

SECOND REGULAR SESSION

HOUSE BILL NO. 2586

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KELLY (141).

5301H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 260.228 and 260.270, RSMo, and to enact in lieu thereof two new sections relating to solid waste forfeiture funds.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 260.228 and 260.270, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 260.228 and 260.270, to read as follows:

260.228. 1. If the operator of a solid waste disposal area fails to properly implement
2 the closure or postclosure plan or the corrective action plan required for a sanitary or
3 demolition landfill, the director shall order the operator to implement such plan. Such an
4 order shall be issued prior to closure if the department determines that the area has not
5 operated for a period of ninety days and implementation of the closure plan is necessary to
6 prevent a public nuisance or to protect the public health.

7 2. The department shall give written notice to the operator of any violation of sections
8 260.226 and 260.227, or noncompliance with any of the rules and regulations promulgated by
9 the department under sections 260.226 and 260.227. If corrective measures approved by the
10 department are not commenced within a specified and reasonable time, the department shall
11 order forfeiture of all or that part of the operator's collateral necessary to implement the
12 closure and postclosure and corrective action plans. Any operator aggrieved by a forfeiture
13 order may appeal as provided in section 260.235. Forfeited collateral shall be placed into the
14 ~~[general revenue]~~ **solid waste forfeitures account postclosure** fund to be appropriated to and
15 expended by the department to implement the **corrective action**, closure, and postclosure
16 plans. If the operator's financial assurance instrument is insufficient for implementation of
17 the closure and postclosure and corrective action plans, the department shall institute a civil

EXPLANATION — Matter enclosed in bold-faced brackets ~~[thus]~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 action in a court of competent jurisdiction to recover from the operator all additional costs
19 incurred.

20 **3. Any forfeited funds from solid waste facilities currently held in the state**
21 **general revenue fund shall be transferred to the solid waste forfeitures account**
22 **postclosure fund created for such purpose.**

260.270. 1. (1) It shall be unlawful for any person to haul for commercial profit,
2 collect, process, or dispose of scrap tires in the state except as provided in this section. This
3 section shall not be construed to prohibit scrap tires from being hauled to a lawfully operated
4 facility in another state. Scrap tires shall be collected at a scrap tire site, scrap tire processing
5 facility, scrap tire end-user facility, or a scrap tire collection center. A violation of this
6 subdivision shall be a class C misdemeanor for the first violation. A second and each
7 subsequent violation shall be a class A misdemeanor. A third and each subsequent violation,
8 in addition to other penalties authorized by law, may be punishable by a fine not to exceed
9 five thousand dollars and restitution may be ordered by the court.

10 (2) A person shall not maintain a scrap tire site unless the site is permitted by the
11 department of natural resources for the proper and temporary storage of scrap tires or the site
12 is an integral part of the person's permitted scrap tire processing facility or registered scrap
13 tire end-user facility. No new scrap tire sites shall be permitted by the department after
14 August 28, 1997, unless they are located at permitted scrap tire processing facilities or
15 registered scrap tire end-user facilities. A person who maintained a scrap tire site on or before
16 August 28, 1997, shall not accept any quantity of additional scrap tires at such site after
17 August 28, 1997, unless the site is an integral part of the person's scrap tire processing or end-
18 user facility, or unless the person who maintains such site can verify that a quantity of scrap
19 tires at least equal to the number of additional scrap tires received was shipped to a scrap tire
20 processing or end-user facility within thirty days after receipt of such additional scrap tires.

21 (3) A person shall not operate a scrap tire processing facility unless the facility is
22 permitted by the department. A person shall not maintain a scrap tire end-user facility unless
23 the facility is registered by the department. The inventory of unprocessed scrap tires on the
24 premises of a scrap tire processing or end-user facility shall not exceed the estimated
25 inventory that can be processed or used in six months of normal and continuous operation.
26 This estimate shall be based on the volume of tires processed or used by the facility in the last
27 year or the manufacturer's estimated capacity of the processing or end-user equipment. This
28 estimate may be increased from time to time when new equipment is obtained by the owner of
29 the facility, and shall be reduced if equipment used previously is removed from active use.
30 The inventory of processed scrap tires on the premises of a scrap tire processing or end-user
31 facility shall not exceed two times the permitted inventory of an equivalent volume of
32 unprocessed scrap tires.

33 (4) Any person selling new, used, or remanufactured tires at retail shall accept, at the
34 point of transfer, in a quantity equal to the number of tires sold, scrap tires from customers, if
35 offered by such customers. Any person accepting scrap tires may charge a reasonable fee
36 reflecting the cost of proper management of any scrap tires accepted; and which tire is
37 required to be accepted on a one-for-one basis at the time of a retail sale pursuant to this
38 subdivision. All tire retailers or other businesses that generate scrap tires shall use a scrap tire
39 hauler permitted by the department, except that businesses that generate or accept scrap tires
40 in the normal course of business may haul such scrap tires without a permit, if such hauling is
41 performed without any consideration and such business maintains records on the scrap tires
42 hauled as required by sections 260.270 to 260.276. Retailers shall not be liable for illegal
43 disposal of scrap tires after such scrap tires are delivered to a scrap tire hauler, scrap tire
44 collection center, scrap tire site, scrap tire processing facility or scrap tire end-user facility if
45 such entity is permitted by the department of natural resources.

46 (5) It shall be unlawful for any person to transport scrap tires for consideration within
47 the state without a permit.

48 (6) Scrap tires may not be deposited in a landfill unless the tires have been cut,
49 chipped or shredded.

50 2. Within six months after August 28, 1990, owners and operators of any scrap tire
51 site shall provide the department of natural resources with information concerning the site's
52 location, size, and approximate number of scrap tires that have been accumulated at the site
53 and shall initiate steps to comply with sections 260.270 to 260.276.

54 3. The department of natural resources shall promulgate rules and regulations
55 pertaining to collection, storage and processing and transportation of scrap tires and such
56 rules and regulations shall include:

57 (1) Methods of collection, storage and processing of scrap tires. Such methods shall
58 consider the general location of scrap tires being stored with regard to property boundaries
59 and buildings, pest control, accessibility by fire-fighting equipment, and other considerations
60 as they relate to public health and safety;

61 (2) Procedures for permit application and permit fees for scrap tire sites and
62 commercial scrap tire haulers, and by January 1, 1996, procedures for permitting of scrap tire
63 processing facilities and registration of scrap tire end-user facilities. The only purpose of
64 such registration shall be to provide information for the documentation of scrap tire handling
65 as described in subdivision (5) of this subsection, and registration shall not impose any
66 additional requirements on the owner of a scrap tire end-user facility;

67 (3) Requirements for performance bonds or other forms of financial assurance for
68 scrap tire sites, scrap tire end-user facilities, and scrap tire processing facilities;

69 (4) Exemptions from the requirements of sections 260.270 to 260.276; and

70 (5) By January 1, 1996, requirements for record-keeping procedures for retailers and
71 other businesses that generate scrap tires, scrap tire haulers, scrap tire collection centers, scrap
72 tire sites, scrap tire processing facilities, and scrap tire end-user facilities. Required record
73 keeping shall include the source and number or weight of tires received and the destination
74 and number of tires or weight of tires or tire pieces shipped or otherwise disposed of and such
75 records shall be maintained for at least three years following the end of the calendar year of
76 such activity. Detailed record keeping shall not be required where any charitable, fraternal, or
77 other nonprofit organization conducts a program which results in the voluntary cleanup of
78 land or water resources or the turning in of scrap tires.

79 **4. When forfeiture of performance bonds or other forms of financial assurance**
80 **occurs, forfeited funds shall be deposited into the solid waste forfeitures account**
81 **postclosure fund as described in section 260.228. Such forfeited funds shall be**
82 **appropriated to and expended by the department for corrective action, closure, or**
83 **postclosure purposes. Any forfeited funds from scrap tire sites, scrap tire end-user**
84 **facilities, and scrap tire processing facilities currently held in the state general revenue**
85 **fund shall be transferred to the solid waste forfeitures account postclosure fund.**

86 **5.** Permit fees for scrap tire sites and commercial scrap tire haulers shall be
87 established by rule and shall not exceed the cost of administering sections 260.270 to
88 260.275. Permit fees shall be deposited into an appropriate subaccount of the solid scrap
89 management fund.

90 ~~[5-]~~ **6.** The department shall:

91 (1) Encourage the voluntary establishment of scrap tire collection centers at retail tire
92 selling businesses and scrap tire processing facilities; and

93 (2) Investigate, locate and document existing sites where tires have been or currently
94 are being accumulated, and initiate efforts to bring these sites into compliance with rules and
95 regulations promulgated pursuant to the provisions of sections 260.270 to 260.276.

96 ~~[6-]~~ **7.** Any person licensed as an auto dismantler and salvage dealer under chapter
97 301 may without further license, permit or payment of fee, store but shall not bury on ~~[his]~~
98 **such person's** property, up to five hundred scrap tires that have been chipped, cut or
99 shredded, if such tires are only from vehicles acquired by ~~[him]~~ **such person**, and such tires
100 are stored in accordance with the rules and regulations adopted by the department pursuant to
101 this section. Any tire retailer or wholesaler may hold more than five hundred scrap tires for a
102 period not to exceed thirty days without being permitted as a scrap tire site, if such tires are
103 stored in a manner which protects human health and the environment pursuant to regulations
104 adopted by the department.

105 ~~[7-]~~ **8.** Notwithstanding any other provisions of sections 260.270 to 260.276, a person
106 who leases or owns real property may use scrap tires for soil erosion abatement and drainage

107 purposes in accordance with procedures approved by the department, or to secure covers over
108 silage, hay, straw or agricultural products.

109 ~~[8:]~~ **9.** The department of transportation shall, beginning July 1, 1991, undertake, as
110 part of its currently scheduled highway improvement projects, demonstration projects using
111 recovered rubber from scrap tires as surfacing material, structural material, subbase material
112 and fill, consistent with standard engineering practices. The department shall evaluate the
113 efficacy of using recovered rubber in highway improvements, and shall encourage the
114 modification of road construction specifications, when possible, for the use of recovered
115 rubber in highway improvement projects.

116 ~~[9:]~~ **10.** The director may request a prosecuting attorney to institute a prosecution for
117 any violation of this section. In addition, the prosecutor of any county or circuit attorney of
118 any city not within a county may, by information or indictment, institute a prosecution for any
119 violation of this section.

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