tires are tire casings, a retreader hauling only tire casings.

(d) A solid waste hauler.

(3) Subsection (2) does not do any of the following:

(a) Prohibit a person from transporting his or her scrap tires to a site authorized by subsection (1).

(b) Prohibit a member of a nonprofit service organization who is participating in a community service project from transporting scrap tires to a site authorized by subsection (1).

(c) Prohibit the owner of a farm from transporting scrap tires that originated from his or her farm operation to a site authorized by subsection (1).

(d) Prohibit a solid waste hauler from transporting solid waste to a disposal area licensed under part 115.

(4) The driver of a vehicle used to transport scrap tires is presumed to be responsible for any scrap tires transported, discarded, or disposed of from the vehicle in violation of this section.

(5) In a proceeding for a violation of this section committed using a vehicle, it is presumed that the registered owner of the vehicle at the time of the violation or, if the registered owner is not an individual, the registered owner's agent was the driver of the vehicle at the time of the violation. However, if the vehicle was leased at the time of the violation, it is presumed that the lessee or, if the lessee is not an individual, the lessee's agent was the driver of the vehicle at the time of the violation.

Sec. 16903. (1) A person who owns or operates a collection site where fewer than 2,500 scrap tires are accumulated outdoors shall comply with all of the following:

(a) Scrap tires shall be stored in the tire storage area identified on the scrap tire collection site registration application map and approved by the department.

(b) Only scrap tires shall be accumulated in the tire storage area.

(c) Subject to subdivision (f), the scrap tires shall be accumulated in piles no greater than 15 feet in height with horizontal dimensions no greater than 200 by 40 feet.

(d) Subject to subdivision (f), the scrap tires shall not be within 20 feet of the property line or within 60 feet of a building or structure.

(e) Subject to subdivision (f), there shall be a minimum separation of 30 feet between scrap tire piles. The open space between the piles shall at all times be free of rubbish, equipment, and other materials.

(f) Scrap 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 grant a variance from the requirements of subdivision (c), (d), or (e). A variance under this subsection shall be in writing.

(g) Scrap tires shall be isolated from other stored materials that may create hazardous products if there is a fire, including, but not limited to, lead acid batteries, fuel tanks, solvent barrels, and pesticide containers.

(h) Except for scrap tires that are a commodity used to create a storage pad for, or a roadway for access to, other scrap tires that are also a commodity, scrap tires shall not be placed in the open spaces between tire piles or used to construct on-site roads.

(i) The owner or operator of the collection site shall allow the local fire department that serves the jurisdiction in which the collection site is located to inspect the collection site at any reasonable time.

(j) All persons employed to work at the collection site shall be trained in emergency response operations. The owner or operator of the collection site shall maintain training records and shall make these records available to the local fire department that serves the jurisdiction in which the collection site is located.

(2) A person who owns or operates a collection site where at least 2,500 but fewer than 100,000 scrap tires are accumulated outdoors shall comply with all of the following:

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

(b) The tire storage area shall be completely enclosed with a fence that is at least 6 feet tall with lockable gates and that is designed to prevent easy access.

(c) An earthen berm not less than 5 feet in height shall completely enclose the tire storage area except to allow for necessary ingress and egress from roadways and buildings.

(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 and free of debris and equipment so that it is passable at all times for fire fighting and other emergency vehicles. If the local fire department for the jurisdiction where the collection site is located submits to the department a written determination that the on-site access roads do not ensure that the site is accessible to emergency vehicles at all times during the year, the department of environmental quality shall consider the on-site access roads to be in violation of this requirement.

(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.

(h) Scrap tires shall not be accumulated in excess of 10,000 cubic yards of scrap tires per acre.

(3) A person who owns or operates a collection site where 100,000 or more scrap tires are accumulated outdoors shall comply with all of the requirements of subsections (1) and (2) and shall operate as a scrap tire processor.

(4) Except as otherwise provided in this subsection, subsection (6), and section 16903b, a person who owns a collection site shall maintain a bond in favor of the department. If the collection site registration application under section 16904 includes a written agreement between the owner and the operator of the collection site that requires the operator to maintain the bond and the department approves that requirement, then the operator shall maintain the bond. The bond shall be on a form approved by the department. If the operator is required to maintain the bond under this subsection but fails to do so, both the owner and operator are responsible for a violation of this subsection. The amount of the bond shall be not less than the sum of \$25,000.00 per quarter acre, or fraction thereof, of outdoor tire storage area, and \$2.00 per square foot of tire storage area in a building. However, for collection sites with fewer than 2,500 tires, the bond shall not exceed \$2,500.00.

(5) A person who elects to use a certificate of deposit as a bond under subsection (4) shall receive any accrued interest on that certificate of deposit upon release of the bond by the department. If a person elects to post cash as a bond, interest shall accrue on that bond quarterly at the annual rate of 6%, except that the interest rate payable to the person who maintained the bond 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 person who maintained the bond upon release of the bond by the department. Any interest greater than 6% shall be deposited into the fund.

(6) A bond is not required under subsection (4) for a commodity storage area that meets all of the following requirements:

(a) The commodity is stored in accordance with the requirements of subsection (1).

(b) Not less than 75% of the commodity, by weight or volume, that is stored at the collection site each calendar year is removed from the collection site to a market during that year, and the collection site owner or operator certifies compliance with this subdivision on a form approved by the department.

(c) The areas of the collection site that are used for storage of the commodity are not larger than a total of 1 acre and those areas are indicated on a survey by a registered professional engineer submitted to the department as part of the collection site registration.

(7) Subject to subsections (8) and (9), the department may utilize a bond required under subsection (4) for the costs of any of the following:

(a) Removing scrap tires from the collection site.

(b) Bringing the collection site into compliance with this part.

(c) Cleanup at the collection site.

(d) Fire suppression or other costs associated with responding to a fire or other emergency at a collection site, including reimbursement to any local unit of government that incurred those costs.

(8) The department may draw on the bond required under subsection (4) if any of the following apply:

(a) There is a fire or other emergency at the collection site.

(b) The collection site owner becomes insolvent.

(c) The owner or operator of the collection site violates this part and does not cause the removal of the scrap tires as ordered by the department or a court of competent jurisdiction.

(d) The owner or operator of the collection site fails to extend or renew the bond under its terms or establish alternate financial assurance under subsection (4) at least 30 days before the expiration date or cancellation date of the bond, unless the owner or operator is exempt from the requirement to obtain a bond under section 16903b.

(9) At least 7 days before the department draws on the bond under subsection (8)(b) or (c), the department shall issue a notice or order alleging that the owner or operator of the collection site is insolvent or violated this part and shall provide an opportunity for an informal hearing. This subsection does not apply if the bond is drawn upon under subsection (8)(c) as a result of failure to cause the removal of scrap tires as ordered by a court.

Sec. 16903b. (1) Subject to subsection (2), the owner and operator of a collection site are exempt from the requirement to obtain a bond under section 16903(4) if all of the following requirements are met:

- (a) The owner or operator of the collection site is a scrap tire processor.
- (b) Not less than 75% of the scrap tires, by weight or volume, that are stored at the collection site each calendar year are recycled or used for resource recovery during that year.
- (c) The collection site has been in compliance with storage requirements for at least 1 year.
- (d) The owner or operator annually certifies compliance with the requirements of this subsection on a form approved by the department.

(2) If the department determines that the owner or operator of a collection site is not in compliance with subsection (1), the department shall deliver to the collection site owner or operator, or both, a notice of noncompliance. If, within 60 days after receipt of that notice, the owner or operator who received the notice does not bring the collection site into compliance with subsection (1), the owner or operator shall comply with section 16903(4). Once an owner or operator is required to obtain a bond under section 16903(4), the bond shall be maintained unless the owner or operator brings the collection site into compliance with subsection (1).

(3) If a scrap tire processor has maintained its collection site in compliance with subsection (1) for 5 years, the scrap tire processor may move its operation to a new collection site location and remains exempt from the requirement to maintain a bond under section 16903(4) as long as the scrap tire processor continues to comply with subsection (1).

Sec. 16903c. (1) The owner or operator of a collection site shall ensure that tires at a collection site are maintained in a manner that limits the potential of mosquito breeding by complying with 1 or more of the following:

- (a) The tires shall be covered by plastic sheets or other impermeable barriers to prevent the accumulation of precipitation.
- (b) The tires shall be chemically treated to eliminate mosquito breeding.
- (c) The tires shall be baled, shredded, or chipped into pieces no larger than 4 inches by 6 inches and stored in piles that allow complete water drainage.

(2) A person who violates this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$400.00, plus costs.

(3) A default in the payment of a civil fine or costs ordered under this section or an installment of the fine or costs may be remedied by any means authorized under the revised judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9947.

Sec. 16904. (1) By January 31 of each year, the owner or operator of a collection site or portable shredding operation shall submit an application for registration to the department. If a person who owns or operates a collection site is also a portable shredding operation, the person may submit a single application covering both. The application shall be on a form provided by the department and shall contain the information required by the department. The application for registration of a collection site shall include all of the following:

- (a) Documentation that the collection site is bonded for the registration period as required by section 16903(4), if applicable.
- (b) The signature of the applicant and, if the applicant is not the owner of the real property, the signature of the owner.

(2) The department shall not register a collection site unless the collection site is in compliance with the storage requirements.

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

Sec. 16904b. Scrap tires that are managed in compliance with this part are exempt from regulation as solid waste under part 115. Scrap tires that are not managed in compliance with this part are regulated as solid waste under part 115 in addition to being regulated under this part.

Sec. 16905. (1) By January 31 of each year, a scrap tire hauler shall submit an application for registration to the department. The application shall be on a form provided by the department and shall contain the information required

by the department. The application shall include documentation that the scrap tire hauler is bonded as required by subsection (6) for the registration period.

(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 the department or a law enforcement officer. The scrap tire hauler registration number issued by the department shall be visibly displayed on a motor vehicle transporting scrap tires, whether the scrap tires are transported in or on the motor vehicle or a trailer. The number shall be in block style numerals at least 2 inches high and located on the driver's side of the vehicle but not on a window. The color of the numerals shall contrast with the background vehicle color.

(3) A scrap tire hauler shall maintain a record of each load or consolidated load of scrap tires he or she transports on forms approved by the department. The record shall be maintained for 3 years and shall be made available, upon request, to the department or to a law enforcement officer at reasonable hours. The record shall contain all of 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 name, address, telephone number, and, upon delivery, the authorized signature, as required under section 16906(3), of the owner or operator of the location described in section 16902(1) where the tires are to be delivered.

(d) The date of removal and the number of scrap tires being transported.

(4) A scrap tire hauler shall not dispose of scrap tires at a location other than the location identified under subsection (3)(c).

(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 location. A copy shall also be provided to the owner or operator of the location described in section 16902(1) to which the scrap tires are delivered at the time of delivery.

(6) A scrap tire hauler shall maintain a bond in favor of the department, unless the scrap tire hauler is owned and operated by a scrap tire processor in compliance with this part. The bond shall be on a form approved by the department. The amount of the bond shall be \$10,000.00.

(7) A person who elects to use a certificate of deposit as a bond under subsection (6) shall receive any accrued interest on that certificate of deposit. If cash is posted as a bond, interest shall accrue on the bond quarterly, at the annual rate of 6%, except that the interest rate payable to the scrap tire hauler 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 scrap tire hauler upon release of the bond by the department. Any interest greater than 6% shall be deposited into the fund.

(8) Subject to subsections (9) and (10), the department may utilize a bond required under subsection (6) for the costs of any of the following:

(a) Removing scrap tires accumulated by the scrap tire hauler.

(b) Removing scrap tires deposited at an illegal location by the scrap tire hauler.

(c) Bringing scrap tires accumulated or deposited by the scrap tire hauler into compliance with this part.

(d) Cleanup of scrap tires accumulated or deposited by the scrap tire hauler.

(e) Fire suppression or other costs associated with responding to a fire or other emergency involving the scrap tire hauler or a site where scrap tires have been accumulated or deposited by the scrap tire hauler, including reimbursement to any local unit of government that incurred those costs.

(9) The department may draw on the bond required under subsection (6) if any of the following apply:

(a) There is a fire or other emergency involving the scrap tire hauler or a site where scrap tires have been accumulated or deposited by the scrap tire hauler.

(b) The scrap tire hauler becomes insolvent.

(c) The scrap tire hauler violates this part and does not cause the removal of the tires as ordered by the department or a court of competent jurisdiction.

(d) The scrap tire hauler fails to extend or renew the bond under its terms or establish alternate financial assurance under subsection (6) at least 30 days before the expiration date or cancellation date of the bond.

(10) At least 7 days before the department draws on the bond under subsection (9)(b) or (c), the department shall issue a notice or order alleging that the scrap tire hauler is insolvent or violated this part and shall provide an

opportunity for an informal hearing. This subsection does not apply if the bond is drawn upon under subsection (9)(c) as a result of failure to cause the removal of scrap tires as ordered by a court.

Sec. 16906. (1) A person who by contract, agreement, or otherwise arranges for the removal of scrap tires from a property under his or her control, including an end-user, shall do all of the following:

(a) If a complete record is not obtained from the registered scrap tire hauler pursuant to section 16905(5) or from an owner, operator, or authorized agent of a location pursuant to subsection (3), promptly notify the department of the missing record or information.

(b) Maintain the records described in subdivision (a) at the site of removal for 3 years.

(c) Make the records available to the department or a law enforcement officer upon request during reasonable hours.

(2) A person who receives scrap tires, including an end-user, shall maintain a record of all scrap tires received. The record shall be maintained for 3 years and shall be made available upon request to the department or a law enforcement officer at reasonable hours. The record shall contain all of the information required of a scrap tire hauler in section 16905(3).

(3) Upon acceptance of scrap tires at a location authorized by section 16902(1), the owner, operator, or authorized agent of that location shall sign the record, indicating acceptance of the scrap tires, and provide a copy of the signed record to the person delivering the scrap tires. Within 30 days, the owner or operator of the location receiving the scrap tires shall forward a copy of the signed record to the person who by contract, agreement, or otherwise arranged for the removal of the scrap tires being delivered. If the number of scrap tires received by a location authorized by section 16902(1) differs from the number of scrap tires indicated on the record provided for in section 16905(3) by the person who by contract, agreement, or otherwise arranged for the removal of the scrap tires being delivered or by the scrap tire hauler, the owner or operator of the location receiving the scrap tires shall contact the person who arranged for removal of the scrap tires or the scrap tire hauler, or both, as necessary, and determine where any additional tires received by that location originated or where any missing tires not received by that location were taken.

(4) If a consumer purchases replacement tires at a retailer and retains the tires being replaced, the retailer shall obtain the signature of the consumer on an invoice, receipt, or other record acknowledging retention of the scrap tires unless the consumer refuses.

(5) A retreader shall maintain for 3 years, and make available upon request to the department or a law enforcement officer at reasonable hours, all records required to be carried or maintained with the retreader's tire casings including all of the following:

(a) A retread work order that includes the customer's name, date of transaction, retreader DOT identification number pursuant to 49 CFR part 574, order number, and details of casing information for the casing intended for processing. Work orders shall reflect the number of tires that are being transported and retreaded.

(b) A work order sales report that specifies the work process detail for the customer work order. This report shall be returned to the customer with the work order number and invoice.

(c) An invoice stating the sales transaction of the retread process that was completed for the customer.

Sec. 16908. (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. The department shall be the administrator of the fund for auditing purposes. 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) For administrative costs of the department associated with this part including the implementation and enforcement of this part. However, money shall not be expended under this subdivision for the employment of more than 11 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, 1949 PA 300, MCL 257.806.

(c) For the cleanup or collection of abandoned scrap tires and scrap tires at collection sites. The department shall give priority to funding activities under this subdivision at collection sites in which the scrap tires were accumulated prior to January 1, 1991 and to collection sites that pose an imminent threat to public health, safety, welfare, or the environment. For collection sites that have accumulated tires after January 1, 1991, a lien, in favor of the state up to the value of the cleanup grant amount and any increase in the value of the property as a result of the cleanup of the property with grant funds, shall be placed on the property that is affected by the removal of the tires as provided in section 16908b. Before making a grant under this subdivision, the department shall consider the extent to which the making of the grant would contribute to the achievement of a balanced distribution of grants under this subdivision throughout the state. If a grant is awarded under this subdivision for collecting scrap tires at a community cleanup site, the tires shall be removed from the community cleanup site by the time specified in the grant contract.

(d) For grants to reimburse the cost of purchasing scrap tires to support the development of increased markets for scrap tires. Only the cost of purchasing scrap tires from scrap tire processors in this state or other generators of scrap tires in this state is eligible for reimbursement under this subdivision.

(e) For grants of up to 50% of the cost of purchasing equipment, or research and development, to provide for a new or increased use for scrap tires.

(f) For costs associated with enforcement of this part, including grants to local law enforcement agencies.

(3) Applications for grants under subsection (2) shall be submitted on a form approved by the department and shall contain the information required by the department. The department shall publish criteria upon which the grants will be issued and shall make that information available to grant applicants.

Sec. 16908c. A person shall not intentionally engage in the open burning of a scrap tire.

Sec. 16909. (1) A person who violates this part, if 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, if 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 law enforcement 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) A person who knowingly makes or causes to be made a false statement or entry in a registration application, scrap tire transportation record, or grant application under this part is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not less than \$2,500.00 or more than \$10,000.00, or both.

Sec. 16909a. (1) The department may enter at reasonable hours a tire retail establishment, vehicle owned or operated by a scrap tire hauler for the transport of scrap tires, or collection site or other place where scrap tires are or have been present, and may inspect the location or other place for the purposes of enforcing or administering this part. An investigation or inspection under this part shall comply with the United States constitution and the state constitution of 1963.

(2) If the department or a law enforcement officer has probable cause to believe that a person is violating this part, the department or a law enforcement officer may search without a warrant a vehicle or other transportation-related equipment that is possessed, used, or operated by that person.

(3) A vehicle, or other transportation-related equipment used in a criminal violation of this part is subject to seizure by a law enforcement officer and forfeiture in the same manner as provided in chapter 47 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709.

(4) The court may award court costs and other expenses of litigation including attorney fees to a party who successfully brings an action for a violation of this section.

Sec. 16911. (1) The department shall annually report to the standing committees of the senate and house of representatives with primary responsibility for issues pertaining to natural resources and the environment on the utilization of revenues of the fund.

(2) In 2006 and every third year thereafter, the department shall prepare a report on the effectiveness of this part in encouraging the reuse of scrap tires and ensuring the safe storage of scrap tires. The report shall include recommendations for such changes to this part, including any further description of the uses of money described in section 16908(2)(c), (d), and (e) as the department finds necessary and appropriate. The department shall submit the report to the standing committees of the senate and house of representatives with primary responsibility for issues pertaining to natural resources and the environment.

(3) The director of the department shall appoint a scrap tire advisory committee of individuals interested in the management of scrap tires to advise the department on the implementation of this part. In addition to such other issues

as the department may request the committee to consider, the committee shall advise the department on the report required by subsection (2) and the relevance of a national standard or specification under section 16901(1)(f).

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Gay E. Randall

Clerk of the House of Representatives

Approved

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Governor