

Act No. 17  
Public Acts of 1997  
Approved by the Governor  
June 11, 1997  
Filed with the Secretary of State  
June 11, 1997  
EFFECTIVE DATE: June 11, 1997

STATE OF MICHIGAN  
89TH LEGISLATURE  
REGULAR SESSION OF 1997

**Introduced by Reps. McManus, McBryde, Law, Horton, Gernaat, DeVuyst, Middaugh, Anthony, Bodem, Gire, LaForge, Prusi, Tesanovich, DeHart, Schermesser, Raczkowski, Kilpatrick, Kelly, Mans, Brater and Goschka**

## **ENROLLED HOUSE BILL No. 4242**

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 prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 16901 and 16903 (MCL 324.16901 and 324.16903), section 16901 as amended by 1995 PA 268, and by adding sections 16903a, 16904a, 16908a, and 16910.

*The People of the State of Michigan enact:*

Sec. 16901. As used in this part:

(a) "Abandoned scrap tires" means an accumulation of scrap tires on property where the property owner is not, as determined by the department, 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) "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.

(c) "Collection site" means a site, other than a landfill, a racecourse, or a feed storage location, that contains either of the following:

(i) One or more pieces of adjacent real property where 500 or more scrap tires are accumulated and that is not associated with a retail operation as provided in subparagraph (ii) or with an automotive recycler as provided in subparagraph (iii).

(ii) One or more pieces of adjacent real property where 1,500 or more scrap tires are accumulated if that property is owned or leased by a person who is a retailer and is not associated with an automotive recycler as provided in subparagraph (iii).

(iii) One or more pieces of adjacent real property where 2,500 or more scrap tires are accumulated if that property is owned or leased by a person who is an automotive recycler as defined in section 2a of the Michigan vehicle code, 1949 PA 300, MCL 257.2a.

(d) "Department" means the department of environmental quality.

(e) "Feed storage location" means a location on 1 or more pieces of adjacent real property containing a commercially operated farming operation where not more than 3,000 scrap tires are used for the purpose of securing stored feed.

(f) "Fund" means the scrap tire regulatory fund created in section 16908.

(g) "Landfill" means that term as it is defined in section 11504.

(h) "Racecourse" means a commercially operated track for go-carts, vehicles, off-road recreational vehicles, or motorcycles that uses not more than 3,000 scrap tires for bumpers along the track for safety purposes.

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

(j) "Scrap tire" means a tire that is no longer being used for its original intended purpose. Scrap tire does not include a vehicle support stand.

(k) "Scrap tire hauler" means a person who, as part of a commercial business, transports scrap tires, other than a solid waste hauler as defined in part 115 who transports 7 or fewer scrap tires along with other solid waste in any truckload.

(l) "Scrap tire processor" means a person engaged in the business of storing, buying, or otherwise acquiring scrap tires, and reducing their volume by shredding or otherwise facilitating recycling or resource recovery techniques for scrap tires. A scrap tire processor includes a person who, in addition to processing the scrap tires, incinerates the tires or converts the tires into a product or another end use.

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

(n) "Tire storage area" means a location within a collection site where tires are accumulated.

(o) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices exclusively moved by human power or used exclusively upon stationary rails or tracks and excepting a mobile home as defined in section 2 of the mobile home commission act, 1987 PA 96, MCL 125.2302.

(p) "Vehicle support stand" means equipment used to support a stationary vehicle consisting of an inflated tire and wheel that is attached to another wheel.

Sec. 16903. (1) A person who owns or operates a collection site where less than 2,500 scrap tires have been accumulated that are not stored in a building or stored in a covered vehicle shall comply with all of the following:

(a) Only tires shall be accumulated in a tire storage area.

(b) Except as provided in subdivision (f), the tires shall be accumulated in piles no greater than 15 feet in height with horizontal dimensions no greater than 200 by 40 feet.

(c) Except as provided in subdivision (f), the tires shall not be within 20 feet of the property line or within 60 feet of a building or structure.

(d) The tires shall be maintained in a manner that limits the potential of mosquito breeding by complying with 1 or more of the following:

(i) The tires shall be covered by plastic sheets or other impermeable barriers to prevent the accumulation of precipitation.

(ii) The tires shall be chemically treated to eliminate mosquito breeding.

(iii) The tires shall be shredded or chipped into pieces no larger than 4 inches by 6 inches and stored in piles that allow complete water drainage.

(e) Except as provided in subdivision (f), there shall be a minimum separation of 30 feet between tire piles. However, a collection site that was in operation on the effective date of the 1997 amendments to this subdivision has 2 years after this date to comply with this subdivision. During this 2-year period, there shall be a minimum of 20 feet between tire piles. A collection site that has not, within 6 months after the effective date of the 1997 amendments to this subdivision, made significant progress toward compliance with the 30-foot separation distance provided in this subdivision shall not receive scrap tires until the collection site complies with the 30-foot separation distance. The department may grant an exemption to the 30-foot separation distance provided in this subdivision for a specified period of time if the owner or operator demonstrates to the department's satisfaction that expansion of the collection site is not possible due to the unavailability of additional space and that the owner or operator has 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. The open space between tire piles shall at all times be free of rubbish, equipment, and other materials.

(f) 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 approve a variance from the requirements of subdivisions (b), (c), and (e). Such an approval, if granted, shall be in writing.

(g) Tires, including shredded 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) The collection site shall be subject to an annual inspection and additional inspections at any reasonable time by the local fire department that serves the jurisdiction in which the collection site is located.

(i) 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.

(j) The person who owns a collection site shall maintain a performance bond in favor of the department. 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 notwithstanding the limitation provided in subsection (1), \$2.00 per square foot of tire storage area in a building and \$750.00 for each vehicle used as a tire storage area. However, for collection sites with fewer than 2,500 tires, the bond shall not exceed \$2,500.00. A person who elects to use a certificate of deposit as bond shall receive any accrued interest on that certificate of deposit upon release of the bond by the department. A person who elects to post cash as bond shall accrue interest on that bond at the annual rate of 6%, to be accrued quarterly, except that the interest rate payable to an applicant 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 applicant upon release of the bond by the department. Any interest greater than 6% shall be deposited into the fund. The department may utilize a bond required under this part for removing scrap tires from a collection site, for bringing the collection site into compliance with this part, for other costs of cleanup at the collection site, and for costs of fire suppression and costs associated with responding to a fire or an emergency at a collection site, in case of an emergency at the collection site, insolvency of the collection site owner, or if the owner or operator of the collection site fails to comply with the requirements of this section and does not cause the removal of the tires at the direction of the department or a court of competent jurisdiction.

(2) A person who owns or operates a collection site where at least 2,500 but less than 100,000 scrap tires have been accumulated that are not stored in a building shall comply with all of the following:

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

(b) The area in which the tires are accumulated 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 be positioned outside of the fence in which the tires are enclosed.

(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 equipment vehicles.

(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 have been accumulated that are not stored in a building shall comply with all of the requirements of subsections (1) and (2) and that person shall operate as a scrap tire processor.

Sec. 16903a. The department of environmental quality shall prepare and implement a statewide response plan for responding to fires at collection sites.

Sec. 16904a. (1) An end user is exempt from this part for scrap tires stored on the site of the end user if not less than 75% of the scrap tires, by weight or volume, that are stored on site each calendar year are recycled or used for resource recovery during that year, and the end user annually certifies his or her compliance with this section on a form approved by the department.

(2) As used in this section:

(a) "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 all steel and all fiber.

(b) "End user" means any of the following:

(i) A person who possesses a permit to burn tires under part 55.

(ii) A person who possesses a permit to construct a landfill under part 115.

(iii) A person who only engineers scrap tires into crumb rubber that is used to manufacture products that are sold in the market.

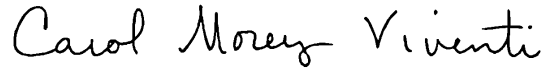
Sec. 16908a. The department of environmental quality shall assist owners and operators of collection sites and scrap tire processors in this state in developing markets for scrap tires.

Sec. 16910. A person who incurs costs as a result of a response to a fire or a violation of this part at a collection site may bring an action against the owner or operator of the collection site, in the circuit court in which the collection site is located, to recover the incurred costs.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives.



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Secretary of the Senate.

Approved \_\_\_\_\_

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Governor.