WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 2000

ENROLLED
Committee Substitute for Committee Substitute for
SENATE BILL NO. 427

(By Senators Tomlin, Mr. President, and Sprouse, by request of the Executive)

PASSED March 11, 2000
In Effect ninety days from Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

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Senate Bill No. 427

(BY SENATORS TOMBLIN, MR. PRESIDENT, AND SPROUSE,
BY REQUEST OF THE EXECUTIVE)

[Passed March 11, 2000; in effect ninety days from passage.]

AN ACT to amend and reenact sections two and three, article twenty-three, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact article twenty-four of said chapter; to amend article ten, chapter seventeen-a of said code by adding thereto a new section, designated section sixteen; to amend and reenact section eight, article eleven, chapter twenty of said code; to amend article fifteen, chapter twenty-two of said code by adding thereto a new section, designated section twenty-one; and to amend and reenact section one-b, article two, chapter twenty-four of said code, all relating generally to waste tires; prohibiting collection, accumulation or storage of waste tires in salvage yards; providing for excep-

tions; defining terms; establishing legislative findings and policy regarding urgent need for remediation of waste tire piles; creating definitions; prohibiting placing, depositing or abandoning waste tires on public or private property; creating exceptions for waste tire monofills, solid waste facilities and other business authorized to accept or process waste tires; providing for enforcement as illegal open dump; authorizing the division of highways to administer funds for waste tire remediation; authorizing the commissioner of the division of highways to contract with public and private entities to carry out the requirements of the act; authorizing the commissioner of the division of highways to establish a waste tire collection program; authorizing promulgation of rules; providing for the disposal of waste tires; creating tire remediation/environmental cleanup fund; authorizing proceeds of waste tire sales to be deposited into fund; establishing a fee on the issuance of a certificate of title for purpose of tire remediation and environmental cleanup; providing for a performance review; authorizing remedies; making property owner responsible for waste tires on property; assessing costs of remediation; creating lien to recover cost of remediation; authorizing injunctive relief; establishing authority of commissioner of bureau for public health; authorizing disposal of waste tires collected in a remediation effort in solid waste facilities; providing that waste tires from remediation not subject to tipping fees or tonnage limits; requiring solid waste facilities to accept waste tires; authorizing reasonable fees; providing that waste tires from remediation or cleanup projects may only be deposited in a solid waste facility when there is no other alternative available; requiring tire retailers to accept a waste tire for each new tire sold; authorizing disposal fee; requiring purchaser to leave waste tires with retailer or sign waiver; posting of signs; prohibiting accumulation of waste tires without a permit; prohibiting disposal of waste tires except at facility with valid permit; prohibiting transportation of waste tires to facility without permit; prohibiting
open burning of tires; and requiring public service commission establish rule for collection of waste tires by commercial haulers.

Be it enacted by the Legislature of West Virginia:

That sections two and three, article twenty-three, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that article twenty-four of said chapter be amended and reenacted; that article ten, chapter seventeen-a of said code be amended by adding thereto a new section, designated section sixteen; that section eight, article eleven, chapter twenty of said code be amended and reenacted; that article fifteen, chapter twenty-two of said code be amended by adding thereto a new section, designated section twenty-one; and that section one-b, article two, chapter twenty-four of said code be amended and reenacted, all to read as follows:

CHAPTER 17. ROADS AND HIGHWAYS.

ARTICLE 23. SALVAGE YARDS.


As used in this article:

(a) “Abandoned salvage yard” means any unlicensed salvage yard or any salvage yard that was previously licensed but upon which the license has not been renewed for more than one year.

(b) “Commissioner” means the commissioner of the West Virginia division of highways.

(c) “Fence” means an enclosure, barrier or screen constructed of materials or consisting of plantings, natural objects or other appropriate means approved by the commissioner and located, placed or maintained so as effectively to screen at all times salvage yards and the
13 salvage therein contained from the view of persons passing
14 upon the public roads of this state.
15 (d) "Occupied private residence" means a private
16 residence which is occupied for at least six months each
17 year.
18 (e) "Owner or operator" includes an individual, firm,
19 partnership, association or corporation or the plural
20 thereof.
21 (f) "Residential community" means an area wherein five
22 or more occupied private residences are located within any
23 one thousand foot radius.
24 (g) "Salvage" means old or scrap brass, copper, iron,
25 steel, other ferrous or nonferrous materials, batteries or
26 rubber and any junked, dismantled or wrecked machinery,
27 machines or motor vehicles or any parts of any junked,
28 dismantled or wrecked machinery, machines or motor
29 vehicles.
30 (h) "Salvage yard" means any place which is maintained,
31 operated or used for the storing, keeping, buying, selling or
32 processing of salvage, or for the operation and mainte-
33 nance of a motor vehicle graveyard: Provided, That no
34 salvage yard shall accept, store or process more than one
35 hundred waste tires unless it has all permits necessary to
36 operate a monofill, waste tire processing facility or solid
37 waste facility. Any salvage yard which currently has on its
38 premises more than one hundred waste tires not on a
39 vehicle must establish a plan in conjunction with the
40 division of environmental protection for the proper
41 disposal of the waste tires.
42 (i) "Waste tire" means any continuous solid or pneu-
43 matic rubber covering designed to encircle the wheel of a
44 vehicle but which has been discarded, abandoned or is no
45 longer suitable for its original, intended purpose nor
46 suitable for recapping, or other beneficial use, as defined
in section two, article twenty-four, chapter seventeen of this code, because of wear, damage or defect. A tire is no longer considered to be suitable for its original intended purpose when it fails to meet the minimum requirements to pass a West Virginia motor vehicle safety inspection. Used tires located at a commercial recapping facility or tire dealer for the purpose of being reused or recapped are not waste tires.

(j) “Waste tire monofill or monofill” means an approved solid waste facility where waste tires not mixed with any other waste are placed for the purpose of long term storage for eventual retrieval for marketing purposes.

(k) “Waste tire processing facility” means a solid waste facility or manufacturer that accepts waste tires generated by sources other than the owner or operator of the facility for processing by such means as cryogenics, pyrolysis, pyroprossing cutting, splitting, shredding, quartering, grinding or otherwise breaking down waste tires for the purposes of disposal, reuse, recycling or marketing.

§17-23-3. License required; issuance; fee; renewal; disposition of fees.

No salvage yard or any part thereof shall be established, operated or maintained without a state license. The commissioner shall have the sole authority to issue such a state license, and he or she shall charge therefore a fee of two hundred dollars payable annually in advance. No license shall be issued to any salvage yard that contains more than one hundred waste tires which are not mounted on wheels on vehicles or machines unless the salvage yard has received a license, permit or approval from the division of environmental protection for storage, use or processing of waste tires or has entered into an agreement with the division of environmental protection for the proper disposal of the waste tires. All licenses issued
under this section shall expire on the first day of January
following the date of issuance. A license may be renewed
from year to year upon paying the commissioner the sum
of two hundred dollars for each renewal. All renewal
license fees collected under the provisions of this article
shall be deposited in the special fund provided for in
section ten of this article.

ARTICLE 24. WASTE TIRE REMEDIATION.

§17-24-1. Legislative findings; statement of policy.

The Legislature finds that innovative approaches are
needed to addressing proper management of the wastes
continually generated by the state and national highway
transportation system. The Legislature further finds that
waste tire piles are a direct product of state citizens use
and enjoyment of state roads and highways and proper tire
waste disposal is a necessary component of maintenance of
the transportation system. The accumulation of waste
tires has also become a significant environmental and
public health hazard to the state and the location and
number of waste tires are directly related to the efficiency
of travel, by citizens, visitors and of commerce, along
public highways in West Virginia. In particular, the
legislature recognizes that waste tires are widespread in
location and in number throughout the state; waste tires
physically touch and concern public highways, including,
but not limited to state roads, county roads, park roads,
secondary routes and orphan roads, all of which interferes
with the efficiency of public highways; and further that
the existence of waste tires along and near public high-
ways is sometimes accompanied by other hazards and, in
turn, adversely impacts the proper maintenance and
efficiency of public highways for citizens.

The Legislature also recognizes and declares that waste
tires are a public nuisance and hazard; that waste tires
serve as harborage and breeding places for rodents, mosquitoes, fleas, ticks and other insects and pests injurious to the public health, safety and general welfare; that waste tires collected in large piles pose an excessive risk to public health, safety and welfare from disease or fire; that the environmental, economic and societal damage resulting from fires in waste tire piles can be avoided by removing the piles; and that tire pile fires cause extensive pollution of the air and surface and ground water for miles downwind and downstream from the fire.

Therefore, in view of these findings the Legislature declares it to be the public policy of the state of West Virginia to eliminate the present danger resulting from discarded or abandoned waste tires and to eliminate the visual pollution resulting from waste tire piles, and that in order to provide for the public health, safety and welfare, quality of life, and to reverse the adverse impacts to the proper maintenance and efficiency of public highways, it is necessary to enact legislation to those ends by providing expeditious means and methods for effecting the disposal of waste tires.

§17-24-2. Definitions.

1 Unless the context clearly indicates a different meaning, as used in this article:

3 (1) "Beneficial use" means the use or reuse of whole waste tires or tire derived material which are reused in constructing retaining walls, rebuilding highway shoulders and subbase, building highway crash attenuation barriers, feed hopper or watering troughs for livestock, other agricultural uses approved by the division of environmental protection, playground equipment, boat or truck dock construction, house or building construction, go-cart, motorbike or race track barriers, or similar types of beneficial applications: Provided, That waste tires may not be reused as fencing, as erosion control structures, along
stream banks or river banks or reused in any manner where human health or the environment, as determined by the director of the division of environmental protection, is put at risk.

(2) "Commissioner" means the commissioner of the division of highways or his or her designee.

(3) "Division" means the division of highways.

(4) "Person" includes a natural person, corporation, firm, partnership, association or society, and the plural as well as the singular.

(5) "Remediate or Remediation" means to remove all tires located above grade at a site and may also include, at the discretion of the division, the removal of the solid waste incidental to the removal of waste tires at a site: Provided, That remediation does not include clean up of hazardous waste.

(6) "Waste tire" means any continuous solid or pneumatic rubber covering designed to encircle the wheel of a vehicle but which has been discarded, abandoned or is no longer suitable for its original, intended purpose nor suitable for recapping, or other beneficial use because of wear, damage or defect. A tire is no longer considered to be suitable for its original intended purpose when it fails to meet the minimum requirements to pass a West Virginia motor vehicle safety inspection. Used tires located at a commercial recapping facility or tire dealer for the purpose of being reused or recapped are not waste tires.

(7) "Waste tire monofill or monofill" means an approved solid waste facility where no solid waste except waste tires are placed for the purpose of long term storage for eventual retrieval for marketing purposes.

(8) "Waste tire processing facility" means a solid waste facility or manufacturer that accepts waste tires generated
§17-24-3. Waste tires prohibited in certain places; penalty.

(a) No person shall, within this state, place, deposit or abandon any waste tire or part thereof upon the right-of-way of any public highway or upon any other public property nor deposit or abandon any waste tire or part thereof upon any private property unless it is at a licensed monofill, solid waste facility or at any other business authorized by the division of environmental protection to accept, process, manufacture or re-manufacture waste tires: Provided, That the commissioner may temporarily accumulate as many waste tires as he or she deems necessary at any location or locations necessary to effectuate the purposes of this article.

(b) No person, except those persons who have received and maintain a valid permit or license from the state for the operation of a solid waste facility, waste tire monofill, waste tire processing facility, or other such permitted activities, shall accumulate more than one hundred waste tires for beneficial use without obtaining a license or permit from the division of environmental protection.

(c) Any person who violates any provision of this section shall be guilty of creating an open dump and subject to enforcement actions or prosecution under the provisions of article fifteen, chapter twenty-two of this code.

§17-24-4. Division of highways to administer funds for waste tire remediation; rules authorized; duties of commissioner.

(a) The division of highways shall administer all funds made available to the division for remediation of waste
tire piles and for the proper disposal of waste tires removed from waste tire piles. The commissioner of the division of highways is hereby authorized and empowered:

(i) To propose for legislative promulgation in accordance with article three, chapter twenty-nine-a of this code, emergency and legislative rules necessary to implement the provisions of this article; and (ii) to administer all funds appropriated by the Legislature to carry out the requirements of this article, and any other funds from whatever source including but not limited to federal, state or private grants.

(b) The commissioner shall also have the following powers:

(1) To apply and carry out the provisions of this article and the rules promulgated hereunder.

(2) To investigate from time to time the operation and effect of this article and of the rules promulgated hereunder and to report his or her findings and recommendations to the Legislature and the governor.

(c) The provisions of articles two-a and four, chapter seventeen of this code and the policy, rules, practices and procedures thereunder shall be followed by the commissioner in carrying out the purposes of this article.

(d) On or before the first day of June, two thousand-one, the commissioner shall determine the location, approximate size and potential risk to the public of all waste tire piles in the State and establish, in descending order, a waste tire remediation list.

(e) The commissioner may contract with the department of health and human resources and/or the division of corrections to remediate or assist in remediation of waste tire piles throughout the state. Utilization of available department of health and human resources and the department of corrections work programs shall be given
priority status in the contract process so long as such programs prove a cost effective method of remediating waste tire piles.

(f) Waste tire remediation shall be stopped and the division of environmental protection notified upon the discovery of any potentially hazardous material at a remediation site. The division of environmental protection shall respond to the notification in accordance with the provisions of article eighteen, chapter twenty-two of this code.

(g) The commissioner is authorized to establish a tire disposal program within the division to provide for a cost effective and efficient method to accept passenger car and light truck waste tires at such division of highways county headquarters as have sufficient space for temporary storage of waste tires and personnel to accept and handle waste tires. The commissioner may pay a fee for each tire an individual West Virginia resident or West Virginia business brings to the division. The commissioner may establish a limit on the number of tires an individual or business may be paid for during any calendar month. The commissioner may in his discretion authorize commercial businesses to participate in the collection program: Provided, That no person or business who has a waste tire pile subject to remediation under this article may participate in this program.

§17-24-5. Disposal of waste tires.

(a) The division may sell waste tires collected during remediation of waste tire piles at public auction or to a waste tire monofill, waste tire processing facility or business authorized by the division of environmental protection to accept, store, use or process waste tires.
(b) If there is no market in West Virginia for the sale of waste tires the division may sell them at any available market.

(c) If there is no market for the sale of waste tires the division may dispose of them in any lawful manner.

§17-24-6. Creation of tire remediation environmental cleanup fund; proceeds from sale of waste tires; fee on issuance of certificate of title; performance review.

(a) There is hereby created in the state treasury a special revenue fund known as the “Tire Remediation/Environmental Cleanup Fund”. All moneys appropriated, deposited or accrued in this fund shall be used exclusively for remediation of waste tire piles as required by article twenty-four, chapter seventeen of this code. The fund shall consist of the proceeds from the sale of waste tires; fees collected by the division of motor vehicles as provided for in section sixteen, article ten, chapter seventeen-a of this code; any federal, state or private grants; legislative appropriations; loans and any other funding source available for waste tire remediation. Any balance remaining in the fund at the end of any state fiscal year shall not revert to the state treasury but shall remain in this fund and be used only in a manner consistent with the requirements of article twenty-four, chapter seventeen of this code.

(b) No further collections or deposits shall be made after the commissioner certifies to the governor and the Legislature that the remediation of all waste tire piles that were determined by the commissioner to exist on the first day of June, two thousand and one has been completed.

(c) The joint committee on government operations shall, pursuant to authority granted in article ten of chapter four of this code, conduct a preliminary performance review of the division’s compliance with the waste tire remediation mandated in this article; whether the purposes of this...
article have been met and whether it is appropriate to
terminate this program. In conducting such preliminary
performance review, the committee shall follow the
guidelines established in article ten, section ten, chapter
four of this code. A preliminary review shall be completed
on or before the first day of January, two thousand three.

§17-24-7. Remediation; liability for remediation and court costs.

(a) Any person who has prior or subsequent to the
effective date of this act illegally disposed of waste tires or
has waste tires illegally disposed on his or her property
shall be liable for:

(1) All costs of removal or remedial action incurred by
the division;

(2) Any other necessary costs of remediation including
properly disposing of waste tires and damage to adjacent
property owners, and

(3) All costs incurred in bringing civil actions under this
article.

(b) The division shall notify any person who owns real
property or rights to property where a waste tire pile is
located that remediation of the waste tire pile is necessary.
The division shall make and enter an order directing such
person or persons to remove and properly dispose of the
waste tires. The division shall set a time limit for comple-
tion of the remediation. The order shall be served by
registered or certified mail, return receipt requested, or by
a county sheriff or deputy sheriff.

(c) If the remediation is not completed within the time
limit, or the person cannot be located, or the person
notifies the division that he or she is unable to comply
with the order, the division may expend funds, as provided
herein, to complete the remediation. Any amounts so
expended shall be promptly repaid by the person or
persons responsible for the waste tire pile. Any person
owing remediation costs and or damages shall be liable at
law until such time as all costs and or damages are fully
paid.

(d) Authorized representatives of the division have the
right, upon presentation of proper identification, to enter
upon any property for the purpose of conducting studies or
exploratory work to determine the existence of adverse
effects of a waste tire pile, to determine the feasibility of
the remediation or prevention of such adverse effects and
to conduct remediation activities provided for herein.
Such entry is an exercise of the police power of the state
and for the protection of public health, safety and general
welfare and is not an act of condemnation of property or
trespass thereon. Nothing contained in this section
eliminates any obligation to follow any process that may
be required by law.

(e) There is hereby created a statutory lien upon all real
property and rights to the property from which a waste
tire pile was remediated for all reclamation costs and
damages incurred by the division. The lien created by this
section shall arise at the later of the following:

(1) The time costs are first incurred by the division; or

(2) The time the person is provided, by certified or
registered mail, or personal service, written notice as
required by this section.

The lien shall continue until the liability for the costs or
judgment against the property is satisfied.

(f) Liens created by this section shall be duly recorded in
the office of the clerk of the county commission in the
county where the real property is located, be liens of equal
dignity, rank and priority with the lien on such premises
of state, county, school and municipal taxes for the
amount thereof, upon the real property served. The
division shall have the power and authority to enforce such liens in a civil action to recover the money due for remediation costs and damages plus court fees and costs and reasonable attorney's fees.

(g) The division may foreclose upon the premises by bringing a civil action, in the circuit court of the county where the property is located, for foreclosure and an order to sell the property to satisfy the lien.

(h) Any proceeds from any sale of property obtained as a result of execution of a lien or judgment under this section for remediation costs, excluding costs of obtaining judgement and perfecting the lien, shall be deposited into the waste tire remediation fund of the state treasury.

(i) The provisions of this section do not apply and no lien may attach to the right-of-way, easement or other property interest of a utility, whether electric, gas, water, sewer, telephone, television cable or other public service unless the utility contributed to the illegal tire pile.

§17-24-8. Injunctive relief; additional remedy.

(a) In addition to all other remedies provided for in this article, the attorney general of this state, the prosecuting attorney of any county where any violation of any provision of this article occurs, or any citizen, resident or taxpayer of the county where any violation of any provision of this article occurs, may apply to the circuit court, or the judge thereof in vacation, of the county where the alleged violation occurred, for an injunction to restrain, prevent or abate the maintenance and storage of waste tires in violation of any provision of this article, or the violation of any other provision of this article. In seeking an injunction, it is not necessary for the director or any state agency seeking an injunction under section to post bond.

Although the director is primarily responsible for remediation of waste tire piles under the provisions of this article, the commissioner of the bureau of public health may enforce the public health laws in any instance where the commissioner of the bureau of public health determines there is an imminent and substantial endangerment to the public health.

CHAPTER 17a. MOTOR VEHICLE ADMINISTRATION, REGISTRATION, CERTIFICATE OF TITLE, AND ANTITHEFT PROVISIONS.

ARTICLE 10. FEES FOR REGISTRATION, LICENSING, ETC.

§17A-10-16. Fee for tire remediation environmental cleanup fund.

In addition to each fee provided for in this article, an additional five dollar fee shall be imposed on the issuance of each certificate of title issued pursuant to article three of this chapter. All money collected under this section shall be deposited in the state treasury and credited to a tire remediation/environmental cleanup fund to be established within the department of highways, for waste tire remediation in accordance to the provisions of article twenty-four, chapter seventeen of this code. The additional fee provided herein shall be imposed for each application for certificate and renewal thereof made on or after the first day of July, two thousand: Provided, That no further collections or deposits shall be made after the commissioner certifies to the governor and the legislature that the remediation of all waste tire piles that were determined by the commissioner to exist on the first day of June, two thousand and one has been completed.

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 11. WEST VIRGINIA RECYCLING PROGRAM.
§20-11-8. Prohibition on the disposal of certain items; plans for the proper handling of said items required.

(a) Effective the first day of June, one thousand nine hundred ninety-four, it shall be unlawful to dispose of lead-acid batteries in a solid waste landfill in West Virginia; effective the first day of June, one thousand nine hundred ninety-six, it shall be unlawful to dispose of tires in a solid waste landfill in West Virginia except for waste tires collected as part of the division of highways waste tire remediation projects or other collection efforts in accordance with the provisions of article twenty-four, chapter seventeen of this code or the division of environmental protection's pollution prevention program and open dump program or other state authorized remediation or cleanup programs: Provided, That waste tires may be disposed of in solid waste landfills only when the state agency authorizing the remediation or cleanup program has determined there is no reasonable alternative available.

(b) Effective the first day of January, one thousand nine hundred ninety-seven, it shall be unlawful to dispose of yard waste, including grass clippings and leaves, in a solid waste facility in West Virginia: Provided, That such prohibitions do not apply to a facility designed specifically to compost such yard waste or otherwise recycle or reuse such items: Provided, however, That reasonable and necessary exceptions to such prohibitions may be included as part of the rules promulgated pursuant to subsection (d) of this section.

(c) No later than the first day of May, one thousand nine hundred ninety-five, the solid waste management board shall design a comprehensive program to provide for the proper handling of yard waste and lead-acid batteries. No later than the first day of May one thousand nine hundred ninety-four, a comprehensive plan shall be designed in the same manner to provide for the proper handling of tires.
(d) No later than the first day of August, one thousand nine hundred ninety-five, the division of environmental protection shall promulgate rules, in accordance with chapter twenty-nine-a of this code, as amended, to implement and enforce the program for yard waste and lead-acid batteries designed pursuant to subsection (c) of this section. No later than the first day of August, two thousand, the division of environmental protection shall promulgate rules, in accordance with chapter twenty-nine-a of said code, as amended, to implement and enforce the program for tires designed pursuant to subsection (c) of this section.

(e) For the purposes of this section, "yard waste" means grass clippings, weeds, leaves, brush, garden waste, shrub or tree prunings and other living or dead plant tissues, except that, such materials which, due to inadvertent contamination or mixture with other substances which render the waste unsuitable for composting, shall not be considered to be yard waste: Provided, That the same or similar waste generated by commercial agricultural enterprises is excluded.

(f) In promulgating the rules required by subsections (c) and (d) of this section, yard waste, as described in subsection (d) of this section, the division shall provide for the disposal of yard waste in a manner consistent with one or any combination of the following:

(1) Disposal in a publicly or privately operated commercial or noncommercial composting facility.

(2) Disposal by composting on the property from which domestic yard waste is generated or on adjoining property or neighborhood property if consent is obtained from the owner of the adjoining or neighborhood property.
(3) Disposal by open burning where such activity is not prohibited by this code, rules promulgated hereunder or municipal or county codes or ordinances.

(4) Disposal in a publicly or privately operated landfill, only where none of the foregoing options are available. Such manner of disposal will involve only small quantities of domestic yard waste generated only from the property of the participating resident or tenant.

CHAPTER 22. ENVIRONMENTAL RESOURCES.

ARTICLE 15. SOLID WASTE MANAGEMENT ACT.


(a) No person, except those persons who have received and maintained a valid permit or license from the state for the operation of a solid waste facility, waste tire monofill, waste tire processing facility, or other such permitted activities, shall accumulate waste tires without obtaining a license or permit from the division: Provided, That persons who use waste tires for beneficial uses may in the discretion of the director of the division of environmental protection accumulate waste tires without a permit.

(b) No person shall dispose of waste tires in or upon any public or private land, any site or facility other than a site or facility which holds a valid permit issued by the division for such disposal or usage.

(c) No person shall knowingly transport or knowingly allow waste tires under his or her control to be transported to a site or facility that does not have a valid permit or license to accept waste tires.

(d) No person shall engage in the open burning of waste tires.

(e) Persons who violate this article are subject to all enforcement actions available to the director under the
provisions of section fifteen, article fifteen, chapter twenty-two of this code.

(f) Except as otherwise provided in subsection (g) of this section, each retailer is required to accept one tire of comparable size for each new tire sold at retail. The retailer may charge a disposal fee to cover the actual costs of lawful waste tire disposal. No retail tire dealer may deliver any waste tire, or part thereof, to a person not authorized by the state of West Virginia to transport or accept waste tires.

(g) Any person purchasing a new tire from a retailer must provide a used or waste tire for each tire purchased or sign a waiver, provided to the tire retailer by the division, acknowledging that he or she is retaining the waste tire and that he or she is legally responsible for proper disposal of each tire retained. These forms are to be kept by the retailer for three years. If the tire purchaser returns to the tire retailer with a signed form given to the purchaser by that retailer, the retailer must accept up to the total number of comparable size tires as previously retained by the purchaser: Provided, That persons having winter tires changed or buying new winter tires and keeping usable summer tires for later installation are not required to provide a used or waste tire, or sign a waiver.

(h) Each tire retailer shall post in a conspicuous place a written notice, provided by the division, that bears the following statements:

(1) "State law requires us to accept your (old) waste tires for recycling or proper disposal if you purchase new tires from us."

(2) "State law authorizes us to charge you no more than the actual cost of disposal of your waste tires even if you do not leave your tires with us".
(3) "It is a crime to burn, bury, abandon or throw away waste tires without authorization and or permits from the Division of Environmental Protection".

This notice must be at least eight and one-half inches wide and eleven inches high.

(i) Solid waste facilities shall accept whole waste tires and may charge a reasonable fee for acceptance of waste tires. All waste tires except those disposed of in a landfill shall be excluded from the calculation of monthly tonnage limits and from any solid waste disposal assessment fees imposed by section five-a, article eleven, chapter twenty; section eleven, article fifteen, chapter twenty-two, section four, article sixteen, chapter twenty-two and section thirty, article four, chapter twenty-two-c of this code.

(j) Solid waste facilities shall accept and dispose of whole tires from state authorized tire remediation projects. All waste tires from state authorized tire remediation projects except those disposed of in a landfill shall be excluded from the calculation of monthly tonnage limits and from any solid waste disposal assessment fees imposed by section five-a, article eleven, chapter twenty; section eleven, article fifteen, chapter twenty-two, section four, article sixteen, chapter twenty-two and section thirty, article four, chapter twenty-two-c of this code. For state sponsored tire remediation projects, the state may negotiate with the solid waste facility for rates and charges for the disposal of waste tires regardless of the rates and charges established by the public service commission pursuant to article one, chapter twenty-four of this code: Provided, That the disposal of whole tires in a solid waste facility is allowed only when the division of highways or the division of environmental protection has determined there is no other reasonable alternative available.
(k) The division shall propose for legislative promulgation emergency and legislative rules to effectuate the purposes of this section.

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-1b. Additional jurisdiction of commission.

(a) Effective the first day of July, one thousand nine hundred eighty-eight, in addition to all other powers and duties of the commission as defined in this article, the commission shall establish, prescribe and enforce rates and fees charged by commercial solid waste facilities, as defined in section two, article fifteen, chapter twenty-two of this code, that are owned or under the direct control of persons or entities who are regulated under section five, article two, chapter twenty-four-a of this code. The commission shall establish, prescribe and enforce rules providing for the safe transportation of solid waste in the state. The commission shall establish rules for the collection of waste tires by private commercial carriers of solid waste.

(b) The public service commission shall study the feasibility of incorporating and adopting guidelines for solid waste collection fees that are based upon the volume of solid waste generated by any person. This report shall be submitted to the governor and the members of the Legislature on or before the first day of January, one thousand nine hundred ninety-three.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within............................................... approved this the .........................

Day of.........................................................., 2020

Governor
PRESENTED TO THE GOVERNOR

Date: 3/28/00
Time: 3:15 pm