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SFA



BILL ANALYSIS

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House Bill 4242 (Substitute S-1 as reported)
Sponsor: Representative Michelle McManus
House Committee: Conservation, Environment and Recreation
Senate Committee: Natural Resources and Environmental Affairs

Date Completed: 5-6-97

RATIONALE

In the past few years, Grand Traverse, Clare, and Osceola Counties have been the sites of major fires at scrap tire storage facilities. In December 1995, a fire at a tire retreading company in Grand Traverse County burned for one month, consuming not only thousands of tires but also more than \$100,000 in fire-fighting costs to local and county agencies. Another fire, which occurred in July 1996 in Clare County, burned approximately 200,000 tires and imposed financial hardship on local and county agencies that fought the blaze. A third fire consumed a storage facility in Osceola County in April 1997. These fires have led to suggestions for several statutory changes. The collection, storage, and disposal of scrap tires is regulated under Part 169 of the Natural Resources and Environmental Protection Act. In addition, the Act created the Scrap Tire Regulatory Fund, which is used for the enforcement of scrap tire regulations and for the cleanup or collection of abandoned scrap tires. Some people believe that storage requirements should provide for fire prevention and remediation, and that performance bonding requirements should permit a bond to be used to cover cleanup costs resulting from a fire or emergency at a collection site.

CONTENT

The bill would amend Part 169 of the Natural Resources and Environmental Protection Act to add to existing requirements regarding the storage of scrap tires at a tire collection site; establish specific performance bonds for persons who own a collection site; allow a performance bond to be used for costs associated with a fire or other emergency at a collection site; include an automotive recycler as a collection site under certain circumstances; require the Department of

Environmental Quality to prepare and implement a statewide plan for responding to fires at a collection site; and, exempt from the Act's requirements end users of scrap tires, as long as 75% of their scrap tires were used each year. Following is a detailed description of the bill's provisions.

Collection Sites

Currently, a person who owns or operates a collection site must comply with a list of requirements specified in the Act; the requirements regulate the size of tire piles and the location of the piles on property; provide for the maintenance of the piles to prevent or limit mosquito breeding; and provide for the accessibility of the piles to fire fighting equipment. The bill also would require that tires, including shredded tires, be isolated from other stored materials that could create hazardous products if there were a fire. These materials would include, but would not be limited to, lead acid batteries, fuel tanks, solvent barrels, and pesticide containers. In addition, the collection site would be subject to annual inspection by the local fire department that served the jurisdiction in which the site was located. All persons employed to work at a collection site would have to be trained in emergency response operations, and the owner or operator of the site would have to maintain training records and make them available to the local fire department.

Currently, the Act requires that there be a separation of at least 20 feet between tire piles. The bill would increase the distance to at least 30 feet, but provides that a collection site that was in operation on the effective date of the bill would have two years to comply. During this two-year period, there would have to be a minimum of 20

feet between tire piles. The Department of Environmental Quality (DEQ) could grant an exception to the 30-foot separation distance for a specified period of time if the owner or operator demonstrated to the Department's satisfaction that expansion of the collection site was not possible due to the unavailability of additional space, and that the owner or operator had made a good faith effort to find markets for the excess scrap tires that would have to be removed in order to comply with the 30-foot separation distance.

Currently, "collection site" means a site, excluding a landfill, a racecourse, or a feed storage location, that contains: one or more pieces of adjacent real property where 500 or more scrap tires are accumulated if the property is not associated with a tire retailer; or, one or more adjacent parcels where 1,500 or more scrap tires are accumulated if the property is owned or leased by a tire retailer. The bill specifies that a collection site also would include one or more pieces of adjacent real property where 2,500 or more scrap tires were accumulated, if the property were owned or leased by an automotive recycler.

The bill provides that at a collection site where there was an accumulation of between 2,500 and 100,000 scrap tires, the tires could not be accumulated in excess of 10,000 cubic yards of scrap tires per acre.

Performance Bond

Currently, the Act provides that a person who owns a collection site must maintain a bond in favor of the DEQ, in an amount determined by the Department, for removing tires from the site, in case of an emergency at the site, owner insolvency, or failure of the owner to comply with the Act. The bill would require, instead, that the amount of the performance bond be \$25,000 per quarter acre, or fraction thereof, of outdoor tire storage area; \$2 per square foot of tire storage area in a building; and \$750 for each vehicle used as a tire storage area. Further, the bill would allow the bond to be used for other cleanup costs, and for the costs associated with responding to a fire or an emergency at a collection site.

End User Exemption

Under the bill, an end user would be exempt from regulation under the Act for scrap tires stored at the end user's site, if at least 75% of the scrap tires, by weight or volume, that were stored on site each calendar year were recycled or used for resource

recovery during that year, and the end user annually certified his or her compliance with the bill on a form approved by the Department. "End user" would mean any of the following: a person who possessed a permit to burn under Part 55 (Air Pollution Control); a person who possessed a permit to construct a landfill under Part 115 (Solid Waste Management); or, a person who only engineered scrap tires into crumb rubber that was used to manufacture products that were sold in the market. The bill would define "crumb rubber" as rubber material derived from tires that was less than one-eighth inch by one-eighth inch in size and was free of all steel and all fiber.

Scrap Tire Markets

The bill would require the DEQ to assist owners and operators of collection sites and scrap tire processors in Michigan in developing markets for scrap tires.

MCL 324.16901 et al.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill would enhance safety provisions aimed at preventing tire fires at collection sites by restricting the volume of scrap tires accumulated at a storage site and by increasing the width of passageways between tire piles. The fire lane spacing requirement would be increased from 20 to 30 feet and scrap tires could not be accumulated in more than 10,000 cubic yards of scrap tires per acre. The increase of space that separated scrap tire piles not only would provide better access for equipment to fight fires but also would provide for fire breaks, which could help prevent a fire from spreading. Safety also would be enhanced by the requirement that tires be isolated from other stored materials that could create hazardous products if there were a fire, such as lead acid batteries, fuel tanks, and solvent barrels. Furthermore, the bill would require local fire departments to inspect the collection sites annually, and would require all persons who worked at a site to be trained in emergency response operations. In addition, the Department would be required to develop and implement a statewide fire response plan for scrap tire collection sites.

Response: The bill should further enhance enforcement mechanisms by requiring inspections

of facilities at any time, instead of annually, by a fire department or the DEQ.

Supporting Argument

Currently, an owner of a scrap tire collection site must maintain a bond in favor of the Department in an amount sufficient to cover the cost of removing scrap tires from a collection site in case of an emergency at the site, owner insolvency, or failure of an owner to comply with the Act. Under the bill, the purpose of the bond would be expanded so that it could be used for cleanup of a scrap tire collection site and for costs associated with responding to a fire or emergency at a site. The bill also would require an owner of a scrap tire collection site to maintain a bond of \$25,000 per quarter acre of outdoor tire storage area; \$2 per square foot of tire storage area in a building; and, \$750 for each vehicle used as a tire storage area. Thus, the bill not only would establish a minimum amount for a bond at an outdoor scrap tire collection site, but also would require a bond for indoor storage and vehicles used at storage sites. Extending bond requirements to indoor storage sites would reduce the number of collection sites where buildings and vehicles are used merely to store scrap tires without identifying end user markets.

Response: Currently, there are no rules directing the disposition of bond money. Financial institutions reportedly have refused to grant bonds without these provisions. As a result, scrap tire storage facilities are forced to put up cash bonds, which leaves fewer funds available for site maintenance. The Department should be required to promulgate rules and regulations regarding the disposition of bond money.

Opposing Argument

The bill's requirement for wider passageways between scrap tires piles would not enhance fire fighting capability, since it is doubtful that firefighters would place themselves and their equipment between two scrap piles engulfed in flames, regardless of the distance between the piles. This requirement would, however, increase the amount of land needed for a storage facility, which could result in more illegal dumping if costs were prohibitive. The increased spacing and training requirements also could be expensive, and could force some tire storage facilities to shut down.

Legislative Analyst: L. Arasim

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government, dependent upon the appropriations process.

The DEQ currently receives \$1.3 million in scrap tire recycling funds, half of which is used to administer the current Act. The Department has indicated that it does not have staff to design or implement scrap tire fire response or suppression and that additional resources would be needed.

Fiscal Analyst: G. Cutler

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.