

SECOND REGULAR SESSION

# SENATE BILL NO. 822

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WALLINGFORD.

Pre-filed January 7, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4404S.02I

## 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, with existing penalty provisions.

*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Section A. Sections 260.228 and 260.270, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 260.228 and 260.270, to read as follows: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 the closure or postclosure plan or the corrective action plan required for a sanitary or demolition landfill, the director shall order the operator to implement such plan. Such an order shall be issued prior to closure if the department determines that the area has not operated for a period of ninety days and implementation of the closure plan is necessary to prevent a public nuisance or to protect the public health.

2. The department shall give written notice to the operator of any violation of sections 260.226 and 260.227, or noncompliance with any of the rules and regulations promulgated by the department under sections 260.226 and 260.227. If corrective measures approved by the department are not commenced within a specified and reasonable time, the department shall order forfeiture of all or that part of the operator's collateral necessary to implement the closure and postclosure and corrective action plans. Any operator aggrieved by a forfeiture order may appeal as provided in section 260.235. Forfeited collateral shall be placed into the [general revenue] **post closure** fund to be appropriated to and expended by the department to implement the **corrective action**, closure, and

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

18 postclosure plans. If the operator's financial assurance instrument is insufficient  
19 for implementation of the closure and postclosure and corrective action plans, the  
20 department shall institute a civil action in a court of competent jurisdiction to  
21 recover from the operator all additional costs incurred.

22 **3. Any forfeited funds from solid waste facilities currently held**  
23 **in the state general revenue fund shall be transferred to the post**  
24 **closure fund.**

25 **4. (1) There is hereby created in the state treasury the "Post**  
26 **Closure Fund", which shall consist of money collected under this**  
27 **section and section 260.270. The state treasurer shall be custodian of**  
28 **the fund. In accordance with sections 30.170 and 30.180, the state**  
29 **treasurer may approve disbursements. The fund shall be a dedicated**  
30 **fund and money in the fund shall be used solely by the department of**  
31 **natural resources for the purposes of closure, postclosure, and**  
32 **corrective action plans for solid waste disposal areas and solid waste**  
33 **processing facilities in order to protect public health, safety, and the**  
34 **environment.**

35 **(2) Notwithstanding the provisions of section 33.080 to the**  
36 **contrary, any moneys remaining in the fund at the end of the biennium**  
37 **shall not revert to the credit of the general revenue fund.**

38 **(3) The state treasurer shall invest moneys in the fund in the**  
39 **same manner as other funds are invested. Any interest and moneys**  
40 **earned on such investments shall be credited to the fund.**

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

11 **(2) A person shall not maintain a scrap tire site unless the site is**  
12 **permitted by the department of natural resources for the proper and temporary**  
13 **storage of scrap tires or the site is an integral part of the person's permitted**

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

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

38 (4) Any person selling new, used, or remanufactured tires at retail shall  
39 accept, at the point of transfer, in a quantity equal to the number of tires sold,  
40 scrap tires from customers, if offered by such customers. Any person accepting  
41 scrap tires may charge a reasonable fee reflecting the cost of proper management  
42 of any scrap tires accepted; and which tire is required to be accepted on a  
43 one-for-one basis at the time of a retail sale pursuant to this subdivision. All tire  
44 retailers or other businesses that generate scrap tires shall use a scrap tire  
45 hauler permitted by the department, except that businesses that generate or  
46 accept scrap tires in the normal course of business may haul such scrap tires  
47 without a permit, if such hauling is performed without any consideration and  
48 such business maintains records on the scrap tires hauled as required by sections  
49 260.270 to 260.276. Retailers shall not be liable for illegal disposal of scrap tires

50 after such scrap tires are delivered to a scrap tire hauler, scrap tire collection  
51 center, scrap tire site, scrap tire processing facility or scrap tire end-user facility  
52 if such entity is permitted by the department of natural resources.

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

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

57 2. Within six months after August 28, 1990, owners and operators of any  
58 scrap tire site shall provide the department of natural resources with information  
59 concerning the site's location, size, and approximate number of scrap tires that  
60 have been accumulated at the site and shall initiate steps to comply with sections  
61 260.270 to 260.276.

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

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

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

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

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

80 (5) By January 1, 1996, requirements for record-keeping procedures for  
81 retailers and other businesses that generate scrap tires, scrap tire haulers, scrap  
82 tire collection centers, scrap tire sites, scrap tire processing facilities, and scrap  
83 tire end-user facilities. Required record keeping shall include the source and  
84 number or weight of tires received and the destination and number of tires or  
85 weight of tires or tire pieces shipped or otherwise disposed of and such records

86 shall be maintained for at least three years following the end of the calendar year  
87 of such activity. Detailed record keeping shall not be required where any  
88 charitable, fraternal, or other nonprofit organization conducts a program which  
89 results in the voluntary cleanup of land or water resources or the turning in of  
90 scrap tires.

91 **4. When forfeiture of performance bonds or other forms of**  
92 **financial assurance occurs, forfeited funds shall be deposited into the**  
93 **post closure fund, as described in section 260.228. Such forfeited funds**  
94 **shall be appropriated to and expended by the department for corrective**  
95 **action, closure, or postclosure purposes. Any forfeited funds from scrap**  
96 **tires, scrap tire end-user facilities, and scrap tire processing facilities**  
97 **currently held in the state general revenue fund shall be transferred to**  
98 **the post closure fund.**

99 **5.** Permit fees for scrap tire [sites] **processing facilities** and commercial  
100 scrap tire haulers shall be established by rule and shall not exceed the cost of  
101 administering sections 260.270 to 260.275. Permit fees shall be deposited into an  
102 appropriate subaccount of the solid [scrap] **waste** management fund.

103 [5.] **6.** The department shall:

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

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

110 [6.] **7.** Any person licensed as [an auto dismantler and] **a salvage dealer**  
111 **or dismantler** under chapter 301 may without further license, permit or  
112 payment of fee, store but shall not bury on [his] **such person's** property, up to  
113 five hundred scrap tires that have been chipped, cut or shredded, if such tires are  
114 only from vehicles acquired by [him] **such person**, and such tires are stored in  
115 accordance with the rules and regulations adopted by the department pursuant  
116 to this section. Any tire retailer or wholesaler may hold more than five hundred  
117 scrap tires for a period not to exceed thirty days without being permitted as a  
118 scrap tire site, if such tires are stored in a manner which protects human health  
119 and the environment pursuant to regulations adopted by the department.

120 [7.] **8.** Notwithstanding any other provisions of sections 260.270 to  
121 260.276, a person who leases or owns real property may use scrap tires for soil

122 erosion abatement and drainage purposes in accordance with procedures approved  
123 by the department, or to secure covers over silage, hay, straw or agricultural  
124 products.

125       **[8.] 9.** The department of transportation shall, beginning July 1, 1991,  
126 undertake, as part of its currently scheduled highway improvement projects,  
127 demonstration projects using recovered rubber from scrap tires as surfacing  
128 material, structural material, subbase material and fill, consistent with standard  
129 engineering practices. The department shall evaluate the efficacy of using  
130 recovered rubber in highway improvements, and shall encourage the modification  
131 of road construction specifications, when possible, for the use of recovered rubber  
132 in highway improvement projects.

133       **[9.] 10.** The director may request a prosecuting attorney to institute a  
134 prosecution for any violation of this section. In addition, the prosecutor of any  
135 county or circuit attorney of any city not within a county may, by information or  
136 indictment, institute a prosecution for any violation of this section.

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Bill

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