

# ASSEMBLY, No. 3106

## STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED JUNE 14, 2004

**Sponsored by:**

**Assemblywoman JOAN M. QUIGLEY**

**District 32 (Bergen and Hudson)**

**SYNOPSIS**

Imposes a fee on the sale of new motor vehicle tires.

**CURRENT VERSION OF TEXT**

As introduced.



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2

1 AN ACT concerning motor vehicle tires, and supplementing Title 13 of  
2 the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. As used in this act:

8 "Department" means the Department of Environmental Protection.

9 "Division" means the Division of Taxation in the Department of the  
10 Treasury.

11 "Director" means the Director of the Division of Taxation in the  
12 Department of the Treasury.

13 "Motor vehicle" includes all vehicles propelled otherwise than by  
14 muscular power, excepting such vehicles as run only upon rails or  
15 tracks and motorized bicycles.

16 "Person" means any individual or business concern.

17 "Scrap tire" means a motor vehicle tire that is no longer suitable for  
18 its original intended purpose because of wear, damage, or defect, and  
19 which is frequently discarded in an unlawful manner.

20 "Sold within the State" or "sales within the State" means all sales  
21 of retailers engaged in business within the State and, in the case of  
22 manufacturers, wholesalers and distributors, all sales of products for  
23 use and consumption within the State. It shall be presumed that all  
24 sales of manufacturers, wholesalers and distributors sold within the  
25 State are for use and consumption within the State unless it is  
26 determined by the director that the products are shipped out of State  
27 for out-of-State use.

28

29 2. a. There is imposed upon each person engaged in business in  
30 the State a fee of \$1.50 for each new motor vehicle tire sold at retail  
31 within the State. The fee imposed under this section shall be stated  
32 separately on the invoice to the purchaser. For the purposes of this  
33 section, a motor vehicle tire sold at retail shall include such tires when  
34 sold as a component part of a new motor vehicle or whenever new  
35 tires are installed on a used motor vehicle prior to that vehicle being  
36 offered for sale.

37 b. The fee imposed under this section shall not apply to sales within  
38 the State of new motor vehicle tires to a person solely for the purpose  
39 of resale provided the subsequent retail sale within the State is subject  
40 to the fee. The fee imposed under this section shall not apply to  
41 recapped tires.

42 c. Every person subject to the fee on the sale of new motor vehicle  
43 tires imposed pursuant to subsection a. of this section shall, on or  
44 before March 15 of each year, prepare and file a return, under oath,  
45 for the preceding calendar year with the director on forms and  
46 containing any information as the director shall prescribe. The return

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1 shall indicate the dollar value of the sales within the State of new  
2 motor vehicle tires and at the same time the person shall pay the full  
3 amount of fees due.

4 d. If a return required by this section is not filed, or if a return  
5 when filed is incorrect or insufficient in the opinion of the director, the  
6 amount of fees due shall be determined by the director based on  
7 collections from the person liable for the payment of the fees during  
8 the previous five years. Notice of the determination shall be given to  
9 the person liable for the payment of the fees. The determination shall  
10 finally and irrevocably fix the fees unless the person against whom it  
11 is assessed, within 90 days after the giving of the notice of the  
12 determination, shall file a protest in writing as provided in  
13 R.S.54:49-18 and request a hearing, or unless the director on the  
14 director's own motion shall redetermine the same. After the hearing  
15 the director shall give notice of the determination to the person to  
16 whom the fees are assessed.

17 e. Any person who shall fail to file a return when due or to pay any  
18 fee when the fee becomes due, as herein provided, shall be subject to  
19 such penalties and interest as may be provided by law. If the director  
20 determines that the failure to comply with any provision of this section  
21 was excusable under the circumstances, the director may remit any  
22 part of the penalty as shall be appropriate under the circumstances.

23 f. In addition to the other powers granted by this section, the  
24 director may:

25 (1) Delegate to any officer or employee of the division those  
26 powers and duties as the director may deem necessary to carry out  
27 efficiently the provisions of this section, and the person or persons to  
28 whom the powers have been delegated shall possess and may exercise  
29 all of the powers and perform all of the duties delegated by the  
30 director;

31 (2) Prescribe and distribute all necessary forms for the  
32 implementation of this section; and

33 (3) Adopt any rules and regulations necessary for the  
34 implementation of this section.

35 g. Notwithstanding the provisions of subparagraph (C) of  
36 paragraph (2) of subsection (k) of section 4 of P.L.1945, c.162  
37 (C.54:10A-4), if any, to the contrary, any deduction of the fee imposed  
38 pursuant to subsection a. of this section allowed in computing a  
39 taxpayer's taxable income which the taxpayer is required to report to  
40 the United States Treasury Department for the purpose of computing  
41 its federal taxable income shall be allowed in determining the  
42 taxpayer's "entire net income" pursuant to subsection (k) of section 4  
43 of P.L.1945, c.162 (C.54:10A-4).

44 h. The fee imposed pursuant to this section shall be governed in all  
45 respects by the provisions of the "State Tax Uniform Procedure Law,"  
46 R.S.54:48-1 et seq., except only to the extent that a specific provision  
47 of this section may be in conflict therewith.

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1       3. The Tire Management and Cleanup Fund is established as a  
2 nonlapsing, revolving fund in the Department of the Treasury. The  
3 Tire Management and Cleanup Fund shall be administered by the  
4 Department of Environmental Protection and credited, in addition to  
5 any appropriations made thereto, with all fees or penalties imposed  
6 pursuant to section 2 of P.L. , c. (C. )(pending in the  
7 Legislature as this bill), and any sums received as voluntary  
8 contributions from private sources. Interest received on moneys in the  
9 Tire Management and Cleanup Fund shall be credited to the fund.  
10 Unless otherwise expressly provided by the specific appropriation  
11 thereof by the Legislature, which shall take the form of a discrete  
12 legislative appropriations act and shall not be included within the  
13 annual appropriations act, all available moneys in the Tire Management  
14 and Cleanup Fund shall be appropriated annually solely for the  
15 following purposes and no others:

16       a. Not less than \$2,300,000 of the estimated annual balance of the  
17 Tire Management and Cleanup Fund shall be used by the department  
18 to administer a program for the proper cleanup of abandoned scrap tire  
19 piles and to provide grants to counties and municipalities for the  
20 proper cleanup of abandoned scrap tire piles within their respective  
21 jurisdictions;

22       b. The remainder of the estimated annual balance of the Tire  
23 Management and Cleanup Fund shall be used by the Department of  
24 Transportation to support snow removal operations.  
25

26       4. a. In order to properly determine how moneys authorized  
27 pursuant to section 3 of P.L. , c. (pending in the Legislature as this  
28 bill) are to be used to cleanup abandoned scrap tire piles:

29       (1) The department shall have the right to enter any property,  
30 facility, premises or site for the purpose of conducting inspections,  
31 sampling of soil or water, copying or photocopying documents or  
32 records, or otherwise determining if scrap tires may be illegally  
33 accumulated;

34       (2) The department shall recover to the use of the Tire  
35 Management and Cleanup Fund from the owner or person responsible  
36 for the accumulation of scrap tires at the site, jointly and severally, all  
37 sums expended from the Tire Management and Cleanup Fund pursuant  
38 to subsection a. of section 3 of P.L. , c. (pending in the Legislature  
39 as this bill) to properly manage scrap tires at an illegal scrap tire pile  
40 site, except that the department may decline to pursue such recovery  
41 if the department finds that the amount involved too small or the  
42 likelihood of recovery too uncertain;

43       (3) The department may impose a lien on the real property on  
44 which the illegal scrap tire pile site is located and the accumulated  
45 scrap tires equal to the estimated costs to bring the illegal scrap tire  
46 pile site into compliance, including attorney's fees and court costs.

1 Any owner whose property has such a lien imposed may release the  
2 property from any lien claimed under this subsection by filing with the  
3 clerk of the Superior Court a cash or surety bond, payable to the  
4 department in the amount of the estimated cost of bringing the illegal  
5 scrap tire pile site into compliance with the rules and regulations  
6 adopted by the department therefor, including attorney's fees and court  
7 costs, or the value of the property after the abatement action is  
8 complete, whichever is less.

9 b. Pursuit of any of the remedies specified under this section shall  
10 not preclude or limit the use of other remedies available to the  
11 department pursuant to law.

12  
13 5. a. The Commissioner of Environmental Protection shall adopt,  
14 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
15 (C.52:14B-1 et seq.), rules and regulations as are necessary to  
16 effectuate the provisions of P.L. , c. (C. )(pending in the  
17 Legislature as this bill).

18 b. The director shall adopt, pursuant to the "Administrative  
19 Procedure Act," rules and regulations as are necessary to effectuate  
20 the provisions of section 2 of P.L. , c. (C. )(pending in the  
21 Legislature as this bill).

22  
23 6. This act shall take effect immediately.

24  
25  
26 STATEMENT

27  
28 This bill imposes a fee of \$1.50 for each new motor vehicle tire sold  
29 at retail within the State. The fee must be stated separately on the  
30 invoice to the purchaser. A motor vehicle tire sold at retail includes  
31 the tires when sold as a component part of a new motor vehicle or  
32 whenever new tires are installed on a used motor vehicle prior to that  
33 vehicle being offered for sale.

34 The fee will not apply to sales within the State of new motor  
35 vehicle tires to a person solely for the purpose of resale provided the  
36 subsequent retail sale within the State is subject to the fee. The fee  
37 will not apply to recapped tires.

38 The proposed FY 2005 Budget recommends the enactment of a  
39 new tire surcharge of \$1.50 on the sale of new tires, which is expected  
40 to generate a total of \$12.3 million in new revenue in FY 2005.

41 The bill establishes the Tire Management and Cleanup Fund as a  
42 nonlapsing, revolving fund in the Department of the Treasury. The  
43 Fund will be administered by the Department of Environmental  
44 Protection (DEP) and credited with the fee revenues. All available  
45 moneys in the Fund will be appropriated annually solely for the  
46 following purposes and no others:

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1       (1) Not less than \$2,300,000 of the estimated annual balance of the  
2 Fund shall be used by the DEP to administer a program for the proper  
3 cleanup of abandoned scrap tire piles and to provide grants to counties  
4 and municipalities for the proper cleanup of abandoned scrap tire piles  
5 within their respective jurisdictions; and

6       (2) The remainder of the estimated annual balance of the Fund will  
7 be used by the Department of Transportation to support snow removal  
8 operations.

9       The uninhibited discarding of used tires has created an unnecessary  
10 addition to the State's already costly solid waste disposal system.  
11 These scrap tires must be picked-up and removed from vacant lots,  
12 roadsides, open spaces, parks, and from all other public and private  
13 property throughout the State on which they have been discarded.  
14 Beyond being an eyesore, scrap tire piles serve as breeding areas for  
15 mosquitoes.

16       To offset the cost of proper scrap tire pile management, many states  
17 have implemented a small surcharge on the sale of new tires, typically  
18 ranging from \$1.00 to \$2.50 per tire. In New Jersey, private tire  
19 retailers currently levy a small fee per tire to cover their used tire  
20 disposal costs.