

House Bill 226

By: Representatives Nix of the 69th, Burns of the 159th, Roberts of the 155th, Mosby of the 83rd, Drenner of the 85th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 1 of Article 2 of Chapter 8 of Title 12 of the Official Code of Georgia
2 Annotated, relating to solid waste management generally, so as to revise certain requirements
3 related to tire transportation, storage, and disposal; to provide for definitions; to correct
4 cross-references; to provide enforcement authority to certain officers; to require permits and
5 vehicle decals for used tire and scrap tire carriers; to amend Code Section 12-2-2 of the
6 Official Code of Georgia Annotated, relating to general provisions regarding the
7 Environmental Protection Division and Environmental Advisory Council, so as to update
8 effective date of rules and regulations for purposes of criminal law enforcement; to repeal
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**SECTION 1.**

12 Part 1 of Article 2 of Chapter 8 of Title 12 of the Official Code of Georgia Annotated,
13 relating to solid waste management generally, is amended in Code Section 12-8-22, relating
14 to solid waste management definitions, by revising paragraphs (5), (32), and (39) and adding
15 two new paragraphs to read as follows:

16 "(4.2) 'Compost' means a stabilized organic material produced by controlled aerobic
17 decomposition that can be used as a soil additive, fertilizer, or growth media.

18 (5) 'Composting' means the ~~controlled~~ accelerated biological decomposition of organic
19 matter ~~into a stable, odor-free humus~~ under controlled aerobic conditions which creates
20 compost."

21 ~~"(32) 'Scrap tire carrier' means any person engaged in picking up or transporting scrap~~
22 ~~tires for the purpose of removal to a scrap tire processor, end user, or disposal facility~~
23 Reserved."

24 "(38.1) 'Tire carrier' means any person engaged in collecting or transporting tires, other
25 than new tires.

26 (39) 'Tire retailer' means any person, other than a used motor vehicle parts dealer
 27 licensed in accordance with Chapter 47 of Title 43, engaged in the business of selling
 28 new replacement tires or used tires."

29 "(40.1) 'Used tire' means a tire which has a minimum of 2/32 inch of road tread and
 30 which is still suitable for its original purpose but is no longer new. A tire retailer shall
 31 inventory and market used tires in substantially the same fashion as a new tire and be able
 32 to provide satisfactory evidence to the division that a market for the tire exists and the tire
 33 is in fact being marketed as a used tire. A used tire shall not be considered solid waste."

34 SECTION 2.

35 Said part is further amended in Code Section 12-8-23, relating to powers and duties of the
 36 board, by revising subparagraph (J) of paragraph (1) as follows:

37 "(J) Rules and regulations regulating the generation, collection, processing, and
 38 disposal of scrap tires and the collection, inventory, and marketing of used tires and
 39 governing the investigation and cleanup of sites where scrap tires have been disposed
 40 regardless of the date when such disposal occurred; and"

41 SECTION 3.

42 Said part is further amended in Code Section 12-8-27.1, relating to the solid waste trust fund,
 43 by revising subsection (a) as follows:

44 "(a) There shall be established the solid waste trust fund. The director shall serve as trustee
 45 of the solid waste trust fund. The moneys deposited in such fund pursuant to this Code
 46 section, ~~Code Section 12-8-27~~, Code Section 12-8-30.6, and Code Section 12-8-40.1 may
 47 be expended by the director, with the approval of the board, for the following purposes:

48 (1) To take whatever emergency action is necessary or appropriate to assure that the
 49 public health or safety is not threatened whenever there is a release or substantial threat
 50 of a release of contaminants from a disposal facility;

51 (2) To take preventive or corrective actions where the release of contaminants presents
 52 an actual or potential threat to human health or the environment and where the owner or
 53 operator has not been identified or is unable or unwilling to perform corrective action,
 54 including but not limited to closure and postclosure care of a disposal facility and
 55 provisions for providing alternative water supplies;

56 (3) To take such actions as may be necessary to monitor and provide postclosure care of
 57 any disposal facility, including preventive and corrective actions, without regard to the
 58 identity or solvency of the owner thereof, commencing five years after the date of
 59 completing closure; and

60 (4) To take such actions as may be necessary to implement the provisions of a scrap tire
 61 management program in this state, particularly as may be related to the cleanup of scrap
 62 tire disposal piles and facilities, regulation of ~~scrap~~ tire carriers and other handlers, and
 63 disbursement of grants and loans to cities, counties, and other persons as may be
 64 necessary to implement fully the provisions of this part."

65 **SECTION 4.**

66 Said part is further amended in Code Section 12-8-30.8, relating to penalties for solid waste
 67 management violations, by adding a new subsection to read as follows:

68 "(c) Any sheriff, deputy sheriff, or other peace officer or local code enforcement officer
 69 shall have the authority to enforce the provisions of subsection (c) of Code Section
 70 12-8-40.1."

71 **SECTION 5.**

72 Said part is further amended by revising Code Section 12-8-40.1, relating to tire disposal
 73 restrictions, as follows:

74 "12-8-40.1.

75 (a) Effective July 1, 1990, each city, county, or solid waste management authority shall
 76 have the right to impose certain restrictions on scrap tires originating in or which may
 77 ultimately be disposed of in its area of jurisdiction. These restrictions may include but are
 78 not limited to:

79 (1) A ban on the disposal of scrap tires at solid waste disposal facilities within its control;
 80 and

81 (2) A requirement that scrap tires be recycled, shredded, chopped, or otherwise processed
 82 in an environmentally sound manner prior to disposal at solid waste disposal facilities
 83 owned or operated by the city, county, or authority.

84 (b) After December 31, 1994, no person may dispose of scrap tires in a solid waste landfill
 85 unless the scrap tires are shredded, chopped, or chipped in accordance with standards
 86 established by the board and:

87 (1) The director finds that the reuse or recycling of scrap tires is not economically
 88 feasible; or

89 (2) The scrap tires are received from a municipal solid waste collector holding a valid
 90 solid waste collection permit under authority of this part and who transports fewer than
 91 ten scrap tires at any one time; ~~or~~

92 (3) The scrap tires are received from a person transporting fewer than five scrap tires in
 93 combination with the person's own solid waste for disposal.

94 (c)(1) No person shall collect or transport ~~scrap~~ any tires, other than new tires, for the
 95 purpose of processing or disposal, process scrap tires, or purport to be in the business of
 96 collecting, transporting, or processing scrap tires unless the person has a scrap tire carrier
 97 or processor permit issued by the division. For purposes of this paragraph, the term
 98 'process scrap tires' means any method, system, or other treatment designed to change the
 99 physical form, size, or chemical content of scrap tires for beneficial use.

100 (A) Obtains a tire carrier permit issued by the division; and

101 (B) Displays on each vehicle used to collect or transport tires a decal issued by the
 102 division; provided, however, that this subparagraph shall not apply to a tire carrier that
 103 collects tires exclusively from outside this state.

104 (2) As a condition of holding a permit to collect ~~scrap~~ or transport tires, each permitted
 105 person shall:

106 (A) Report to the division in such manner and with such frequency as the division shall
 107 require the number of ~~scrap~~ tires transported and the manner of disposition;

108 (B) Maintain financial assurance in accordance with subsection (l) of this Code section;
 109 and

110 (C) Submit such other data as is determined by the board to be reasonably necessary
 111 to protect public health and the environment; and

112 (D) Pay to the division a reasonable fee for each decal issued.

113 (c.1) No person shall process scrap tires unless the person has a scrap tire processing
 114 permit issued by the division. For purposes of this subsection, the term 'process scrap tires'
 115 means any method, system, or other treatment designed to change the physical form, size,
 116 or chemical content of scrap tires for beneficial use.

117 (d) Subsection (c) of this Code section shall not apply to:

118 (1) A municipal solid waste collector holding a valid solid waste collection permit under
 119 authority of this part whose primary business is the collection of municipal solid waste;

120 (2) A private individual transporting no more than ten of the individual's own scrap tires
 121 to a scrap tire processor or end user or for proper disposal or a private individual
 122 transporting more than ten tires if such individual can provide proof of purchase with
 123 receipt for such tires;

124 (3) A company transporting the company's own ~~scrap~~ tires to a scrap tire processor or
 125 end user or for proper disposal; and

126 (4) A tire retailer transporting its own used tires if such dealer can provide proof of
 127 purchase with receipt for all used tires being transported and a document verifying the
 128 origin, route, and destination of such used tires;

129 (5) Any person transporting tires collected as part of an organized site cleanup activity;
 130 and

131 ~~(4)~~(6) The United States, the State of Georgia, any county, municipality, or public
132 authority.

133 (e) After July 1, 1992, any person who generates scrap tires shall:

134 (1) Notify the division of such activities, requesting the issuance of an identification
135 number, which number shall be used on scrap tire shipment manifests;

136 (2) Have the scrap tires collected and transported by persons in compliance with
137 subsection (c) of this Code section;

138 (3) Maintain receipts indicating the disposition of the scrap tires;

139 (4) Maintain receipts indicating the permit number and name of the ~~scrap~~ tire carrier to
140 whom the tires were given;

141 (5) Maintain receipts indicating the disposal site or processing facility where the scrap
142 tires were taken including the date of such disposal and the number of scrap tires; and

143 (6) Provide such other information as the board shall require and for such period of time
144 as the board deems appropriate.

145 (f) No person may store more than ~~100~~ 25 scrap tires anywhere in this state. Any person
146 storing in excess of ~~100~~ 25 scrap tires shall be deemed to be in violation of this part.

147 (g) Subsection (f) of this Code section shall not apply to any of the following:

148 (1) A solid waste disposal site permitted by the division if the permit authorizes the
149 storage of scrap tires prior to their disposal;

150 (2) A tire retailer with not more than ~~3,000~~ 1,500 scrap tires in storage;

151 (3) A tire retreader with not more than ~~1,500~~ 3,000 scrap tires in storage so long as the
152 scrap tires are of the type the retreader is actively retreading;

153 ~~An auto salvage yard~~ A licensed used motor vehicle parts dealer or registered
154 secondary metals recycler with not more than 500 scrap tires in storage; and

155 (5) A scrap tire processor approved by the division so long as the number of scrap tires
156 in storage do not exceed the quantity approved by the division

157 if all of the scrap tires are secured in a locked enclosure or are otherwise adequately
158 secured in a manner suitable to prevent unauthorized access; provided, however, that the
159 division may grant a waiver of the enclosure requirement if the person requesting the
160 waiver can definitively show a significant and unique economic hardship which impairs
161 such person's ability to continue operating his or her business.

162 (h)(1) Beginning July 1, 1992, a fee is imposed upon the retail sale of all new
163 replacement tires in this state of \$1.00 per tire sold. The fee shall be collected by retail
164 dealers at the time the retail dealer sells a new replacement tire to the ultimate consumer;
165 provided, however, that a Georgia tire distributor who sells tires to retail dealers must
166 collect such fees from any retail dealer who does not have a valid scrap tire generator
167 identification number issued by the division. The fee and any required reports shall be

168 remitted not less than quarterly on such forms as may be prescribed by the division. The
169 division is authorized to contract with the Department of Revenue to, and the Department
170 of Revenue is authorized to, collect such fees on behalf of the division. All fees received
171 shall be deposited into the state treasury to the account of the general fund in accordance
172 with the provisions of Code Section 45-12-92. All moneys deposited into the solid waste
173 trust fund shall be deemed expended and contractually obligated and shall not lapse to the
174 general fund.

175 (2) In collecting, reporting, and paying the fees due under this subsection, each
176 distributor or retailer shall be allowed the following deductions, but only if the amount
177 due was not delinquent at the time of payment:

178 (A) A deduction of 3 percent of the first \$3,000.00 of the total amount of all fees
179 reported due on such report; and

180 (B) A deduction of one-half of 1 percent of that portion exceeding \$3,000.00 of the
181 total amount of all fees reported due on such report.

182 (3) The tire fees authorized in this subsection shall cease to be collected on June 30,
183 2014. The director shall make an annual report to the House Committee on Natural
184 Resources and Environment and the Senate Natural Resources and the Environment
185 Committee regarding the status of the activities funded by the solid waste trust fund.

186 (i)(1) The division may abate any threat or potential threat to public health or the
187 environment created or which could be created by scrap tires or other scrap tire materials
188 by removing or processing the scrap tires or other scrap tire materials. Before taking any
189 action to abate the threat or potential threat, the division shall give any person having the
190 care, custody, or control of the scrap tires or materials or owning the property upon which
191 the scrap tires or materials are located notice of the division's intentions and order the
192 responsible party to abate the threat or potential threat in a manner approved by the
193 division. Such order shall be issued in accordance with Code Section 12-8-30.

194 (2) If the responsible party is unable or unwilling to comply with such order or if no
195 person who has contributed or is contributing to the scrap tires or scrap tire materials
196 which are to be abated can be found, the director may undertake cleanup of the site
197 utilizing funds from the solid waste trust fund.

198 (3) The division or its contractors may enter upon the property of any person at such time
199 and in such manner as deemed necessary to effectuate the necessary corrective action to
200 protect human health and the environment.

201 (4) Neither the State of Georgia nor the solid waste trust fund established in Code
202 Section 12-8-27.1 shall be liable for any loss of business, damages, or taking of property
203 associated with the corrective action.

204 (5) The division may bring an action or proceeding against the property owner or the
 205 person having possession, care, custody, or control of the scrap tires or other scrap tire
 206 materials to enforce the corrective action order issued under Code Section 12-8-30 and
 207 recover any reasonable and necessary expenses incurred by the division for corrective
 208 action, including administrative and legal expenses. The division's certification of
 209 expenses shall be prima-facie evidence that the expenses are reasonable and necessary.
 210 Notwithstanding any other provision of this subsection, any generator of scrap tires who
 211 is identified as being a contributor to the materials which are the object of the abatement
 212 and who can document that he or she has fully complied with this part and all rules
 213 promulgated pursuant to this part in disposing of such scrap tires shall not be liable for
 214 any of the cost of recovery actions of the abatement.

215 (6) Nothing in this part shall affect the right of any municipality or county to abate or
 216 clean up scrap tires or scrap tire materials which are a threat or potential threat to human
 217 health or the environment. The division may reimburse such local governments for such
 218 actions in accordance with procedures approved by the board.

219 (j) Except for the purposes of scrap tire corrective actions, the provisions of this Code
 220 section do not apply to:

221 (1) Tires with a rim size less than 12 inches;

222 (2) Tires from:

223 (A) Any device moved exclusively by human power; or

224 (B) Any device used exclusively for agricultural purposes, except a farm truck; or

225 (3) A retreadable casing while under the control of a tire retreader or while being
 226 delivered to a retreader.

227 (k) The director shall be authorized to order the cessation of operation of any ~~scrap~~ tire
 228 carrier or scrap tire processor who is found not to be operating in compliance with this part
 229 or rules adopted pursuant to this part and the seizure of all property used in such unlawful
 230 operations; provided, however, that the ~~scrap~~ tire carrier or scrap tire processor shall be
 231 afforded a hearing within 48 hours before an administrative law judge of the Department
 232 of Natural Resources upon such order of the director.

233 (l)(1) A surety bond shall be provided to the director by a ~~scrap~~ tire carrier or scrap tire
 234 processor prior to issuance of a permit ~~for collecting or processing scrap tires~~ to ensure
 235 compliance with the provisions of this part.

236 (2) The bond required in this subsection shall be:

237 (A) Conditioned upon compliance with this part, any rules adopted pursuant to this
 238 part, and the carrier's or processor's permit; and

239 (B) In such amount as determined by the director necessary to ensure compliance, but
 240 in any event not to exceed ~~\$25,000.00~~ less than \$10,000.00 nor greater than \$20,000.00.

241 (3) Such bond shall be payable to the director and issued by an insurance company
242 authorized to issue such bonds in this state.

243 (4) Upon a determination by the director that a ~~scrap~~ tire carrier or scrap tire processor
244 has failed to meet the provisions of this part, rules promulgated pursuant to this part, or
245 its permit, the director may, after written notice of such failure:

246 (A) Forfeit or draw that amount of such bond that the director determines necessary to
247 correct the violation;

248 (B) Expend such amount for such purposes; and

249 (C) Require the replacement of that amount of such bond forfeited or drawn upon.

250 (5) Any moneys received by the director in accordance with paragraph (4) of this
251 subsection shall be deposited into the solid waste trust fund established in Code Section
252 12-8-27.1."

253 **SECTION 6.**

254 Code Section 12-2-2 of the Official Code of Georgia Annotated, relating to general
255 provisions regarding the Environmental Protection Division and Environmental Advisory
256 Council, is amended by revising paragraph (5) of subsection (c) as follows:

257 "(5) Notwithstanding any other law to the contrary, for purposes of establishing criminal
258 violations of the standards, rules, and regulations promulgated by the Board of Natural
259 Resources as provided in this title, the term 'standards, rules, and regulations' shall mean
260 those standards, rules, and regulations of the Board of Natural Resources in force and
261 effect on January 1, ~~1998~~ 2013."

262 **SECTION 7.**

263 All laws and parts of laws in conflict with this Act are repealed.