



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bills 6474 and 6475 (as passed by the House)
House Bill 6476 (Substitute H-1 as passed by the House)
House Bill 6477 (Substitute H-1 as passed by the House)
Sponsor: Representative Phillip Pavlov (H.B. 6474)
Representative Matthew Gillard (H.B. 6475)
Representative David Palsrok (H.B. 6476)
Representative Fred Miller (H.B. 6477)

House Committee: Natural Resources, Great Lakes, Land Use, and Environment
Senate Committee: Natural Resources and Environmental Affairs

Date Completed: 12-11-06

CONTENT

House Bill 6474 would amend Part 169 (Scrap Tires) of the Natural Resources and Environmental Protection Act to do the following:

- **Revise registration procedures for scrap tire collection sites.**
- **Extend the registration requirements to portable shredding operations.**
- **Revise registration and record-keeping requirements for scrap tire haulers.**

House Bill 6475 would amend Part 169 to provide that unpaid costs for cleanup funded by the State's Scrap Tire Regulatory Fund would constitute a lien in favor of the State upon a collection site.

House Bill 6476 (H-1) would amend Part 169 to require a retreader to maintain required records for three years and make them available upon request to the Department of Environmental Quality (DEQ) or a peace officer.

House Bill 6477 (H-1) would amend Part 169 to allow the DEQ to enter and inspect a tire retail establishment, a vehicle owned or operated by a scrap tire hauler, or a collection site.

The bills are tie-barred to each other and to Senate Bills 1418 through 1424, which also would amend Part 169. The House bills are described below in further detail.

House Bill 6474

Collection Site/Portable Shredding Operation

Under Part 169, a person who owns a collection site must register with the DEQ by January 31 of each year. The registration must be on a form provided by the Department and contain the information required by the Department. The DEQ may not register a collection site until the owner submits documentation that the collection site is bonded in accordance with the requirements of Part 169 for the registration period. Each annual registration must

be accompanied by a \$200 application fee, which the DEQ must deposit into the State Treasury to be credited to the General Fund.

The bill would prohibit the DEQ from registering a collection site unless it were in compliance with the storage requirements of Section 16903. (That section contains criteria for piles of scrap tires that are not stored in a building or a covered vehicle. Senate Bill 1420 would amend Section 16903 to do the following:

- Require scrap tires to be stored in a tire storage area identified on a scrap tire collection site registration application map.
- Prohibit scrap tires from being placed in open spaces between tire piles or used to construct on-site roads, but create an exception for scrap tires that were a commodity.)

Scrap Tire Hauler

Part 169 requires a scrap tire hauler to register with the DEQ by January 31 of each year on a form provided by, and containing information required by, the Department. The bill also would delete a provision that a scrap tire hauler who does not provide all of the required information is not considered registered.

A scrap tire hauler must maintain a record of each load of scrap tires he or she transports for three years, and make it available, upon request, to the DEQ or to a peace officer at reasonable hours. Under the bill, this provision also would apply to a consolidated load of scrap tires.

The record must include the name, address, telephone number, and, upon delivery, the authorized signature of the owner or operator of the collection site, landfill, end-user, scrap tire processor, tire retailer, or scrap tire recycler where the tires are to be delivered. A copy of the record must be provided to the collection site, landfill, and user, etc., where the tires are to be delivered. The bill would delete the references to the collection site, landfill, and user, etc., and instead refer to the "location described in Section 16902(1) where the tires are to be delivered".

(That section requires a person to deliver a scrap tire only to a registered collection site, a licensed disposal area, an end-user, a scrap tire processor, or a tire retailer. Senate Bill 1419 would add a location that had legally accumulated scrap tires below the regulatory threshold for qualifying as a collection site.)

House Bill 6475

Under the bill, all unpaid cleanup costs for scrap tires accumulated after January 1, 1991, that were incurred under Section 16908(2)(c), including any staff costs, costs of surveillance and enforcement, and attorney costs or fees, would constitute a lien in favor of the State upon a collection site that was the subject of cleanup activity by the State. The lien would have priority over all other liens and encumbrances except those recorded before the date the lien under the bill was recorded. The lien would arise when the State first incurred cleanup costs at the collection site.

(Section 16908(2)(c) allows money from the Scrap Tire Regulatory Fund to be used for the cleanup or collection of abandoned scrap tires and scrap tires at collection sites. The DEQ must give priority to funding activities at collection sites in which the tires were accumulated before January 1, 1991, and to collection sites that pose an imminent threat to public health, safety, welfare, or the environment.)

If the Attorney General determined that the lien was insufficient to protect the State's interest in recovering the cleanup costs, the Attorney General could file a petition in the

circuit court for the county in which the property was located, seeking either or both of the following:

- A lien upon the collection site subject to the scrap tire cleanup activity that took priority over all other liens and encumbrances that were or had been recorded on the collection site.
- A lien upon real or personal property or rights to real or personal property other than the collection site, owned by the site owner, having priority over all other liens and encumbrances recorded before the date the lien was recorded under the bill.

The following would not be subject to a lien upon other property owned by the site owner:

- Assets of a qualified pension plan or individual retirement account under the Internal Revenue Code.
- Assets held expressly for the purpose of financing a dependent's college education.
- Up to \$500,000 in nonbusiness real or personal property or rights to real or personal property, except that not more than \$25,000 of that amount could be cash or securities.

A petition submitted under the bill would have to set forth with as much specificity as possible the type of lien sought, the property that would be affected, and the reasons the Attorney General believed the lien was necessary. Upon receiving a petition, the court promptly would have to schedule a hearing to determine whether it should be granted. Notice of the hearing would have to be given to the Attorney General, the property owner, and any person holding liens or perfected security interests in the real property subject to the cleanup activity.

In addition to the lien described above, if the State incurred costs for cleanup activity that increased the market value of the real property, the increase in value, to the extent the State incurred cleanup costs, would constitute a lien in favor of the State upon the real property. This lien would have priority over all other liens or encumbrances that were or had been recorded upon the property.

A lien provided for in the bill would be perfected against real property when the DEQ filed a notice of lien with the register of deeds in the county in which the property was located. Additionally, the DEQ would have to provide a copy of the notice of lien to the property owner by certified mail at the time of filing the notice.

A lien under the bill would continue until the liability for the cleanup costs was satisfied. Upon satisfaction of the liability, the DEQ would have to file a notice of release of lien in the same manner as provided for the filing of the lien.

House Bill 6476 (H-1)

The bill would require a retreader to maintain for three years, and make available upon request to the DEQ or a peace officer at reasonable hours, all records required to be carried or maintained with the retreader's tire casings, including all of the following:

- A retread work order that included the customer's name, date of transaction, retreader DOT identification number pursuant to Federal regulations, order number, and details of casing information for the casing intended for processing.
- A work order sales report that specified the work process detail for the customer work order.
- An invoice stating the sales transaction of the retread process that was completed for the customer.

A work order would have to reflect the number of tires that were being transported and retreaded. A work order sales report would have to be returned to the customer with the work order number and invoice.

House Bill 6477 (H-1)

The bill would allow the DEQ to enter at reasonable hours a tire retail establishment, vehicle owned or operated by a scrap tire hauler for the transport of scrap tires, or collection site or other place where scrap tires were or had been present, and to inspect the location or other place for the purposes of enforcing or administering Part 169. An investigation or inspection under Part 169 would have to comply with the U.S. Constitution and the State Constitution.

MCL 324.16904 & 324.16905 (H.B. 6474)

Legislative Analyst: Julie Cassidy

Proposed MCL 324.16908b (H.B. 6475)

MCL 324.16906 (H.B. 6476)

Proposed MCL 324.16909a (H.B. 6477)

FISCAL IMPACT

House Bill 6474

The bill could result in additional revenue to the Scrap Tire Regulatory Fund from a proposed requirement for portable shredding operations to register with the State. The operations would be required to pay the same \$200 registration fee that collection sites currently pay.

House Bill 6475

The bill would allow the State to issue a lien upon a scrap tire collection site in order to recover unpaid cleanup costs incurred by the State. Revenue from the liens would depend on the number of liens issued, the amount claimed as State expense, and the owner's ability to pay.

House Bills 6476 (H-1) & 6477 (H-1)

The bills would have no fiscal impact on State or local government.

Fiscal Analyst: Jessica Runnels

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.