

Legislative Analysis



SCRAP TIRES

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House Bill 6474
Sponsor: Rep. Phil Pavlov

House Bill 6476
Sponsor: Rep. David Palsrok

House Bill 6475
Sponsor: Rep. Matthew Gillard

House Bill 6477
Sponsor: Rep. Fred Miller

House Committee: Natural Resources, Great Lakes, Land Use, and Environment
Complete to 12-5-06

A SUMMARY OF HOUSE BILLS 6474-6477 AS INTRODUCED 9-14-06

In general, the House Bills 6474-6477 would amend Part 169 (Scrap Tires) of the Natural Resources and Environmental Protection Act in the following ways:

- **House Bill 6474** would modify registration procedures for scrap tire collection sites and extend those requirements to portable shredding operations. It would also modify registration and recordkeeping procedures for scrap tire haulers.
- **House Bill 6475** would provide for various liens to arise in favor of the state when the state incurs cleanup costs at collection sites. The bill would also authorize the Attorney General to petition for additional liens to recover cleanup costs.
- **House Bill 6476** would require retreaders to maintain certain records and make them available for inspection.
- **House Bill 6477** would allow the Department of Environmental Quality (DEQ) or a peace officer to enter and inspect tire retail establishments, vehicles owned or operated by scrap tire haulers, collection sites, or other places where tires are or have been located, at reasonable times.

House Bills 6474-6477 and Senate Bills 1418-1424 are all tie-barred to one another, meaning none can take effect unless they are all enacted.

More detail about the bills is provided below.

House Bill 6474, would amend Sections 16904 and 16905 (MCL 324.16904 and 324.16905), to do the following:

- Require persons who own scrap tire collection sites or portable shredding operations, or both, to submit an application for registration to the Department of Environmental Quality (Department or DEQ), on an application provided by the Department by January 31 of each year. (Currently, only persons who own collection sites must register annually.) In addition, the bill would require these persons to *submit an application for registration*, rather than register.
- Require that an application for registration of a collection site include documentation that the collection site is bonded for the registration period in accordance with

Section 16903(4), if applicable. [Section 16903(4) is a new section that would be created by Senate Bill 1420.]

- Prohibit the DEQ from registering a collection site unless the site was in compliance with the storage requirements of Section 16903.
- Require scrap tire haulers to *submit an application for registration* to the DEQ, rather than register, on an application form provided by the Department by January 1 of each year.
- Require scrap tire haulers to maintain a record of each load *or consolidated load* of scrap tires transported on DEQ-approved form. The phrase "or consolidated load" is new language.
- Amend Sections 16904(3)(c) and 16904(5) replacing "collection site, landfill, end user, scrap tire processor, tire retailer, or scrap tire recycler" with "location described in Section 16902(1)" to which the tires are delivered. Section 16902(1) would be amended by Senate Bill 1419 to cover registered collection sites, locations that have legally accumulated scrap tires below a certain regulatory threshold, licensed disposal areas, end-users, scrap tire processors, and tire retailers.

House Bill 6475 would add a new Section 16908b to the Natural Resources and Environmental Protection Act (MCL 324.16908b) providing for liens to help recover unpaid cleanup costs of collection sites. The new section would:

- Provide the state a lien on collection sites that have been the subject of cleanup activity by the state. The lien would cover all unpaid cleanup costs for tires accumulated after January 1, 1991 incurred under Section 16908(2)(c), as it would be amended by Senate Bill 1422, including any staff costs, costs of surveillance and enforcement, and attorney costs or fees.
- The state lien would have priority over all other liens and encumbrances except liens and encumbrances recorded before the state's lien is recorded.
- Provide that the lien arises when the state first incurs cleanup costs at the collection site.
- Allow the Attorney General to file a petition in the circuit court for the county in which the property is located if he or she determined that the lien that automatically arises would be insufficient, seeking either (1) a lien that would take priority even over previously recorded liens, or (2) a lien upon other real or personal property of the collection site's owner, having priority over all other previously-recorded liens and encumbrances. A lien over other real or personal property of the collection site's owner would not apply to specified retirement funds, college funds, or up to \$500,000 in non-business real or personal property or property rights (but not more than \$25,000 of this amount could be cash or securities).
- Require the Attorney General's petition to set forth with as much specificity as possible (1) the type of lien sought; (2) the property that would be affected; (3) and the reasons the Attorney General believes the lien is necessary. Upon receipt of a petition, the court would promptly schedule a hearing to determine whether the petition should be granted. Notice of the hearing would have to be provided to the Attorney General, the property owner, and any persons holding liens or perfected security interests in the real property subject to the cleanup activity.
- Provide another lien in favor of the state, if the state incurs costs for cleanup activity under Section 16908(2)(c) that increase the value of the real property that is the

location of the cleanup activity. The amount of the lien would be the increase in value caused by the state-funded cleanup activity (to the extent of unpaid cleanup costs incurred by the state). This lien would have priority over all other liens or encumbrances that are have been recorded on the property.

- Provide that the liens provided in the bill would be perfected against real property when a notice of lien is filed by the department with the Register of Deeds in the county in which the real property is located. In addition, the department would be required to provide a copy of the notice of the lien to the property owner by certified mail at the time of the filing of the lien.
- Provide that liens under this section would continue until the liability for the cleanup costs is satisfied. Upon satisfaction of the liability, the department would have to file a notice of release of the lien.

House Bill 6476 would amend Section 16906 (MCL 324.16906) to do the following:

- Require a retreader to maintain certain records for three years, and make them available upon request by the DEQ or a peace officer at reasonable hours.
- Require the records that must be carried or maintained with the retreader's tire casings to include all of the following: (1) a retread work order that includes the customer's name, date of transaction, retreader DOT identification number, order number, and details of casing information for the casing intended for processing. Work orders would have to reflect the number of tires being transported and retreaded. (2) A work order sales report that specifies the work process detail for the customer work order to be returned to the customer with the work order number and invoice. (3) An invoice stating the sales transaction of the retread process that was completed for the customer.

House Bill 6477 would add a new Section 16909a (MCL 324.16909a) to do the following:

- Allow the DEQ or a peace officer to enter at reasonable hours a tire retail establishment, vehicle owned or operated by a scrap tire hauler, collection site, or other place where scrap tires are or have been present to inspect the location for purposes of enforcing Part 169.

FISCAL IMPACT:

The liens provided for in House Bill 6474 may allow the state to recover certain unpaid cleanup costs.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.