

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 831

Environment & Natural Resources Committee Substitute Adopted 4/27/89

Finance Committee Substitute #2 Adopted 7/6/89

Short Title: Scrap Tire Disposal Act.

(Public)

Sponsors:

Referred to:

April 10, 1989

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE NORTH CAROLINA SCRAP TIRE DISPOSAL ACT.

The General Assembly of North Carolina enacts:

Section 1. Article 9 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

“PART 5. SCRAP TIRE DISPOSAL ACT.

“§ 130A-310.51. Title.

This Part may be cited as the ‘North Carolina Scrap Tire Disposal Act.’

“§ 130A-310.52. Findings; purpose.

The General Assembly finds that:

- (1) Scrap tire disposal poses a unique and troublesome solid waste management problem.
- (2) Scrap tires are a usable resource that may be recycled for energy value.
- (3) Uncontrolled disposal of scrap tires may create a public health and safety problem because tire piles act as breeding sites for mosquitoes and other disease-transmitting vectors, pose substantial fire hazards, and present a difficult disposal problem for landfills.
- (4) A significant number of scrap tires are illegally dumped in North Carolina.
- (5) It is in the State's best interest to encourage efforts to recycle or recover resources from scrap tires.

1 (6) It is desirable to allow units of local government to control tire
2 disposal for themselves and to encourage multicounty, regional
3 approaches to scrap tire disposal and collection.

4 (7) It is desirable to encourage reduction in the volume of scrap tires being
5 disposed of at public sanitary landfills.

6 The purpose of this Article is to provide Statewide guidelines and structure for
7 the environmentally safe disposal of scrap tires to be administered through units of local
8 government.

9 **"§ 130A-310.53. Definitions.**

10 Unless the context requires otherwise, for the purpose of this Part:

11 (1) 'Collection site' means a site used for the storage of scrap tires.

12 (2) 'In-county scrap tire' means any scrap tire brought for disposal from
13 inside the county in which the collection or processing site is located.

14 (3) 'Out-of-county scrap tire' means any scrap tire brought for disposal
15 from outside the county in which the collection or processing site is
16 located.

17 (4) 'Processing site' means a site actively used to produce or manufacture
18 usable materials, including fuel, from scrap tires. Commercial
19 enterprises processing scrap tires shall not be considered solid waste
20 management facilities insofar as the provisions of G.S. 130A-294(a)(4)
21 and G.S. 130A-294(b) are concerned.

22 (5) 'Scrap tire' means a tire that is no longer suitable for its original,
23 intended purpose because of wear, damage, or defect.

24 (6) 'Solid Waste Branch' means the Solid Waste Branch of the Solid and
25 Hazardous Waste Management Section of the Division of Health
26 Services of the Department of Human Resources.

27 (7) 'Tipping fee' is any amount charged by a tire collector, tire processor,
28 or unit of local government in exchange for accepting scrap tires.

29 (8) 'Tire' means a continuous solid or pneumatic rubber covering
30 encircling the wheel of a motor vehicle as defined in G.S. 20-4.01(23).

31 (9) 'Tire collector' means a person who owns or operates a site used for
32 the storage, collection, or deposit of more than 50 scrap tires.

33 (10) 'Tire hauler' means a person engaged in the picking up or transporting
34 of scrap tires for the purpose of storage, processing, or disposal.

35 (11) 'Tire processor' means a person who engages in the processing of
36 scrap tires or one who owns or operates a tire processing site.

37 (12) 'Tire retailer' means a person who engages in the retail sale of a tire in
38 any quantity for any use or purpose by the purchaser other than for
39 resale.

40 (13) 'Unit of local government' means a county, city, town, or incorporated
41 village.

42 **"§ 130A-310.54. Scrap tire disposal fee.**

43 (a) A fee is imposed on the privilege of selling or using motor vehicle tires in this
44 State. This fee is in addition to all other taxes and fees imposed.

1 (b) The definitions in G.S. 105-164.3 apply to G.S. 130A-310.55 and G.S. 130A-
2 310.56, except the term 'sale' does not include a lease or rental.

3 (c) The fees imposed by G.S. 130A-55 and G.S. 130A-56 shall be:

4 (1) Administered in the same manner as the tax imposed by Article 5 of
5 Chapter 105 of the General Statutes; and

6 (2) Used by each county for the disposal of scrap tires pursuant to the
7 provisions of this Part or for the abatement of a nuisance pursuant to
8 G.S. 130A-310.60.

9 **"§ 130A-310.55. Fee upon sale.**

10 (a) Beginning January 1, 1990, a scrap tire disposal fee shall be imposed upon
11 the sale of each new motor vehicle tire at the rate of one percent (1%) of the sales price
12 for each new tire sold. This fee shall be imposed upon the tire retailer's net taxable sales
13 and shall be paid and collected in the same manner as the State's sales tax under Article
14 5 of Chapter 105 of the General Statutes. The tire retailer may retain the costs of
15 administration. The amount retained by the tire retailer for the costs of administration
16 may not exceed three percent (3%) of the fees collected pursuant to this section. The
17 scrap tire disposal fee does not apply to recapped tires or to the lease or rental of tires.

18 (b) Scrap tire disposal fees shall be distributed quarterly to each county. Each
19 county shall receive a pro rata share, based on population, of the fees collected for the
20 prior quarter.

21 **"§ 130A-310.56. Fee for use.**

22 (a) Beginning January 1, 1990, all persons shall be required to pay a scrap tire
23 disposal fee for the use of motor vehicle tires in this State. This fee shall be imposed at
24 the rate of one percent (1%) of the cost price of each new tire.

25 (b) Where a fee under G.S. 130A-310.55 has already been paid on the purchase
26 of a new motor vehicle tire, then that fee shall be credited against the fee imposed by
27 this section. Where a fee substantially similar to the fee under G.S. 130A-310.55 has
28 been paid in another State, then that fee shall be credited against the fee imposed by this
29 section.

30 (c) The fee imposed by this section shall be paid and collected in the same
31 manner as the tax imposed under G.S. 105-164.6.

32 (d) Scrap tire disposal fees shall be distributed quarterly to each county. Each
33 county shall receive a pro rata share, based on population, of the fees collected for the
34 prior quarter.

35 **"§ 130A-310.57. Scrap tire disposal program.**

36 (a) The owner or operator of any scrap tire collection site shall, within six
37 months after the effective date of this section, provide the Solid Waste Branch with
38 information concerning the site's location, size, and the approximate number of scrap
39 tires that are accumulated at the site and shall initiate steps to comply with subsection
40 (c) of this section.

41 (b) On or after July 1, 1990:

42 (1) A person may not maintain a scrap tire collection site or a scrap tire
43 disposal site unless the site is permitted.

1 (2) It is unlawful for any person to dispose of scrap tires in the State
2 unless the scrap tires are disposed of at a scrap tire collection site or at
3 a tire disposal site, or disposed of for processing at a scrap tire
4 processing facility.

5 (c) By January 1, 1990, the Department shall adopt rules to carry out the
6 provisions of this section. Such rules shall:

7 (1) Provide for the administration of scrap tire collector and collection
8 center permits and scrap tire disposal site permits, which may not
9 exceed two hundred fifty dollars (\$250.00) annually;

10 (2) Set standards for scrap tire processing facilities and associated scrap
11 tire sites, scrap tire collection centers, and scrap tire collectors; and

12 (3) Authorize the final disposal of scrap tires at a permitted solid waste
13 disposal facility provided the tires have been cut into sufficiently small
14 parts to assure their proper disposal.

15 (d) A permit is not required for:

16 (1) A tire retreading business where fewer than 1,000 scrap tires are kept
17 on the business premises;

18 (2) A business that, in the ordinary course of business, removes tires from
19 motor vehicles if fewer than 1,000 of these tires are kept on the
20 business premises; or

21 (3) A retail tire-selling business which is serving as a scrap tire collection
22 center if fewer than 1,000 scrap tires are kept on the business premises.

23 (e) The Department shall encourage the voluntary establishment of scrap tire
24 collection centers at retail tire-selling businesses, scrap tire processing facilities, and
25 solid waste disposal facilities, to be open to the public for the deposit of used and scrap
26 tires. The Department may establish an incentives program for individuals to encourage
27 them to return their used or scrap tires to a scrap tire collection center.

28 **"§ 130A-310.58. Disposal of scrap tires.**

29 (a) Each county is responsible for providing for the disposal of scrap tires located
30 within its boundaries in accordance with the provisions of this Part and any rules and
31 regulations issued pursuant to this Part. The following are permissible methods of scrap
32 tire disposal:

33 (1) Incinerating;

34 (2) Retreading;

35 (3) Constructing artificial reefs;

36 (4) Constructing crash barriers;

37 (5) Controlling soil erosion when whole tires are not used;

38 (6) Chopping or shredding;

39 (7) Grinding into crumbs for use in road asphalt, tire derived fuel, and as
40 raw material for other products;

41 (8) Slicing vertically, resulting in each scrap tire being divided into at least
42 two pieces;

43 (9) Sludge composting;

44 (10) Using for agriculture-related purposes;

- 1 (11) Chipping for use as an oyster cultch as approved by rules adopted by
2 the Marine Fisheries Commission;
3 (12) Cutting, stamping, or dyeing tires;
4 (13) Pyrolizing and other physico-chemical processing;
5 (14) Hauling to out-of-State collection or processing sites; and
6 (15) Monofilling split, ground, chopped, sliced, or shredded scrap tires.

7 The Solid Waste Branch may approve other permissible methods of disposal by
8 promulgating rules and regulations pursuant to this Part. Landfilling of whole scrap
9 tires is prohibited.

10 (b) Units of local government may enter into joint ventures or other cooperative
11 efforts with other units of local government for the purpose of disposing of scrap tires.
12 Units of local government may enter into leases or other contractual arrangements with
13 units of local government or private entities in order to dispose of scrap tires.

14 (c) Each county is responsible for developing a description of scrap tire disposal
15 procedures. These procedures shall be included in any solid waste management plan
16 required by the Department of Human Resources under this Article. Further, any
17 revisions to the initial description of the scrap tire disposal procedures shall be
18 forwarded to the Solid Waste Branch.

19 (d) A county shall provide, directly or by contract with another unit of local
20 government or private entity, at least one site for scrap tire disposal for that county. The
21 unit of local government or contracting party may charge a tipping fee for the disposal
22 of in-county scrap tires and such tipping fees shall be assessed only to the extent that the
23 cost per tire of disposal exceeds the scrap tire disposal fees received by the county
24 during the preceding 12-month period, divided by the number of tires disposed of within
25 the county according to the tire disposal procedures during that period. The unit of local
26 government or contracting party may charge a tipping fee for the disposal of scrap tires
27 from tire manufacturers, retreaders not engaged in the retail sale of new tires, and any
28 other vehicles not subject to the scrap tire disposal fee, regardless of where such scrap
29 tires originated, and such fees shall not exceed the cost of disposal for such tires. The
30 unit of local government or contracting party also may charge a tipping fee for the
31 disposal of out-of-county and out-of-State scrap tires at the county's site.

32 (e) Every tire retailer or other person disposing of scrap tires shall complete and
33 sign a certification form prescribed by the Solid Waste Branch and distributed to each
34 county, certifying that the tires were collected in the normal course of business for
35 disposal, the county in which the tires were collected, and the number of tires to be
36 disposed of. This form also shall be completed and signed by the tire hauler, certifying
37 that the load contains the same tires that were received from the tire retailer or other
38 person disposing of scrap tires. The tire hauler shall present this certification form to
39 the tire processor or tire collector at the time of delivery of the scrap tires for disposal,
40 collection, or processing. Copies of these certification forms shall be retained for a
41 minimum of three years after the date of delivery of the scrap tires.

42 (f) The provisions of subsection (e) of this section do not apply to tires that are
43 brought for disposal in quantities of five or less by someone other than a tire collector,
44 tire processor, or tire hauler.

1 **"§ 130A-310.59. Registration of tire haulers.**

2 (a) Before engaging in the hauling of scrap tires in this State, any tire hauler must
3 register with the Solid Waste Branch and furnish evidence of a security bond in excess
4 of twenty-five thousand dollars (\$25,000); whereupon the Solid Waste Branch shall
5 issue to the tire hauler a scrap tire hauling identification number. A tire retailer licensed
6 under G.S. 105-164.29 and solely engaged in the hauling of scrap tires received by it in
7 connection with the retail sale of replacement tires is not required to register under this
8 section.

9 (b) Each tire hauler shall furnish its hauling identification number on all
10 certification forms required under G.S. 130A-310.58(e). Any tire retailer engaged in the
11 hauling of scrap tires and not required by subsection (a) of this section to be registered
12 shall supply its merchant identification number on all certification forms required by
13 G.S. 130A-310.58(e).

14 **"§ 130A-310.60. Nuisance tire collection sites.**

15 (a) On or after July 1, 1990, if the Solid Waste Branch determines that a tire
16 collection site is a nuisance, it shall notify the person responsible for the nuisance and
17 request that the tires be processed or removed within 90 days. If the person fails to take
18 the requested action within 90 days, the Department shall order the person to abate the
19 nuisance within 90 days. If the person responsible for the nuisance is not the owner of
20 the property on which the tire collection site is located, the Department may order the
21 property owner to permit abatement of the nuisance. If the person responsible for the
22 nuisance fails to comply with the order, the Department shall take any action necessary
23 to abate the nuisance, including entering the property where the tire collection site is
24 located and confiscating the scrap tires, or arranging to have the scrap tires processed or
25 removed.

26 (b) When the Department abates the nuisance pursuant to subsection (a) of this
27 section, the person responsible for the nuisance shall be liable for the actual costs
28 incurred by the Department for its nuisance abatement activities and its administrative
29 and legal expenses related to the abatement. The Department may ask the Attorney
30 General to initiate a civil action to recover these costs from the person responsible for
31 the nuisance. Nonpayment of the actual costs incurred by the Department shall result in
32 the imposition of a lien on the owner's real property on which the tire collection site is
33 located.

34 (c) This section does not apply to any of the following:

- 35 (1) A retail business premises where tires are sold if no more than 500
36 scrap tires are kept on the premises at one time;
37 (2) The premises of a tire retreading business if no more than 3,000 scrap
38 tires are kept on the premises at one time;
39 (3) A premises where tires are removed from motor vehicles in the
40 ordinary course of business if no more than 500 scrap tires are kept on
41 the premises at one time;
42 (4) A solid waste disposal facility where no more than 60,000 scrap tires
43 are stored above ground at one time if all tires received for storage are

- 1 processed, buried, or removed from the facility within one year after
2 receipt;
- 3 (5) A site where no more than 250 scrap tires are stored for agricultural
4 uses;
- 5 (6) A site where scrap tires are stored for use in constructing artificial
6 reefs in waters of the State;
- 7 (7) An artificial reef constructed of scrap tires; and
- 8 (8) A construction site where scrap tires are stored for use or used in road
9 surfacing and construction of embankments.

10 (d) The descending order of priority for the Department's abatement activities
11 under subsection (a) of this section is as follows:

- 12 (1) Tire collection sites determined by the Department to contain more
13 than 1,000,000 tires;
- 14 (2) Tire collection sites which constitute a fire hazard or threat to public
15 health;
- 16 (3) Tire collection sites in densely populated areas; and
- 17 (4) Any other tire collection sites that are determined to be a nuisance.

18 (e) This section does not change the existing authority of the Department to
19 enforce any existing laws or of any person to abate a nuisance.

20 (f) As used in this section, 'nuisance' means an unreasonable danger to public
21 health, safety, or welfare or to the environment.

22 **"§ 130A-310.61. Preemption.**

23 This Part preempts any local ordinance regarding the disposal of scrap tires to the
24 extent that any local ordinance is inconsistent with this Part or rules adopted pursuant to
25 this Part. A unit of local government may not charge any fees for the disposal of scrap
26 tires except as authorized by this Part.

27 **"§ 130A-310.62. Fines and penalties.**

28 Any person who knowingly hauls or disposes of a tire in violation of this Part or the
29 rules adopted pursuant to this Part shall be assessed a civil penalty of fifty dollars
30 (\$50.00) per violation. Each tire hauled or disposed of in violation of this Part or rules
31 adopted pursuant to this Part constitutes a separate violation."

32 Sec. 2. Article 2 of Chapter 136 of the General Statutes is amended by
33 adding a section to read:

34 **"§ 136-285. Use of scrap tires in construction.**

35 (a) The General Assembly declares it to be in the public interest to find
36 alternative ways to use scrap tires, which contribute to problems of solid waste disposal.
37 To determine the feasibility of using scrap tires for paving materials, the Department
38 shall, before January 1, 1991, undertake, as part of its currently scheduled projects, a
39 demonstration project using ground rubber from automobile tires in road resurfacing or
40 subbase materials for roads. Within one year after the conclusion of this demonstration
41 project, the Department shall report to the General Assembly on the maximum
42 percentage of scrap tires that can be effectively utilized in road construction projects.
43 Concurrent with the submission of the report, the Department shall review and modify

1 its standard road construction specifications to allow and encourage the use of scrap
2 tires consistent with the findings of the demonstration project.

3 (b) The Department shall contract for the investigation and evaluation of the use
4 of ground tire rubber as an additive to asphalt concrete and other alternatives which
5 would utilize scrap tires. The development of the scope of services and technical
6 guidance and review of the work shall be a cooperative effort of the Planning and
7 Research Branch of the Department and The University of North Carolina. Activities
8 shall include:

9 (1) Determining the type and amount of ground tire rubber that would
10 provide acceptable properties in an asphalt concrete mix;

11 (2) Determining preprocessing requirements and the method of
12 incorporation of ground tire rubber in the asphalt concrete mix, and
13 identifying potential effects on pavement construction and
14 performance;

15 (3) Determining effects and procedures for the recycling of asphalt
16 concrete containing ground tire rubber;

17 (4) Determining the amount of ground tire rubber that may be used in road
18 construction and the expected cost of its use; and

19 (5) Identifying changes needed in Department and local government
20 specifications and procedures to allow for use of ground tire rubber
21 from scrap tires in asphalt concrete pavements.

22 This evaluation shall be completed by March 1, 1991, and the Department shall report
23 its findings to the General Assembly."

24 Sec. 3. Beginning March 1, 1990, all scrap tires located in North Carolina
25 shall be disposed of in accordance with the provisions of the Scrap Tire Disposal Act
26 enacted by Section 1 of this act.

27 Sec. 4. The Department of Revenue may retain the actual costs of
28 administering the fees collected by the Department under Section 1 of this act.

29 Sec. 5. This act shall become effective October 1, 1989.