



**House
Legislative
Analysis
Section**

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REGULATE DISPOSAL OF SCRAP TIRES

RECEIVED

House Bill 4003 (Substitute H-2)
Sponsor: Rep. Kenneth J. DeBeaussiaert

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House Bill 4005 (Substitute H-2) Mich. State Law Library
Sponsor: Rep. Claude A. Trim

House Bill 4884 as introduced
Sponsor: Rep. James A. Kosteva

First Analysis (11-24-87)

Committee: Conservation and Environment

THE APPARENT PROBLEM:

The disposal of used scrap tires poses serious problems nationwide. Apparently, tire recycling businesses have not been considered attractive investments, so in the past, used tires that were not sold to retreading plants were disposed of in landfills or simply dumped in heaps on vacant land. However, tires present special problems to landfill operators, and so as landfill space has become more valuable, landfill operators have begun to refuse tires or to set prohibitive rates for tires. This can result in dealers stock-piling tires with no disposal options and with resulting environmental and public health problems. Piles of scrap tires degrade the landscape, provide breeding grounds for mosquitoes and rodents, and pose the threat of the possibility of fire, with its attendant air and water pollution. Some states have already passed legislation regulating scrap tire disposal, and some people believe that Michigan should do so also.

THE CONTENT OF THE BILLS:

The bills would regulate the collection, storage, and disposal of scrap tires; levy a product charge on new tires to create a tire recovery fund to fund grants for disposal and recovery of scrap tires; and require the Clean Michigan Advisory Panel to review grant applications to the newly created fund.

House Bill 4005 would create the Scrap Tire Regulatory Act to impose certain restrictions on the disposal and accumulation of scrap tires and specify penalties for violating these restrictions. Major provisions of the bill include:

- Prohibiting individuals from discarding scrap tires on property other than their own without prior written permission from the property owner.
- Setting up three levels of scrap tire storage facilities, each with its own storage requirements:

(1) Someone who accumulated 500 to 2,500 tires that were not stored in a building at a collection site could store only tires in the storage area, in piles not bigger than 15 feet high, 200 feet long and 40 feet wide. The piles would have to be accessible on all sides to fire fighting equipment, with a minimum of 20 feet of clear space between piles. Tires could not be within 20 feet of the property line or within 60 feet of a building or structure and would have to be maintained according to guidelines set forth in the bill in order to limit the potential of mosquito breeding. The person accumulating the tires would have to maintain a surety bond in favor of the state that was sufficient to cover the cost of removing the tires from the collection site in case of an emergency at the site or in case the person accumulating the tires went bankrupt.

(2) Someone who accumulated 2,500 to 100,000 tires at a collection site would have to comply with all of the first level requirements, as well as meet additional requirements concerning the fencing in and earth berming of the entire storage area, drainage for the site, approach and access roads, and clearing of weeds and other vegetation. In addition, an emergency procedure plan, which had been reviewed by the local fire department, would have to be prepared and posted at the tire storage facility.

(3) Someone who accumulated 100,000 tires or more would have to comply with all of the aforementioned requirements and would have to operate as a scrap tire processor as well.

- Specifying that local ordinances that were more stringent than the requirements set forth in the bill would prevail.
- Setting penalties for violations of the bill's provisions. Violations would be misdemeanors punishable by imprisonment for not more than 90 days, a fine of not more than \$500, or both, with each day a violation continued constituting a separate violation. Penalties would not go into effect until two years after the effective date of the act.
- Requiring the Department of Natural Resources (DNR) to inventory within six months of the effective date of the bill all locations with more than 500 scrap tires. Within a year of the effective date, the department would be required to notify the property owners of the requirements and penalties contained in the bill. (Failure of a property owner with an accumulation of more than 500 scrap tires to receive notice would not relieve him or her of responsibility under the bill.)
- Requiring the DNR to report to the legislature five years after the effective date of the bill. The report would have to include information about the effectiveness of the bill (and any recommended changes), the volume of tires being deposited in landfills, and whether scrap tires should be banned from landfills in the future.

House Bill 4003 would create the Tire Recovery Fund Act to impose a product charge on each new tire sold in the state. Money would go into a new state Tire Recovery Fund in the treasury department to fund grants addressing the disposal or recovery of scrap tires. The bill would be repealed five years after its effective date.

The bill would impose a one dollar product charge on each new tire sold in the state, to be collected by the seller, deposited in the state treasury, and credited to the Tire Recovery Fund. (The product charge would not apply to

H.B. 4003, 4005 & 4884 (11-24-87)

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new tires or vehicles with tires attached that were bought for resale.) Sellers would be allowed to retain twenty-five cents of the product charge as compensation for administering the collection of the product charge and would have to keep separate records of product charge collections if the seller also did business not covered by the bill.

Money deposited into the fund could be appropriated by the legislature to the Commission of Natural Resources only for the following purposes:

- Grants of up to \$250,000 to people who owned collection sites, to cover up to 75 percent of the costs of bringing their storage sites into compliance with the bill;
- Grants of up to \$1 million for up to 100 percent of research and marketing projects which met certain requirements and which were intended to develop resource recovery technologies for scrap tires;
- Grants of up to \$200,000 covering up to 50 percent of certain expenses of scrap tire processors that were related to tire resource recovery;
- Grants to local units of government of up to 100 percent of the cost of bringing collection sites into compliance with the bill or for funding resource recovery efforts;
- To be used by the Department of Natural Resources to bring collection sites into compliance with the bill or to fund resource recovery efforts.

Grant applications would be reviewed by the Clean Michigan Fund Advisory Council, and recipients would be chosen by the Commission on Natural Resources, based on recommendations of the advisory council.

House Bill 4884 would amend the Clean Michigan Fund Act to require the Clean Michigan Advisory Panel to review applications submitted to the Natural Resources Commission for grants made under the Tire Recovery Fund Act. The panel also would be required to review applications for inclusion in the studies and assessments made under the Tire Recovery Fund Act.

(MCL 299.390)

House Bills 4003 and 4005 are tie-barred to each other and to House Bill 4884.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, House Bill 4884 has no fiscal implications to the state. House Bill 4003 would result in a \$7.5 million revenue gain to the state. (11-23-87)

ARGUMENTS:

For:

Disposal of unwanted used tires is an enormous problem. The National Tire Dealers and Retreaders Association estimates that approximately one tire per person is disposed of annually, which means more than 200 million scrap tires per year. At approximately 100 tires per ton, this represents two million tons of scrap rubber wastes per year to be disposed of, and for Michigan, it means over nine million scrap tires are generated each year. A preliminary survey by the Department of Natural Resources (DNR) suggests that there are over five million scrap tires known to be accumulated in illegal piles throughout the state, though the actual number probably is much higher.

In the past, most of the waste tires were disposed of in landfills or simply dumped in heaps on vacant land. However, tires present special problems to landfill operators. They cannot be stored in compact packages and take up a great deal of space, and when not properly covered by fill material, they can work upward through a

landfill over a period of time to "float" on the surface. As landfill space becomes more scarce and more expensive, fewer landfill operators have been willing to accept tires. As a result, existing "management practices" for waste tires in Michigan include the simple accumulation of waste tires in piles by tire dealers, jobbers, retreaders, and vehicle dealers.

Piles of scrap tires provide ideal breeding grounds for disease-carrying mosquitoes and rodents, as well as posing a fire threat, with its attendant air and water pollution problems. Often tires are stored with no separation of tire piles or adequate access for fire fighting equipment, making it difficult to control or prevent tire fires. One notorious scrap tire fire in Virginia burned for over two years and created over 802,000 gallons of melted tire runoff that cost the Environmental Protection Agency over a million dollars to clean up.

As landfill space decreases, the need to find alternative methods of disposal for waste tires has become acute. However, many local governments seem not to be concerned over tire disposal, and the scrap tire waste stream frequently is left out of county solid waste management planning efforts because tire wastes present different from other municipal solid waste. In addition, reprocessing scrap tires for direct re-use of rubber waste materials appears to pose unusual and expensive technical problems, while the recovery of useful substances or energy, or both, from waste tires involves high start-up costs, uncertain tire supplies, and variable markets for end products. All of these problems suggest that the best solution would be a comprehensive state program for altering the management of scrap tires in Michigan by assisting the research and development of technologies for the resource recovery of scrap tires, thereby also reducing the potential environmental and public health hazards associated with scrap tire accumulations.

For:

It is preferable to use an existing advisory body, the Clean Michigan Fund Advisory Panel, for the Tire Recovery Fund Act, rather than creating a new panel, particularly given the environmental impact of the proper disposal of waste tires.

Against:

The state should provide and control permanent scrap tire disposal sites that are solely dedicated to collecting scrap tires. If the costs of operating a scrap tire disposal site become economically prohibitive, people simply will decide not to enter this type of business. But if people are reluctant to operate scrap tire disposal sites, tire dealers will not have viable disposal options and will be forced to refuse to take old tires from customers. As a result, customers could wind up disposing of tires in a totally unregulated way, which will only make the problem worse, not better.

Response: In general, when a consumer buys replacement tires, the tire dealer takes the old tires and sells them, gives them to a "tire jockey," or pays for their removal. The tire jockey sells the retreadable tires to a retreading plant and disposes of the rest, usually in landfills. Since a very low percentage of tires are retreaded (in 1984, the number of tires retreaded was less than 12 percent of the new tires manufactured), a very large number of used tires must be disposed of each year, and, as was indicated, fewer landfill operators are willing to take scrap tires or will do so only at costs that many find prohibitive. The bills would control permanent scrap tire

disposal sites, and would, in addition, provide the even better long-term alternative of resource recovery.

Against:

The 500 tire threshold requirement should be increased, or should apply only to those who store scrap tires on a permanent or semi-permanent basis, since many retailers have over 500 tires on hand for a short period of time. A 1987 survey by the Michigan Tire and Vehicle Service Association showed that scrap tires are picked up from the majority of retailers on a weekly basis. While individuals who are engaged in the permanent or semi-permanent storage of tires should be regulated, retailers who only hold scrap tires for a relatively short period of time should not be held to the same standards.

Response: Far from being too low, some people believe that the 500 tire threshold is too high and should instead be reduced to 100 tires.

Against:

Imposing a product tax on tires to create a research fund puts a difficult economic burden on tire retailers. For tire dealers located along the Michigan border, the imposition of an extra \$4 for a set of tires could well mean the difference between a consumer sale and a non-sale. In a business as competitive as tire sales, such a price difference could decide whether or not border retailers survive economically. In addition to the unfair interstate competition, tire dealers also would be subject to complicated bookkeeping which could create difficulty for smaller operators.

Response: The one dollar product charge on tires is reasonable, and fairly targets the source of the problem. In fact, the one dollar charge is quite modest in comparison, say, with the \$3 deposit on each tire sold that the governor of New Jersey recently recommended to the New Jersey legislature to fund alternative disposal practices and research.

Against:

Research and venture capital for tire processors is already available through the Clean Michigan Fund. If additional funds are needed for scrap tire resource recovery and marketing, a general appropriation should be considered and not an industry specific product tax that could cripple many operators. What is more, in many parts of the country, private industry has already developed appropriate technologies, so the need for research money is questionable.

POSITIONS:

The Department of Natural Resources supported earlier versions of these bills but could not be reached for positions on the present versions. (11-23-87)

The League of Women Voters of Michigan supports the concept of scrap tire recovery but has not had an opportunity to analyze the current version of the bills. (11-23-87)

The Michigan Tire and Vehicle Service Association (a division of the Michigan Retailers Association) supports the regulation of scrap tire storage operators but opposes a product tax on new tires. (11-23-87)