

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]

SENATE BILL NO. 1011

91ST GENERAL ASSEMBLY

2002

4265S.01T

AN ACT

To repeal section 260.270, RSMo, and to enact in lieu thereof two new sections relating to waste tires, with penalty provisions.

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

Section A. Section 260.270, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 260.270 and 1, to read as follows:

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

(2) A person shall not maintain a waste tire site unless the site is permitted by the department of natural resources for the proper and temporary storage of waste tires or the site is an integral part of the person's permitted waste tire processing facility or registered waste tire end-user facility. No new waste tire sites shall be permitted by the department after August 28, 1997, unless they are located at permitted waste tire processing facilities or registered waste tire

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

end-user facilities. A person who maintained a waste tire site on or before August 28, 1997, shall not accept any quantity of additional waste tires at such site after August 28, 1997, unless the site is an integral part of the person's waste tire processing or end-user facility, or unless the person who maintains such site can verify that a quantity of waste tires at least equal to the number of additional waste tires received was shipped to a waste tire processing or end-user facility within thirty days after receipt of such additional waste tires.

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

(4) Any person selling new, used, or remanufactured tires at retail shall accept, at the point of transfer, in a quantity equal to the number of tires sold, [used or] waste tires from customers, if offered by such customers. Any person accepting [used or] waste tires may charge a reasonable fee reflecting the cost of proper management of any waste tires accepted; except that the fee shall not exceed two dollars per waste tire for any tire designed for a wheel of a diameter of sixteen inches or less and which tire is required to be accepted on a one-for-one basis at the time of a retail sale pursuant to this subdivision. All tire retailers or other businesses that generate waste tires shall use a waste tire hauler permitted by the department, except that businesses that generate or accept waste tires in the normal course of business may haul such waste tires without a permit, if such hauling is performed without any consideration and such business maintains records on the waste tires hauled as required by sections 260.270 to 260.276. Retailers shall not be liable for illegal disposal of waste tires after such waste tires are delivered to a waste tire hauler, waste tire collection center, waste tire site, waste tire processing facility or waste tire end-user facility if such entity is permitted by the department of natural resources.

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

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

2. Within six months after August 28, 1990, owners and operators of any waste tire site

shall provide the department of natural resources with information concerning the site's location, size, and approximate number of waste tires that have been accumulated at the site and shall initiate steps to comply with sections 260.270 to 260.276.

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

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

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

(3) Requirements for performance bonds or other forms of financial assurance for waste tire sites;

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

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

4. Permit fees for waste tire sites and commercial waste tire haulers shall be established by rule and shall not exceed the cost of administering sections 260.270 to 260.275. Permit fees shall be deposited into an appropriate subaccount of the solid waste management fund.

5. The department shall:

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

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

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

7. Notwithstanding any other provisions of sections 260.270 to 260.276, a person who leases or owns real property may use waste tires for soil erosion abatement and drainage purposes in accordance with procedures approved by the department, or to secure covers over silage, hay, straw or agricultural products.

8. The department of transportation shall, beginning July 1, 1991, undertake, as part of its currently scheduled highway improvement projects, demonstration projects using recovered rubber from waste tires as surfacing material, structural material, subbase material and fill, consistent with standard engineering practices. The department shall evaluate the efficacy of using recovered rubber in highway improvements, and shall encourage the modification of road construction specifications, when possible, for the use of recovered rubber in highway improvement projects.

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

Section 1. Notwithstanding any provisions of law to the contrary, any utility unit, as defined in Title IV of the federal Clean Air Act, 42 U.S.C. Section 7851a, that uses coal-fired cyclone boilers which also burn tire derived fuel shall limit emissions of oxides of nitrogen to a rate no greater than eighty percent of the emission limit for cyclone-fired boilers in Title IV of the federal Clean Air Act and implementing regulations in 40 CFR Part 76, as amended. The provisions of this section shall expire on April 30, 2004, or upon the effective date of a revision to 10 CSR 10-6.350, whichever later occurs. The director of the department of natural resources shall notify the revisor of statutes of the effective date of a revision to 10 CSR 10-6.350.