

The Senate Natural Resources and the Environment Committee offered the following substitute to HB 226:

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 provide
9 for an effective date; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 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, creating
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 common carrier
 103 that collects tires exclusively from outside this state and transports them directly to a
 104 scrap tire processor or end user within this state.

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

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

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

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

113 (D) Pay to the division a nominal fee for each decal issued.

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

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

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

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

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

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

130 (5) Any person transporting tires collected as part of an organized site cleanup activity;
 131 and
 132 ~~(4)(6)~~ The United States, the State of Georgia, any county, municipality, or public
 133 authority.

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

- 135 (1) Notify the division of such activities, requesting the issuance of an identification
 136 number, which number shall be used on scrap tire shipment manifests;
 137 (2) Have the scrap tires collected and transported by persons in compliance with
 138 subsection (c) of this Code section;
 139 (3) Maintain receipts indicating the disposition of the scrap tires;
 140 (4) Maintain receipts indicating the permit number and name of the ~~scrap~~ tire carrier to
 141 whom the tires were given;
 142 (5) Maintain receipts indicating the disposal site or processing facility where the scrap
 143 tires were taken including the date of such disposal and the number of scrap tires; and
 144 (6) Provide such other information as the board shall require and for such period of time
 145 as the board deems appropriate.

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

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

- 149 (1) A solid waste disposal site permitted by the division if the permit authorizes the
 150 storage of scrap tires prior to their disposal;
 151 (2) A tire retailer with not more than ~~3,000~~ 1,500 scrap tires in storage;
 152 (3) A tire retreader with not more than ~~1,500~~ 3,000 scrap tires in storage so long as the
 153 scrap tires are of the type the retreader is actively retreading;
 154 (4) ~~An auto salvage yard~~ A licensed used motor vehicle parts dealer or registered
 155 secondary metals recycler with not more than 500 scrap tires in storage; and
 156 (5) A scrap tire processor approved by the division so long as the number of scrap tires
 157 in storage do not exceed the quantity approved by the division

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

163 (h)(1) Beginning July 1, 1992, a fee is imposed upon the retail sale of all new
 164 replacement tires in this state of \$1.00 per tire sold. The fee shall be collected by retail
 165 dealers at the time the retail dealer sells a new replacement tire to the ultimate consumer;
 166 provided, however, that a Georgia tire distributor who sells tires to retail dealers must

167 collect such fees from any retail dealer who does not have a valid scrap tire generator
168 identification number issued by the division. The fee and any required reports shall be
169 remitted not less than quarterly on such forms as may be prescribed by the division. The
170 division is authorized to contract with the Department of Revenue to, and the Department
171 of Revenue is authorized to, collect such fees on behalf of the division. All fees received
172 shall be deposited into the state treasury to the account of the general fund in accordance
173 with the provisions of Code Section 45-12-92. All moneys deposited into the solid waste
174 trust fund shall be deemed expended and contractually obligated and shall not lapse to the
175 general fund.

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

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

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

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

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

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

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

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

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

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

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

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

223 (2) Tires from:

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

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

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

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

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

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

- 238 (A) Conditioned upon compliance with this part, any rules adopted pursuant to this
 239 part, and the carrier's or processor's permit; and
- 240 (B) In such amount as determined by the director necessary to ensure compliance, but
 241 in any event not to exceed ~~\$25,000.00~~ less than \$10,000.00 nor greater than \$20,000.00.
- 242 (3) Such bond shall be payable to the director and issued by an insurance company
 243 authorized to issue such bonds in this state.
- 244 (4) Upon a determination by the director that a ~~scrap~~ tire carrier or scrap tire processor
 245 has failed to meet the provisions of this part, rules promulgated pursuant to this part, or
 246 its permit, the director may, after written notice of such failure:
- 247 (A) Forfeit or draw that amount of such bond that the director determines necessary to
 248 correct the violation;
- 249 (B) Expend such amount for such purposes; and
- 250 (C) Require the replacement of that amount of such bond forfeited or drawn upon.
- 251 (5) Any moneys received by the director in accordance with paragraph (4) of this
 252 subsection shall be deposited into the solid waste trust fund established in Code Section
 253 12-8-27.1."

254 **SECTION 6.**

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

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

263 **SECTION 7.**

264 This Act shall become effective upon its approval by the Governor or upon its becoming law
 265 without such approval.

266 **SECTION 8.**

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