

SECOND REGULAR SESSION

# HOUSE BILL NO. 2144

100TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE KELLY (141).

4465H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 260.228 and 260.270, RSMo, and to enact in lieu thereof two new sections relating to solid waste forfeitures.

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*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Section A. Sections 260.228 and 260.270, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 260.228 and 260.270, to read as follows: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 postclosure plans. If the operator's financial assurance instrument is insufficient for implementation of the closure and postclosure and corrective action

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 plans, the department shall institute a civil action in a court of competent jurisdiction to recover  
18 from the operator all additional costs incurred.

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

21 **4. (1) There is hereby created in the state treasury the "Post Closure Fund", which**  
22 **shall consist of moneys collected under this section and section 260.270. The state treasurer**  
23 **shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state**  
24 **treasurer may approve disbursements. The fund shall be a dedicated fund and moneys in**  
25 **the fund shall be used solely by the department of natural resources for the purposes of**  
26 **closure, postclosure, and corrective action plans for solid waste disposal areas and solid**  
27 **waste processing facilities in order to protect public health, safety, and the environment.**

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

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

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

10 (2) A person shall not maintain a scrap tire site unless the site is permitted by the  
11 department of natural resources for the proper and temporary storage of scrap tires or the site is  
12 an integral part of the person's permitted scrap tire processing facility or registered scrap tire  
13 end-user facility. No new scrap tire sites shall be permitted by the department after August 28,  
14 1997, unless they are located at permitted scrap tire processing facilities or registered scrap tire  
15 end-user facilities. A person who maintained a scrap tire site on or before August 28, 1997, shall  
16 not accept any quantity of additional scrap tires at such site after August 28, 1997, unless the site  
17 is an integral part of the person's scrap tire processing or end-user facility, or unless the person  
18 who maintains such site can verify that a quantity of scrap tires at least equal to the number of

19 additional scrap tires received was shipped to a scrap tire processing or end-user facility within  
20 thirty days after receipt of such additional scrap tires.

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

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

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

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

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

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

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

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

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

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

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

78           **4. When forfeiture of performance bonds or other forms of financial assurance**  
79 **occurs, forfeited funds shall be deposited into the post closure fund as described in section**  
80 **260.228. Such forfeited funds shall be appropriated to and expended by the department**  
81 **for corrective action, closure, or postclosure purposes. Any forfeited funds from scrap**  
82 **tires, scrap tire end-user facilities, and scrap tire processing facilities currently held in the**  
83 **state general revenue fund shall be transferred to the post closure fund.**

84           **5. Permit fees for scrap tire [sites] processing facilities and commercial scrap tire**  
85 **haulers shall be established by rule and shall not exceed the cost of administering sections**  
86 **260.270 to 260.275. Permit fees shall be deposited into an appropriate subaccount of the solid**  
87 **[scrap] waste management fund.**

88           [5-] **6. The department shall:**

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

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

94 ~~[6-]~~ 7. Any person licensed as ~~[an auto dismantler and]~~ a salvage dealer **or dismantler**  
95 under chapter 301 may without further license, permit or payment of fee, store but shall not bury  
96 on ~~[his]~~ **such person's** property, up to five hundred scrap tires that have been chipped, cut or  
97 shredded, if such tires are only from vehicles acquired by ~~[him]~~ **such person**, and such tires are  
98 stored in accordance with the rules and regulations adopted by the department pursuant to this  
99 section. Any tire retailer or wholesaler may hold more than five hundred scrap tires for a period  
100 not to exceed thirty days without being permitted as a scrap tire site, if such tires are stored in  
101 a manner which protects human health and the environment pursuant to regulations adopted by  
102 the department.

103 ~~[7-]~~ 8. Notwithstanding any other provisions of sections 260.270 to 260.276, a person  
104 who leases or owns real property may use scrap tires for soil erosion abatement and drainage  
105 purposes in accordance with procedures approved by the department, or to secure covers over  
106 silage, hay, straw or agricultural products.

107 ~~[8-]~~ 9. The department of transportation shall, beginning July 1, 1991, undertake, as part  
108 of its currently scheduled highway improvement projects, demonstration projects using recovered  
109 rubber from scrap tires as surfacing material, structural material, subbase material and fill,  
110 consistent with standard engineering practices. The department shall evaluate the efficacy of  
111 using recovered rubber in highway improvements, and shall encourage the modification of road  
112 construction specifications, when possible, for the use of recovered rubber in highway  
113 improvement projects.

114 ~~[9-]~~ 10. The director may request a prosecuting attorney to institute a prosecution for any  
115 violation of this section. In addition, the prosecutor of any county or circuit attorney of any city  
116 not within a county may, by information or indictment, institute a prosecution for any violation  
117 of this section.

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