

S.177

Introduced by Senator White

Referred to Committee on

Date:

Subject: Conservation and development; solid waste; extended producer
responsibility; motor vehicle tires

Statement of purpose of bill as introduced: This bill proposes to establish an
extended producer responsibility program for waste motor vehicle tires.

An act relating to the collection and recycling of waste motor vehicle tires

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 10 V.S.A. chapter 169 is added to read:

CHAPTER 169. COLLECTION AND RECYCLING

OF WASTE MOTOR VEHICLE TIRES

Subchapter 1. Definitions

§ 7601. DEFINITIONS

As used in this chapter:

(1) “Agency” means the Agency of Natural Resources.

(2) “Brand” means a name, symbol, word, or traceable mark

that identifies a motor vehicle tire and attributes the motor vehicle tire to the
owner or licensee of the brand as the manufacturer.

1 (3) “Collection rate” means a percentage of the number of waste tires
2 that each manufacturer or waste tire stewardship organization collects by an
3 established date. The collection rate is calculated by dividing the total number
4 of the waste tires that are collected during a calendar year by the average
5 number of motor vehicle tires that were estimated to have been sold in the
6 State by participating manufacturers during the previous three calendar years.
7 Estimates of motor vehicle tires sold in the State may be based on a reasonable
8 pro rata calculation based on national sales.

9 (4) “Covered entity” means any person that presents or delivers any
10 number of waste tires to a collection facility that is included in an approved
11 waste tire stewardship plan.

12 (5) “Legacy waste tire pile” means an accumulation of 50 or more waste
13 tires, whether or not they are lying upon another, that:

14 (A) is located on a parcel of real property, other than a parcel used by
15 a person engaged in farming, as that term is defined in section 6001 of this
16 title, when the person engaged in farming has sliced the tires to prevent the
17 holding of water and the sliced tires are currently in use annually for the
18 practice of holding down silage bunkers; and

19 (B) is not enclosed by a building.

1 (6) “Manufacturer” means a person that:

2 (A) manufactures or manufactured a motor vehicle tire under the
3 person’s own brand or label for sale in the State;

4 (B) sells in the State under its own brand or label a motor vehicle tire
5 produced by another supplier;

6 (C) owns a brand that the person licenses or licensed to another
7 person for use on a motor vehicle tire sold in the State;

8 (D) imports into the United States for sale in the State a motor
9 vehicle tire manufactured by a person without a presence in the United States;

10 (E) manufactures a motor vehicle tire for sale in the State without
11 affixing a brand name; or

12 (F) assumes the responsibilities, obligations, and liabilities of a
13 manufacturer as defined under subdivisions (A) through (E) of this subdivision
14 (6), provided that the Secretary may enforce the requirements of this chapter
15 against a manufacturer as defined under subdivisions (A) through (E) of this
16 subdivision (6) if a person that assumes the manufacturer’s responsibilities
17 fails to comply with the requirements of this chapter.

18 (7) “Motorized electric-powered bicycle or tricycle” means a bicycle or
19 tricycle that is equipped with an assistance motor that has a maximum piston
20 displacement of 48 cubic centimeters or less, that may also be self-propelled,
21 and that is operated at speeds of less than 20 miles per hour.

1 (8) “Motor vehicle” means all vehicles operated in the State that are
2 propelled or drawn by power other than muscular power.

3 (A) “Motor vehicle” includes:

4 (i) “all-terrain vehicles,” which has the same meaning as in
5 23 V.S.A. § 3501(1);

6 (ii) “motorcycles,” which has the same meaning as in 23 V.S.A.
7 § 4(18);

8 (iii) farm tractors and farm trailers; and

9 (iv) “motor-driven cycles,” which has the same meaning as in
10 23 V.S.A. § 4(45)(A).

11 (B) “Motor vehicle” does not mean:

12 (i) an “electric personal assistive mobility device,” which has the
13 same meaning as in 23 V.S.A. § 4(66);

14 (ii) an “electric bicycle,” which has the same meaning as in
15 23 V.S.A. § 4(46)(A);

16 (iii) a “motor-assisted bicycle,” which has the same meaning as in
17 23 V.S.A. § 4(45)(B)(i), or a motor-assisted bicycle that has been modified to
18 meet the physical needs or abilities of the operator or a passenger;

19 (iv) an “adaptive electric cycle,” which has the same meaning as
20 in 19 V.S.A. § 2901;

1 (v) a lawn mower; or

2 (vi) a specialized construction vehicle, such as motorized highway
3 building equipment, a road-making appliance, a tracked vehicle, or an aircraft
4 pushback tractor.

5 (9) “Motor vehicle tire” means a tire designed for on-road use on a
6 motor vehicle.

7 (10) “Retailer” means a person that sells a motor vehicle tire to a person
8 in the State through any means, including a sales outlet, a catalogue, the
9 telephone, the internet, or any electronic means.

10 (11) “Secretary” means the Secretary of Natural Resources.

11 (12) “Sell” or “sale” means any transfer to a person for consideration of
12 title or of the right of a person to use by lease or sales contract a motor vehicle
13 tire in the State of Vermont. “Sell” or “sale” does not include the sale, resale,
14 lease, or transfer of a used motor vehicle tire or a manufacturer’s or a
15 distributor’s wholesale transaction with a distributor or a retailer.

16 (13) “Tire” means a continuous solid or pneumatic rubber covering
17 encircling the wheel of a motor vehicle.

18 (14) “Waste tire” means a motor vehicle tire that has been removed
19 from a motor vehicle and is no longer suitable for its original purpose because
20 of wear, tear, damage, defect, or another reason.

1 (15) “Waste tire stewardship organization” or “stewardship
2 organization” means an organization appointed by one or more manufacturers
3 to act as an agency on behalf of a manufacturer or manufacturers to design,
4 submit, implement, and administer a waste tire stewardship plan under this
5 chapter.

6 Subchapter 2. Waste Tire Stewardship Program

7 § 7604. SALE OF MOTOR VEHICLE TIRES; STEWARDSHIP

8 ORGANIZATION REGISTRATION

9 Sale prohibited. Beginning on January 1, 2028, except as set forth under
10 section 7609 of this title, a manufacturer of a motor vehicle tire shall not sell,
11 offer for sale, or deliver to a retailer for subsequent sale a motor vehicle tire
12 unless all the following have been met:

13 (1) The manufacturer is:

14 (A) implementing an approved waste tire stewardship plan; or

15 (B) participating in a waste tire stewardship organization that is
16 registered with the Secretary and that is implementing an approved waste tire
17 stewardship plan.

18 (2) The manufacturer or waste tire stewardship organization has paid the
19 fee under section 7620 of this title.

1 (3) The name of the manufacturer and the manufacturer's brands are
2 designated on the Agency website as covered by an approved waste tire
3 stewardship plan.

4 § 7605. REGISTRATION OF MANUFACTURER OR WASTE TIRE

5 STEWARDSHIP ORGANIZATION

6 (a) Manufacturer registration requirements. On or before July 1, 2027, and
7 annually thereafter, a manufacturer of motor vehicle tires sold or offered for
8 sale in the State shall register with the Secretary.

9 (b) Waste tire stewardship organization registration. A manufacturer of
10 motor vehicle tires may meet the requirements of this chapter by participating
11 in a waste tire stewardship organization that registers with the Secretary on or
12 before July 1, 2027, and annually thereafter, and that meets the requirements of
13 section 7606 of this title.

14 (c) Registration form. The Secretary shall provide the registration form to
15 the manufacturer or waste tire stewardship organization. The registration form
16 shall include:

17 (1) for a manufacturer registering independently:

18 (A) a list of the manufacturer's brands offered for sale in the
19 State; and

20 (B) the name, address, and contact information of a person
21 responsible for ensuring the manufacturer's compliance with this chapter; and

1 (2) for a waste tire stewardship organization:

2 (A) a list of the manufacturers participating in the waste tire
3 stewardship organization;

4 (B) the name, address, and contact information of a person
5 responsible for ensuring each participating manufacturer's compliance with
6 this chapter;

7 (C) a description of how the waste tire stewardship organization
8 meets the requirements of sections 7604, 7607, and 7608 of this title for
9 manufacturers, including any reasonable requirements for participation in the
10 waste tire stewardship organization; and

11 (D) the name, address, and contact information of a person whom a
12 nonmember manufacturer can contact regarding how to participate in the waste
13 tire stewardship organization as a method of satisfying the requirements of this
14 chapter.

15 (d) Renewal of registration. A manufacturer or waste tire stewardship
16 organization may renew a registration without changes by notifying the
17 Agency of Natural Resources on a form provided by the Secretary.

1 § 7606. WASTE TIRE STEWARDSHIP ORGANIZATIONS;

2 REQUIREMENTS

3 Qualifications for a waste tire stewardship organization. To qualify as a
4 waste tire stewardship organization under this chapter, a stewardship
5 organization shall:

6 (1) commit to assume the responsibilities, obligations, and liabilities of
7 the manufacturers participating in the waste tire stewardship organization;

8 (2) not create unreasonable barriers for participation by manufacturers in
9 the waste tire stewardship organization;

10 (3) maintain a public website that lists all manufacturers and
11 manufacturers' brands covered by the waste tire stewardship organization's
12 approved waste tire stewardship plan; and

13 (4) register with the Secretary as required under section 7605 of
14 this title.

15 § 7607. WASTE TIRE STEWARDSHIP PLANS

16 (a) Stewardship plan required. On or before October 1, 2027, each
17 manufacturer selling, offering for sale, distributing, or offering for promotional
18 purposes a motor vehicle tire in the State shall individually or as part of a
19 waste tire stewardship organization submit a waste tire stewardship plan to the
20 Secretary for review.

1 (b) Waste tire stewardship plan; minimum requirements. Each waste tire
2 stewardship plan shall include, at a minimum, all of the following elements:

3 (1) List of manufacturers and brands. Each waste tire stewardship plan
4 shall list:

5 (A) all participating manufacturers and contact information for each
6 of the participating manufacturers; and

7 (B) the brands of motor vehicle tires covered by the stewardship plan.

8 (2) Free collection of waste tires. Each waste tire stewardship plan shall
9 provide for the collection of waste tires from covered entities at no cost to
10 covered entities. A manufacturer shall not refuse the collection of a waste tire
11 based on the brand or manufacturer of the motor vehicle tire.

12 (3) Convenient collection location. Each waste tire stewardship
13 plan shall:

14 (A) Provide for notification of all retailers of the opportunity to
15 participate at no cost as a collection location under the plan.

16 (B) Allow all retailers that meet the requirements specified in the
17 plan, all municipalities, and all certified solid waste management facilities to
18 opt to be a collection facility under the plan at no cost to the retailer,
19 municipality, or certified solid waste management facility.

1 (C) Provide, at a minimum, in each county of the State not fewer than
2 two collection facilities that provide for the collection of waste tires throughout
3 the year. All collection facilities shall be specified in the plan.

4 (D) Provide for the acceptance from a covered entity of up to 12
5 waste tires per visit. A collection facility may agree to accept more than 12
6 waste tires per visit.

7 (4) Legacy waste tire pile response. Each waste tire stewardship plan
8 shall include a proposed method of collecting tires from or eliminating legacy
9 waste tire piles in the State. Proposed methods may include financial
10 payments to property owners, bounties on collection, or other incentives.

11 (5) Collection rate. Each waste tire stewardship plan shall include a
12 collection rate performance goal approved by the Secretary. In the first year of
13 the plan, manufacturers shall have a collection rate performance goal of 50
14 percent of the participating manufacturer's motor vehicle tires sold, by unit, in
15 the State in the previous calendar year.

16 (6) Method of disposition. Each waste tire stewardship plan shall
17 include a description of the method that will be used to manage waste tires
18 responsibly. A manufacturer or waste tire stewardship organization shall
19 recycle or reuse at least 50 percent of collected waste tires, provided that the
20 use of waste tires as tire-derived fuel shall not be considered reuse or
21 recycling.

1 (7) Education and outreach. Each waste tire stewardship plan shall
2 include an education and outreach program that may include media
3 advertising, retail displays, articles in publications, and other public
4 educational efforts. At a minimum, the education and outreach program shall
5 notify the public of the following:

6 (A) that there is a free collection program for waste tires;
7 (B) the location of collection points for waste tires and how a covered
8 entity can access the collection program; and

9 (C) the opportunity for retailers, manufacturers, and certified solid
10 waste management facilities to participate in a waste tire stewardship plan at
11 no cost.

12 (8) Compliance with appropriate environmental standards. In
13 implementing a waste tire stewardship plan, a manufacturer shall comply with
14 all applicable laws related to the collection, transportation, and disposal of
15 waste tires.

16 (9) Reimbursement. A waste tire stewardship plan shall include
17 a reimbursement procedure that is consistent with the requirements of
18 subchapter 3 of this chapter.

19 (c) Implementation. A manufacturer or a waste tire stewardship
20 organization shall include provisions in the waste tire stewardship plan for the
21 implementation of the program in conjunction with those retailers,

1 municipalities, and certified solid waste management facilities acting as
2 collection facilities under a program. A manufacturer or waste tire stewardship
3 organization shall not impose transportation or recycling costs on retailers,
4 municipalities, or certified solid waste management facilities acting as
5 collection facilities under a program. A manufacturer or waste tire stewardship
6 organization shall provide retailers, municipalities, and certified solid waste
7 management facilities acting as collection facilities with products or equipment
8 for setting up a collection point and for providing for the pickup of collected
9 waste tires, including arranging for the management of those waste tires.

10 (d) Term of waste tire stewardship plan. A stewardship plan approved by
11 the Secretary under section 7610 of this title shall have a term not to exceed
12 five years, provided that the manufacturer remains in compliance with the
13 requirements of this chapter and the terms of the approved plan.

14 § 7608. ANNUAL REPORT; PLAN AUDIT

15 (a) Annual report. On or before March 1, 2029, and annually thereafter, a
16 manufacturer of motor vehicle tires or a waste tire stewardship organization
17 representing manufacturers of motor vehicle tires shall submit a report to the
18 Secretary that contains the following:

19 (1) the estimated total number of motor vehicle tires sold in the State in
20 the previous calendar year;

1 (2) the number of waste tires collected by the manufacturer or the waste
2 tire stewardship organization in the prior calendar year;

3 (3) the collection rate achieved in the prior calendar year under the
4 waste tire stewardship plan;

5 (4) the locations for all collection points set up by the manufacturer or
6 the waste tire stewardship organization and contact information for each
7 location;

8 (5) examples and a description of the educational materials used to
9 increase collection;

10 (6) the manner in which the collected waste tires were managed,
11 including;

12 (A) the number of waste tires collected from legacy waste tire piles;

13 (B) the number of collected waste tires recycled or reused; and

14 (C) the number of collected waste tires disposed of as tire-derived
15 fuel or otherwise incinerated;

16 (7) any material change to the waste tire stewardship plan approved by
17 the Secretary under section 7610 of this title; and

18 (8) the cost of implementation of the waste tire stewardship plan,
19 including the costs of collection, recycling, education, and outreach.

20 (b) Plan audit. Beginning on January 1, 2033, and every five years
21 thereafter, a manufacturer or waste tire stewardship organization shall hire an

1 independent third party to audit the plan and plan operation. The auditor shall
2 examine the effectiveness of the plan in collecting and disposing of waste tires.
3 The auditor shall examine the cost-effectiveness of the plan and compare it to
4 that of waste tire stewardship plans in other jurisdictions. The auditor shall
5 make recommendations to the Secretary on ways to increase the efficacy and
6 cost-effectiveness of the waste tire stewardship plan.

7 § 7609. NEW MANUFACTURERS; SMALL MANUFACTURERS

8 (a) New manufacturers.

9 (1) A manufacturer of a motor vehicle tire that, after January 1, 2028,
10 seeks to sell, offer for sale, or offer for promotional purposes in the State a
11 motor vehicle tire not previously sold in the State shall notify the Secretary
12 prior to selling or offering for sale or promotion a motor vehicle tire not
13 covered by an approved waste tire stewardship plan.

14 (2) The Secretary shall list a manufacturer that supplies notice under this
15 subsection as a “new manufacturer” on the Agency’s website. A manufacturer
16 that supplies notice under this subsection shall have 90 days, not including the
17 time required for public comment under subsection 7610(d) of this title, to
18 either join an existing waste tire stewardship organization or submit a waste
19 tire stewardship plan for approval to the Secretary.

1 (b) Small manufacturers. A manufacturer that annually sells, offers for
2 sale, or distributes in or imports into the State motor vehicles with a total retail
3 value of less than \$5,000.00 is exempt from the requirements of this chapter.

4 § 7610. AGENCY RESPONSIBILITIES

5 (a) Review and approval of stewardship plans. The Secretary shall review
6 and approve or deny waste tire stewardship plans submitted under section 7607
7 of this title. The Secretary shall approve a waste tire stewardship plan if the
8 Secretary finds that the plan:

9 (1) complies with the requirements of subsection 7607(b) of this title;

10 (2) provides adequate notice to the public of the collection opportunities
11 available for waste tires;

12 (3) ensures that the collection of waste tires will occur in an
13 environmentally sound fashion that is consistent with the law; and

14 (4) promotes the collection and disposal of waste tires.

15 (b) Assessment of performance. The Secretary shall assess each
16 manufacturer's or waste tire stewardship organization's performance under an
17 approved waste tire stewardship plan, including whether a manufacturer or
18 waste tire stewardship organization achieved the collection rate performance
19 goal for the year. If a manufacturer or waste tire stewardship organization fails
20 to achieve its collection rate performance goal, the Secretary shall impose a
21 penalty under section 7612 of this title.

1 (c) Plan amendment. The Secretary, in the Secretary's discretion or at the
2 request of a manufacturer or a waste tire stewardship organization, may require
3 a manufacturer or a stewardship organization to amend an approved plan. The
4 Secretary shall subject all plan amendments to the public input provisions of
5 subsection (d) of this section.

6 (d) Public input. Approval of or amendment to the waste tire stewardship
7 plan shall be subject to the public input provisions of section 7714 of this title.

8 (e) Registrations. The Secretary shall accept, review, and approve or deny
9 the manufacturer registrations or the waste tire stewardship organization
10 registrations required by this chapter. The Secretary may revoke a registration
11 of a manufacturer or a waste tire stewardship organization for actions that are
12 unreasonable, unnecessary, or contrary to the requirements or the policy of this
13 chapter.

14 (f) Supervisory capacity. The Secretary shall act in a supervisory capacity
15 over the actions of a manufacturer or a waste tire stewardship organization
16 registered under this chapter. In acting in this capacity, the Secretary shall
17 review the actions of the manufacturer or the waste tire stewardship
18 organization to ensure that they are reasonable, necessary, and limited to
19 carrying out the requirements of and the policy established by this chapter.

1 (g) Special handling requirements. The Secretary may adopt, by rule,
2 special handling requirements for the collection, transport, and disposal of
3 waste tires.

4 (h) Approved plans; internet posting. The Secretary shall post on the
5 Agency website the names of all manufacturers and manufacturers' brands that
6 are covered under an approved waste tire stewardship plan. For waste tire
7 stewardship organizations, the Secretary may link to the list of manufacturers
8 and manufacturers' brands on the waste tire stewardship organization's
9 website.

10 § 7611. RETAILER OBLIGATIONS

11 (a) Sale prohibited. Except as set forth under subsection (b) of this section,
12 beginning on January 1, 2028, no retailer shall sell or offer for sale a motor
13 vehicle tire unless the producer of the motor vehicle tire is implementing an
14 approved stewardship plan, is a member of a stewardship organization that is
15 implementing an approved stewardship plan, or is exempt from participation in
16 a plan.

17 (b) Inventory exception; expiration or revocation of manufacturer
18 registration. A retailer shall not be responsible for an unlawful sale of a motor
19 vehicle tire under subsection (a) of this section if:

20 (1) the retailer purchased the motor vehicle tire prior to January 1,
21 2028; or

1 (2) the manufacturer's waste tire stewardship plan expired or was
2 revoked, and the retailer took possession of the in-store inventory of motor
3 vehicle tires prior to the expiration or revocation of the manufacturer's waste
4 tire stewardship plan.

5 (c) Educational material. A manufacturer or waste tire stewardship
6 organization supplying motor vehicle tires to a retailer shall provide the retailer
7 with educational materials describing collection opportunities for waste tires.
8 The retailer shall make the educational materials available to covered entities.

9 § 7612. PENALTIES FOR FAILURE TO ACHIEVE COLLECTION

10 PERFORMANCE GOAL

11 (a) Assessment of penalty. The Secretary shall assess a penalty against a
12 manufacturer or waste tire stewardship organization that fails to achieve the
13 collection rate performance goal in its waste tire stewardship plan.

14 (b) Amount of penalty. The Secretary shall assess a penalty under this
15 section as follows:

16 (1) If the manufacturer achieved less than 50 percent of the collection
17 rate performance goal, the manufacturer shall pay a penalty of \$1.00 per tire
18 difference between the collection rate performance goal and the actual number
19 of waste tires collected in the calendar year.

20 (2) If the manufacturer achieved 50 percent or greater of the collection
21 rate performance goal, the manufacturer shall pay a penalty of \$0.50 per tire

1 difference between the collection rate performance goal and the actual number
2 of waste tires collected in the calendar year.

3 (c) Disposition of penalties. The Secretary shall deposit penalties collected
4 under this section in the Solid Waste Management Assistance Account of the
5 Waste Management Assistance Fund for the proper disposal of waste tires as
6 provided for in subdivision 6618(b)(10) of this title, including the elimination
7 of legacy waste tire piles.

8 Subchapter 3. Reimbursement and Cost Recovery

9 § 7614. REIMBURSEMENT; AUTHORIZATION

10 (a) Reimbursement of motor vehicle tire manufacturers.

11 (1) A manufacturer or a waste tire stewardship organization operating
12 under an approved waste tire stewardship plan that collects waste tires that are
13 not listed under its approved waste tire stewardship plan is entitled to
14 reimbursement from the manufacturer of the collected waste tires or the waste
15 tire stewardship organization representing the manufacturer of the collected
16 waste tires of reimbursable costs per tire incurred in collecting the waste tires.

17 (2) Reimbursement may be requested by a collecting manufacturer or
18 waste tire stewardship organization only after that manufacturer or stewardship
19 organization has achieved the collection rate performance goal approved by the
20 Secretary under section 7607 of this title.

1 (b) Reimbursable costs. Under this subchapter, a manufacturer or a waste
2 tire stewardship organization may seek reimbursement only for those costs
3 incurred in collecting the waste tires subject to the reimbursement request.

4 Reimbursable costs include:

5 (1) costs of collection, transport, recycling, and other methods of
6 disposition identified in an approved waste tire stewardship plan; and

7 (2) reasonable educational, promotional, or administrative costs.

8 § 7615. REIMBURSEMENT PROCESS

9 (a) Reimbursement request.

10 (1) A manufacturer or waste tire stewardship organization that incurs
11 reimbursable costs under section 7614 of this title shall submit a request to the
12 manufacturer of the collected waste tire or the waste tire stewardship
13 organization in which the manufacturer of the collected waste tire is
14 participating.

15 (2) A manufacturer or waste tire stewardship organization that receives
16 a request for reimbursement may, prior to payment and within 30 days after
17 receipt of the request for reimbursement, request an independent audit of
18 submitted reimbursement costs.

19 (3) The independent auditor shall verify the reasonableness of the
20 reimbursement request, including the costs sought for reimbursement, the

1 amount of reimbursement, and the reimbursable costs assessed by each of the
2 two programs.

3 (4) If the independent audit confirms the reasonableness of the
4 reimbursement request, the manufacturer or waste tire stewardship
5 organization requesting the audit shall pay the cost of the audit and the amount
6 of the reimbursement calculated by the independent auditor. If the
7 independent audit indicates that the reimbursement request was not reasonable,
8 the manufacturer or waste tire stewardship organization that initiated the
9 reimbursement request shall pay the cost of the audit and the amount of the
10 reimbursement calculated by the independent auditor.

11 (b) Role of Agency. The Agency shall not provide assistance or otherwise
12 participate in a reimbursement request, audit, or other action under this section,
13 unless subject to subpoena before a court of jurisdiction.

14 § 7616. PRIVATE RIGHT OF ACTION

15 (a) Action against manufacturer with no waste tire stewardship plan. A
16 manufacturer or waste tire stewardship organization implementing an approved
17 waste tire stewardship plan in compliance with the requirements of this chapter
18 may bring a civil action against another manufacturer or waste tire stewardship
19 organization for damages when:

20 (1) the plaintiff manufacturer or waste tire stewardship organization
21 incurs more than \$1,000.00 in actual reimbursable costs collecting, handling,

1 recycling, or properly disposing of waste tires that were sold or offered for sale
2 in the State by that other manufacturer; and

3 (2) the manufacturer from which damages are sought:

4 (A) can be identified as the manufacturer of the collected waste tires
5 from a brand or marking on the waste tire or from other information available
6 to the plaintiff manufacturer or waste tire stewardship organization; and

7 (B) does not operate or participate in an approved waste tire
8 stewardship organization in the State or is not otherwise in compliance with
9 the requirements of this chapter.

10 (b) Action against manufacturer with an approved waste tire stewardship
11 plan. A manufacturer or waste tire stewardship organization in compliance
12 with the requirements of this chapter may bring a civil action for damages
13 against a manufacturer or waste tire stewardship organization in the State that
14 is in compliance with the requirements of this chapter, provided that:

15 (1) a plaintiff manufacturer or waste tire stewardship organization
16 submitted a reimbursement request to another manufacturer or waste tire
17 stewardship organization under section 7615 of this title; and

18 (2) the manufacturer or waste tire stewardship organization does not
19 receive reimbursement within:

20 (A) 90 days after the reimbursement request, if no independent audit
21 is requested under section 7615 of this title; or

1 (B) 60 days after completion of an audit if an independent audit is
2 requested under section 7615 of this title, and the audit confirms the validity of
3 the reimbursement request.

4 (c) Action against individual manufacturer.

5 (1) A civil action under this section may be brought against an
6 individual manufacturer only if the manufacturer is implementing its own
7 waste tire stewardship plan or the manufacturer has failed to register to
8 participate in a waste tire stewardship plan.

9 (2) A manufacturer participating in an approved waste tire stewardship
10 plan covering multiple manufacturers shall not be sued individually for
11 reimbursement.

12 (3) An action against a manufacturer participating in a waste tire
13 stewardship plan covering multiple manufacturers shall be brought against the
14 stewardship organization implementing the plan.

15 (d) Role of Agency. The Agency shall not be a party to or be required to
16 provide assistance or otherwise participate in a civil action authorized under
17 this section solely due to its regulatory requirements under this chapter, unless
18 subject to subpoena before a court of jurisdiction.

19 (e) Damages; definition. As used in this section, “damages” means the
20 actual, reimbursable costs a plaintiff manufacturer or waste tire stewardship
21 organization incurs in collecting, handling, recycling, or properly disposing of

1 waste tires reasonably identified as having originated from another
2 manufacturer or waste tire stewardship organization.

3 Subchapter 4. General Provisions

4 § 7618. CONFIDENTIALITY OF SUBMITTED DATA

5 (a) Confidentiality. The Secretary shall make the reports and data
6 submitted under this chapter available for public inspection and copying,
7 provided that:

8 (1) information protected under the Uniform Trade Secrets Act, as
9 codified under 9 V.S.A. chapter 143, or under the trade secret exemption under
10 1 V.S.A. § 317(c)(9) shall be exempt from public inspection and copying under
11 the Public Records Act; and

12 (2) the Secretary may publish information that is confidential under
13 subdivision (1) of this subsection in a summary or aggregated form that does
14 not directly or indirectly identify individual manufacturers, distributors, or
15 retailers.

16 (b) Omission of trade secret information. The Secretary may require, as
17 part of a report submitted under this chapter, that the manufacturer or waste
18 tire stewardship organization submit a report that does not contain trade secret
19 information and is available for public inspection and review.

20 (c) Total number of waste tires. The total number of waste tires collected
21 under an approved waste tire stewardship plan is not confidential business

1 information under the Uniform Trade Secrets Act, as codified under 9 V.S.A.
2 chapter 143, and is subject to inspection and review under the Public Records
3 Act, 1 V.S.A. chapter 5, subchapter 3.

4 § 7619. ANTITRUST; CONDUCT AUTHORIZED

5 (a) Activity authorized. A manufacturer, a group of manufacturers, or a
6 waste tire stewardship organization implementing or participating in an
7 approved waste tire stewardship plan under this chapter for the collection,
8 transport, processing, and end-of-life management of waste tires is individually
9 or jointly immune from liability for conduct under State laws relating to
10 antitrust, restraint of trade, unfair trade practices, and other regulation of trade
11 or commerce under 9 V.S.A. chapter 63, subchapter 1, to the extent that the
12 conduct is reasonably necessary to plan, implement, and comply with the
13 manufacturer's, group of manufacturers', or waste tire stewardship
14 organization's chosen system for managing waste tires. This subsection shall
15 also apply to conduct of a retailer or wholesaler participating in a waste tire
16 stewardship organization's approved waste tire stewardship plan when the
17 conduct is necessary to plan and implement the manufacturer's or waste tire
18 stewardship organization's collection or recycling system for waste tires.

19 (b) Limitations on antitrust activity. Subsection (a) of this section shall not
20 apply to an agreement among manufacturers, groups of manufacturers,
21 retailers, wholesalers, or waste tire stewardship organizations affecting the

1 price of motor vehicle tires or any agreement restricting the geographic area in
2 which, or customers to whom, motor vehicle tires are sold.

3 § 7620. FEES

4 (a) A manufacturer or waste tire stewardship organization shall pay
5 \$15,000.00 annually for operation under a waste tire stewardship plan
6 approved by the Secretary under section 7610 of this title.

7 (b) The Secretary shall deposit fees collected under subsection (a) of this
8 section in the Environmental Permit Fund established under 3 V.S.A. § 2805.

9 § 7621. RULEMAKING; PROCEDURE

10 The Secretary may adopt rules or procedures to implement the requirements
11 of this chapter.

12 Sec. 2. 10 V.S.A. § 8003 is amended to read:

13 § 8003. APPLICABILITY

14 (a) The Secretary may take action under this chapter to enforce the
15 following statutes and rules, permits, assurances, or orders implementing the
16 following statutes, and the Board may take such action with respect to
17 subdivision (10) of this subsection:

18 * * *

19 (31) 10 V.S.A. chapter 124, relating to the trade in covered animal parts
20 or products;

1 (32) 10 V.S.A. chapter 164B, relating to collection and management of
2 covered household hazardous products; ~~and~~

3 (33) 10 V.S.A. chapter 24A relating to the Climate Superfund Cost
4 Recovery Program; and

5 (34) 10 V.S.A. chapter 169, relating to the collection and recycling of
6 waste tires.

7 * * *

8 Sec. 3. 10 V.S.A. § 8503 is amended to read:

9 § 8503. APPLICABILITY

10 (a) This chapter shall govern all appeals of an act or decision of the
11 Secretary, excluding enforcement actions under chapters 201 and 211 of this
12 title and rulemaking, under the following authorities and under the rules
13 adopted under those authorities:

14 (1) The following provisions of this title:

15 * * *

16 (P) chapter 166 (collection and recycling of electronic waste);

17 (Q) chapter 164A (collection and disposal of mercury-containing
18 lamps);

19 * * *

* * *

§ 2201. THROWING, DEPOSITING, BURNING, AND DUMPING
REFUSE; PENALTY; SUMMONS AND COMPLAINT

(1) Every person shall be responsible for proper disposal of his or her

(2) There shall be a rebuttable presumption that a person who is identifiable from an examination of illegally disposed solid waste is the person who violated a provision of this section.

VT LEG #385841 v.1

1 (A) first having obtained all necessary permits from the Agency of
2 Natural Resources, the District Environmental Commission, and the
3 municipality where the burning is to take place; and

4 (B) complying with all relevant State and local regulations and
5 ordinances.

6 (b) Prosecution of violations. A person who violates a provision of this
7 section commits a civil violation and shall be subject to a civil penalty of not
8 more than \$800.00.

9 (1) This violation shall be enforceable in the Judicial Bureau pursuant to
10 the provisions of 4 V.S.A. chapter 29 in an action that may be brought by a
11 municipal attorney, a solid waste management district attorney, an
12 environmental enforcement officer employed by the Agency of Natural
13 Resources, a designee of the legislative body of the municipality, or any duly
14 authorized law enforcement officer.

15 (2) If the throwing, placing, or depositing was done from a snowmobile,
16 vessel, or motor vehicle, except a motor bus, there shall be a rebuttable
17 presumption that the throwing, placing, or depositing was done by the operator
18 of the snowmobile, vessel, or motor vehicle.

19 (3) Nothing in this section shall be construed as affecting the operation
20 of an automobile graveyard or salvage yard as defined in section 2241 of this
21 title, nor shall anything in this section be construed as prohibiting the

1 installation and use of appropriate receptacles for solid waste provided by the
2 State or towns.

3 (c) Roadside cleanup. A person found in violation of this section may be
4 assigned to spend up to 80 hours collecting trash or litter from a specified
5 segment of roadside or from a specified area of public property.

6 (d) Waste tire disposal. A person shall not transfer possession of a waste
7 tire to an unlicensed solid waste hauler for disposal. Violation of this
8 subsection shall be a violation of subsection (a) of this section.

9 (e) Revocation of hunting, fishing, or trapping license. The Commissioner
10 of Fish and Wildlife shall revoke the privilege of a person found in violation of
11 this section from holding a hunting, fishing, or trapping license for a period of
12 one year from the date of the conviction; if the person fails to pay the penalty
13 set forth in subsection (b) of this section. The Bureau shall immediately notify
14 the Commissioner of Fish and Wildlife of the entry of judgment.

15 (f) [Repealed.]

16 (g) Amendment of complaint. A person authorized to enforce this section
17 may amend or dismiss a complaint issued by that person by marking the
18 complaint and returning it to the Judicial Bureau. At the hearing, a person
19 authorized to enforce this section may amend or dismiss a complaint issued by
20 that person, subject to the approval of the hearing judge.

1 (h) [Repealed.]

2 (i) Applicability. Enforcement actions taken under this section shall in no
3 way preclude the Agency of Natural Resources, the Attorney General, or an
4 appropriate State prosecutor from initiating other or further enforcement
5 actions under the civil, administrative, or criminal enforcement provisions of
6 10 V.S.A. chapter 23, 47, 159, 201, or 211. To the extent that enforcement
7 under this section is by an environmental enforcement officer employed by the
8 Agency of Natural Resources, enforcement under this section shall preclude
9 other enforcement by the Agency for the same offence.

10 (j) Definitions. As used in this section:

11 (1) “Motor vehicle” ~~shall have~~ has the same meaning as in 23 V.S.A.
12 § 4(21).

13 (2) “Snowmobile” ~~shall have~~ has the same meaning as in 23 V.S.A.
14 § 3801.

15 (3) “Vessel” means motor boats, boats, kayaks, canoes, sailboats, and all
16 other types of watercraft.

17 (4) “Waste tire” means a motor vehicle tire that has been removed from
18 a motor vehicle and is no longer suitable for its original purpose because of
19 wear, tear, damage, defect, or another reason.

20 (5) “Waters” ~~shall have~~ has the same meaning as in 10 V.S.A.
21 § 1251(13).

- 1 Sec. 5. EFFECTIVE DATE
- 2 This act shall take effect on passage.