

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

Appropriations Committee Substitute #3 Adopted 7/13/89

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.

- 1           (5) It is in the State's best interest to encourage efforts to recycle or  
2 recover resources from scrap tires.
- 3           (6) It is desirable to allow units of local government to control tire  
4 disposal for themselves and to encourage multicounty, regional  
5 approaches to scrap tire disposal and collection.
- 6           (7) It is desirable to encourage reduction in the volume of scrap tires being  
7 disposed of at public sanitary landfills.

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

11 **"§ 130A-310.53. Definitions.**

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

- 13           (1) 'Collection site' means a site used for the storage of scrap tires.
- 14           (2) 'In-county scrap tire' means any scrap tire brought for disposal from  
15 inside the county in which the collection or processing site is located.
- 16           (3) 'Out-of-county scrap tire' means any scrap tire brought for disposal  
17 from outside the county in which the collection or processing site is  
18 located.
- 19           (4) 'Processing site' means a site actively used to produce or manufacture  
20 usable materials, including fuel, from scrap tires. Commercial  
21 enterprises processing scrap tires shall not be considered solid waste  
22 management facilities insofar as the provisions of G.S. 130A-294(a)(4)  
23 and G.S. 130A-294(b) are concerned.
- 24           (5) 'Scrap tire' means a tire that is no longer suitable for its original,  
25 intended purpose because of wear, damage, or defect.
- 26           (6) 'Solid Waste Branch' means the Solid Waste Branch of the Solid and  
27 Hazardous Waste Management Section of the Division of Health  
28 Services of the Department of Human Resources.
- 29           (7) 'Tipping fee' is any amount charged by a tire collector, tire processor,  
30 or unit of local government in exchange for accepting scrap tires.
- 31           (8) 'Tire' means a continuous solid or pneumatic rubber covering  
32 encircling the wheel of a motor vehicle as defined in G.S. 20-4.01(23).
- 33           (9) 'Tire collector' means a person who owns or operates a site used for  
34 the storage, collection, or deposit of more than 50 scrap tires.
- 35           (10) 'Tire hauler' means a person engaged in the picking up or transporting  
36 of scrap tires for the purpose of storage, processing, or disposal.
- 37           (11) 'Tire processor' means a person who engages in the processing of  
38 scrap tires or one who owns or operates a tire processing site.
- 39           (12) 'Tire retailer' means a person who engages in the retail sale of a tire in  
40 any quantity for any use or purpose by the purchaser other than for  
41 resale.
- 42           (13) 'Unit of local government' means a county, city, town, or incorporated  
43 village.

44 **"§ 130A-310.54. Scrap tire disposal fee.**

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

3 (b) The definitions in G.S. 105-164.3 apply to G.S. 130A-310.55 and G.S. 130A-  
4 310.56, except the term 'sale' does not include a lease or rental.

5 (c) The fees imposed by G.S. 130A-55 and G.S. 130A-56 shall be used by each  
6 county for the disposal of scrap tires pursuant to the provisions of this Part or for the  
7 abatement of a nuisance pursuant to G.S. 130A-310.60.

8 (d) The fees imposed by G.S. 130A-55 and G.S. 130A-56 shall be administered  
9 in the same manner as the tax imposed by Article 5 of Chapter 105 of the General  
10 Statutes. All other provisions of Article 5 and Article 9 of Chapter 105 of the General  
11 Statutes shall apply to this Part to the extent they are not inconsistent with the  
12 provisions of this Part. However, the exemptions and exclusions under G.S. 105-164.13  
13 and G.S. 105-164.3(19) and the lower rates of tax imposed have no effect on the scrap  
14 tire disposal fee. The refund provisions under G.S. 105-164.14(a), (b), and (c) do not  
15 apply. The Secretary of Revenue may administer, enforce, collect and distribute the  
16 scrap tire disposal fee. The administrative interpretation made by the Secretary of  
17 Revenue with respect to the North Carolina Sales and Use Tax Act applies to the scrap  
18 tire disposal fee to the extent they are not inconsistent.

19 **"§ 130A-310.55. Fee upon sale.**

20 (a) Beginning January 1, 1990, a scrap tire disposal fee shall be imposed upon  
21 the retail sale of each new motor vehicle tire at the rate of one percent (1%) of the sales  
22 price for each new tire sold. This fee shall be imposed upon the tire retailer's net taxable  
23 sales and shall be paid and collected in the same manner as the State's sales tax under  
24 Article 5 of Chapter 105 of the General Statutes. The fee is not subject to the general  
25 sales tax under Article 5 of Chapter 105 of the General Statutes. The tire retailer may  
26 retain the costs of administration. The amount retained by the tire retailer for the costs  
27 of administration shall be three percent (3%) of the fees collected pursuant to this  
28 section. The scrap tire disposal fee does not apply to recapped tires or to the lease or  
29 rental of tires.

30 (b) The Secretary of Revenue shall distribute the net proceeds of the tire disposal  
31 fee quarterly among the counties on a per capita basis according to the most recent  
32 annual population estimates certified by the Office of State Budget and Management to  
33 the Secretary of Revenue.

34 **"§ 130A-310.56. Fee for use.**

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

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

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

1       (d) The Secretary of Revenue shall distribute the net proceeds of the tire disposal  
2 fee quarterly among the counties as soon as practicable after collection during the prior  
3 quarter, on a per capita basis according to the most recent annual population estimates  
4 certified by the Office of State Budget and Management to the Secretary of Revenue.

5 **"§ 130A-310.57. Scrap tire disposal program.**

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

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

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

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

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

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

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

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

28       (d) A permit is not required for:

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

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

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

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

41 **"§ 130A-310.58. Disposal of scrap tires.**

42       (a) Each county is responsible for providing for the disposal of scrap tires located  
43 within its boundaries in accordance with the provisions of this Part and any rules and

1 regulations issued pursuant to this Part. The following are permissible methods of scrap  
2 tire disposal:

- 3 (1) Incinerating;
- 4 (2) Retreading;
- 5 (3) Constructing artificial reefs;
- 6 (4) Constructing crash barriers;
- 7 (5) Controlling soil erosion when whole tires are not used;
- 8 (6) Chopping or shredding;
- 9 (7) Grinding into crumbs for use in road asphalt, tire derived fuel, and as  
10 raw material for other products;
- 11 (8) Slicing vertically, resulting in each scrap tire being divided into at least  
12 two pieces;
- 13 (9) Sludge composting;
- 14 (10) Using for agriculture-related purposes;
- 15 (11) Chipping for use as an oyster cultch as approved by rules adopted by  
16 the Marine Fisheries Commission;
- 17 (12) Cutting, stamping, or dyeing tires;
- 18 (13) Pyrolizing and other physico-chemical processing;
- 19 (14) Hauling to out-of-State collection or processing sites; and
- 20 (15) Monofilling split, ground, chopped, sliced, or shredded scrap tires.

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

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

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

33 (d) A county shall provide, directly or by contract with another unit of local  
34 government or private entity, at least one site for scrap tire disposal for that county. The  
35 unit of local government or contracting party may charge a tipping fee for the disposal  
36 of in-county scrap tires and such tipping fees shall be assessed only to the extent that the  
37 cost per tire of disposal exceeds the scrap tire disposal fees received by the county  
38 during the preceding 12-month period, divided by the number of tires disposed of within  
39 the county according to the tire disposal procedures during that period. The unit of local  
40 government or contracting party may charge a tipping fee for the disposal of scrap tires  
41 from tire manufacturers, retreaders not engaged in the retail sale of new tires, and for  
42 any other new motor vehicle tires not subject to the scrap tire disposal fee, regardless of  
43 where such scrap tires originated, and such fees shall not exceed the cost of disposal for

1 such tires. The unit of local government or contracting party also may charge a tipping  
2 fee for the disposal of out-of-county and out-of-State scrap tires at the county's site.

3 (e) Every tire retailer or other person disposing of scrap tires shall complete and  
4 sign a certification form prescribed by the Solid Waste Branch and distributed to each  
5 county, certifying that the tires were collected in the normal course of business for  
6 disposal, the county in which the tires were collected, and the number of tires to be  
7 disposed of. This form also shall be completed and signed by the tire hauler, certifying  
8 that the load contains the same tires that were received from the tire retailer or other  
9 person disposing of scrap tires. The tire hauler shall present this certification form to  
10 the tire processor or tire collector at the time of delivery of the scrap tires for disposal,  
11 collection, or processing. Copies of these certification forms shall be retained for a  
12 minimum of three years after the date of delivery of the scrap tires.

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

16 **"§ 130A-310.59. Registration of tire haulers.**

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

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

29 **"§ 130A-310.60. Nuisance tire collection sites.**

30 (a) On or after July 1, 1990, if the Solid Waste Branch determines that a tire  
31 collection site is a nuisance, it shall notify the person responsible for the nuisance and  
32 request that the tires be processed or removed within 90 days. If the person fails to take  
33 the requested action within 90 days, the Department shall order the person to abate the  
34 nuisance within 90 days. If the person responsible for the nuisance is not the owner of  
35 the property on which the tire collection site is located, the Department may order the  
36 property owner to permit abatement of the nuisance. If the person responsible for the  
37 nuisance fails to comply with the order, the Department shall take any action necessary  
38 to abate the nuisance, including entering the property where the tire collection site is  
39 located and confiscating the scrap tires, or arranging to have the scrap tires processed or  
40 removed.

41 (b) When the Department abates the nuisance pursuant to subsection (a) of this  
42 section, the person responsible for the nuisance shall be liable for the actual costs  
43 incurred by the Department for its nuisance abatement activities and its administrative  
44 and legal expenses related to the abatement. The Department may ask the Attorney

1 General to initiate a civil action to recover these costs from the person responsible for  
2 the nuisance. Nonpayment of the actual costs incurred by the Department shall result in  
3 the imposition of a lien on the owner's real property on which the tire collection site is  
4 located.

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

- 6 (1) A retail business premises where tires are sold if no more than 500  
7 scrap tires are kept on the premises at one time;
- 8 (2) The premises of a tire retreading business if no more than 3,000 scrap  
9 tires are kept on the premises at one time;
- 10 (3) A premises where tires are removed from motor vehicles in the  
11 ordinary course of business if no more than 500 scrap tires are kept on  
12 the premises at one time;
- 13 (4) A solid waste disposal facility where no more than 60,000 scrap tires  
14 are stored above ground at one time if all tires received for storage are  
15 processed, buried, or removed from the facility within one year after  
16 receipt;
- 17 (5) A site where no more than 250 scrap tires are stored for agricultural  
18 uses;
- 19 (6) A site where scrap tires are stored for use in constructing artificial  
20 reefs in waters of the State;
- 21 (7) An artificial reef constructed of scrap tires; and
- 22 (8) A construction site where scrap tires are stored for use or used in road  
23 surfacing and construction of embankments.

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

- 26 (1) Tire collection sites determined by the Department to contain more  
27 than 1,000,000 tires;
- 28 (2) Tire collection sites which constitute a fire hazard or threat to public  
29 health;
- 30 (3) Tire collection sites in densely populated areas; and
- 31 (4) Any other tire collection sites that are determined to be a nuisance.

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

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

36 **"§ 130A-310.61. Preemption.**

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

41 **"§ 130A-310.62. Fines and penalties.**

42 Any person who knowingly hauls or disposes of a tire in violation of this Part or the  
43 rules adopted pursuant to this Part shall be assessed a civil penalty of fifty dollars

1 (\$50.00) per violation. Each tire hauled or disposed of in violation of this Part or rules  
2 adopted pursuant to this Part constitutes a separate violation."

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

5 **"§ 136-285. Use of scrap tires in construction.**

6 (a) The General Assembly declares it to be in the public interest to find  
7 alternative ways to use scrap tires, which contribute to problems of solid waste disposal.  
8 To determine the feasibility of using scrap tires for paving materials, the Department  
9 shall, before January 1, 1991, undertake, as part of its currently scheduled projects, a  
10 demonstration project using ground rubber from automobile tires in road resurfacing or  
11 subbase materials for roads. Within one year after the conclusion of this demonstration  
12 project, the Department shall report to the General Assembly on the maximum  
13 percentage of scrap tires that can be effectively utilized in road construction projects.  
14 Concurrent with the submission of the report, the Department shall review and modify  
15 its standard road construction specifications to allow and encourage the use of scrap  
16 tires consistent with the findings of the demonstration project.

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

- 23 (1) Determining the type and amount of ground tire rubber that would  
24 provide acceptable properties in an asphalt concrete mix;
- 25 (2) Determining preprocessing requirements and the method of  
26 incorporation of ground tire rubber in the asphalt concrete mix, and  
27 identifying potential effects on pavement construction and  
28 performance;
- 29 (3) Determining effects and procedures for the recycling of asphalt  
30 concrete containing ground tire rubber;
- 31 (4) Determining the amount of ground tire rubber that may be used in road  
32 construction and the expected cost of its use; and
- 33 (5) Identifying changes needed in Department and local government  
34 specifications and procedures to allow for use of ground tire rubber  
35 from scrap tires in asphalt concrete pavements.

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

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

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

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