
By Mr. Pacheco, a petition (accompanied by bill, Senate, No. 533) of Marc R. Pacheco for legislation relative to waste tire abatement. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT RELATIVE TO WASTE TIRE ABATEMENT.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. This chapter shall be known and may be cited as
2 the "Massachusetts Waste Tire Abatement Act."

1 SECTION 2. Definitions.

2 "City", means any city within the Commonwealth of Massa-
3 chusetts.

4 "Department", means the Massachusetts Department of Envi-
5 ronmental Protection.

6 "Fund", means Waste Tire Abatement Fund.

7 "Nuisance", means any unreasonable danger to public health,
8 safety or welfare or to the environment.

9 "Processing", means any technology used for the purpose of
10 producing usable materials, including cutting, shredding, or
11 altering of scrap tires so they are no longer whole or granules free
12 from ferrous and fiber.

13 "Retread tires", means a whole automobile, truck or other
14 motor vehicle tire on which the tread has been replaced.

15 "Tires", means a continuous solid or pneumatic rubber covering
16 encircling the wheel of a motor vehicle.

17 "Tire collector", means the owner or operator of a site used for
18 the collection, storage, or deposit of waste tires.

19 "Tire dump", means any location without a required tire col-
20 lector or tire processor permit that is used for storing or disposing
21 of waste tires.

22 “Tire handler”, means any person engaged in the collection or
23 transportation of waste tires for the purpose of storage, processing
24 or disposal.

25 “Tire processor”, means any person engaged in the processing
26 of waste tires or one who owns or operates a tire processing site.

27 “Town”, means any town in the Commonwealth of Massachu-
28 setts.

29 “Waste tire”, means a tire which is no longer suitable for its
30 original, intended purpose because of wear, damage, or defect.

1 SECTION 3. Waste Tire Management Program.

2 (a) To bring about the abatement of waste tires and the proper
3 management of waste tire generation, the Department shall create
4 a waste tire management program.

5 (b) The owner or operator of any waste tire dump site shall,
6 within six months of the effective date of this act, provide the
7 department with information concerning the site’s location, size,
8 and approximate number of waste tires that are accumulated at the
9 site.

10 (c) Within twelve months after the effective date of this act, the
11 department shall adopt rules, regulations, procedures and stan-
12 dards as may be necessary for the implementation of this pro-
13 gram.

14 (d) On or after July 1, 1996:

15 (1) No person shall maintain a waste tire collection site or a
16 waste tire disposal site unless the site is permitted under the laws
17 of the commonwealth.

18 (2) No person shall dispose of waste tires in the commonwealth
19 unless the waste tires are disposed of at a waste tire collection site
20 or for processing at a waste tire processing facility.

21 (e) The department shall provide each city and town with infor-
22 mation on the tax deduction for industrial waste treatment control
23 facilities, as provided for in section 38(d) of chapter sixty-three of
24 the General Laws, as appearing in the 1992 Official Edition, and
25 the recycling capital appreciation tax credit, which may be avail-
26 able to each of them for providing, directly or by contract with a
27 private entity, a site for waste tire collection within their bound-
28 aries.

1 SECTION 4. Registration of waste tire disposal sites.

2 Within one year of the effective date of this act, the department
3 shall establish a registration program for waste tire disposal sites.
4 Before engaging in the disposal of waste tires in the common-
5 wealth, all waste tire disposal sites must register with the depart-
6 ment.

1 SECTION 5. Registration of tire haulers and processors.

2 Within eighteen months of the effective date of this act, the
3 department shall establish a registration program for tire haulers
4 and processors. Before engaging in the hauling or processing of
5 waste tires in the commonwealth, all tire haulers and processors
6 must register with the department provided that a tire retailer
7 engaged in the hauling of waste tires received by it in connection
8 with the retail sale of replacement tires shall not be required under
9 this section to register.

1 SECTION 6. Recycling fee.

2 (a) Beginning July 1, 1996 any person purchasing a tire shall be
3 required to pay a waste tire recycling fee of one dollar (\$1.00) for
4 any tire for use on automobiles or on light trucks with a laden
5 weight of ten thousand (10,000) pounds or less. This fee shall be
6 in addition to all sales taxes already collected.

7 (b) Beginning July 1, 1996 any person or business purchasing
8 tires shall be required to pay a waste tire recycling fee of two dol-
9 lars (\$2.00) for any new tire for use on commercial trucks and
10 heavy industry motor vehicles with a laden weight of more than
11 ten thousand and one (10,001) pounds. This fee shall be in addi-
12 tion to all sales taxes already collected.

13 (c) All retreaded tires and leased or rented tires are exempt
14 from this act.

15 (d) At the time of filing a return, as required by section sixteen
16 of chapter sixty-two C, as appearing in the Massachusetts General
17 Laws 1992 Official Edition, tire vendors shall remit to the Com-
18 missioner of Revenue the waste tire recycling fee established in
19 this section.

1 SECTION 7. Waste tire abatement fund.

2 (a) There shall be established and set up on the books of the
3 commonwealth a separate fund known as the Waste Tire Abate-
4 ment Fund ("Fund"). There shall be credited to such fund:—

5 (1) fees on the purchase of new tires collected by the Depart-
6 ment of Revenue, as required by section 6;

7 (2) funds collected pursuant to section 9 of this act.

8 (b) Amounts credited to said fund shall be made available to
9 the department for the following purposes:

10 (1) waste tire abatement performed or authorized by the depart-
11 ment;

12 (2) reimbursement for private waste tire abatement;

13 (3) research and development projects regarding the genera-
14 tion, reuse, recycling or disposal of scrap tires;

15 (4) grants and low interest loans to support business endeavors
16 involving the reuse or recycling of scrap tires;

17 (5) government bodies within the commonwealth will purchase
18 materials from recycled scrap tire content generated in the com-
19 monwealth;

20 (6) development and distribution of information to encourage
21 the use of materials with recycled waste tire content;

22 (7) development and distribution of educational materials on
23 the purpose and structure of the waste tire management program;

24 (8) additional department personnel needed to implement and
25 run the waste tire management program;

26 (9) an annual audit performed by an independent consulting or
27 accounting firm to insure that the allocation decisions and the
28 uses of Fund monies by recipients are consistent with the pur-
29 poses of the waste tire management program and are cost effi-
30 cient.

31 (c) Fees collected pursuant to section 7A for the waste tire
32 abatement fund will terminate five years from the passage of this
33 act.

1 SECTION 8. Nuisance tire collection sites.

2 (a) On or after July 1, 1997 if the department determines that a
3 tire collection site is a nuisance, it shall notify the person respon-
4 sible for the nuisance that it has sixty (60) days to attempt to
5 negotiate an abatement plan with a waste tire processor or hauler
6 registered pursuant to section 5 of this act. If the tire nuisance site

7 is not abated within this time period the department will assume
8 responsibility over the site. The department will then have sixty
9 (60) days to solicit and contract with a private waste tire processor
10 or hauler to abate the nuisance site. The department will post
11 public notice of the nuisance site that needs to be abated along
12 with notice that it is seeking to establish a contract to abate the
13 nuisance. The department and any waste tire processor or hauler
14 that it contracts with will be exempt from all liability derived
15 from removing the tires from the nuisance site. If the department
16 does not receive an offer from a waste tire hauler or processor
17 within the sixty (60) days the department may determine, based
18 on proximity of the nuisance site to tire derived fuel markets and
19 the value of the tire product to a processor-rubber manufacturer, a
20 feasible payment which will be offered to a registered tire
21 processor or hauler to abate the nuisance site. This offer will make
22 it financially possible for a waste tire hauler or processor to abate
23 the tire nuisance site. This payment made by the department to a
24 private waste tire processor or hauler will be made from the waste
25 tire abatement fund established in section 7 of this act.

26 (c) The provisions of this section shall not apply to any of the
27 following:

28 (1) a retail business premises where tires are sold if no more
29 than 500 waste tires are kept on the premises at one time;

30 (2) a tire retreading business if no more than 3,000 waste tires
31 are kept on the premises at one time;

32 (3) a business where tires are removed from motor vehicles in
33 the ordinary course of business if no more than 500 waste tires are
34 kept on the premises at one time;

35 (4) a solid waste disposal facility where no more than 60,000
36 waste tires are stored above ground at any one time if all tires
37 received for storage are processed, buried, or removed from the
38 facility within one year after receipt,

39 (5) a site where no more than 250 waste tires are stored for
40 agricultural purposes; and

41 (6) a construction site where tires are stored for use or used in
42 road surfacing and construction of embankments.

43 (d) The descending order of priority for the department's abate-
44 ment activities under subsection (a) of this section is as follows:—

- 45 (1) tire collection sites determined by the department to contain
46 more than 800,000 tires;
- 47 (2) tire collection sites which constitute a fire hazard or threat
48 to public health;
- 49 (3) tire collection sites in densely populated areas; and
- 50 (4) any other tire collection sites that are determined to be a
51 nuisance.

1 SECTION 9. Fines and penalties.

- 2 (a) Any person who knowingly hauls or disposes of a tire in
3 violation of this act or the rules adopted pursuant to this act shall
4 be assessed a civil administrative penalty pursuant to section six-
5 teen of chapter 21A of the Massachusetts General Laws, as
6 appearing in the 1992 Official Edition, of two hundred dollars
7 (\$200.00) per violation, each tire hauled or disposed of in viola-
8 tion of this act or rules pursuant to this act constitutes a separate
9 violation.
- 10 (b) Any person who violates subsection (a) of section 8 of this
11 act shall, upon conviction, be sentenced to pay a fine of not less
12 than \$200 nor more than \$10,000 or to imprisonment for not more
13 than one year, or both.

1 SECTION 10. Use of recycled materials in construction.

- 2 (a) Within six months of enactment of this act, the Department
3 of Transportation and the Highway Department, in cooperation
4 with the department, shall conduct a study, which shall include
5 but not be limited to, evaluating the potential for:—
- 6 (1) complying with the recycled paving material requirements
7 of the federal Intermodal Surface transportation Efficiency Act of
8 1991;
- 9 (2) recycled mixed-plastic materials for guard rail posts, right-
10 of-way fence posts and sign supports;
- 11 (3) artificial reefs.
- 12 (b) The departments aforementioned may conduct such addi-
13 tional research as they determine to be warranted, which may
14 include demonstration projects, on the use of recycled materials
15 in road construction. The department shall make available to the
16 department of Transportation or the highway Department finan-
17 cial resources as provided for in section 7(b)(l) of this act to

18 offset any additional costs directly associated with the use of
19 waste tires in road construction.

20 (c) Within six months of enactment of this act, the Department
21 of Transportation and the Highway Department, shall report its
22 findings to the Massachusetts legislature's Joint Committee on
23 Natural resources and the Massachusetts House of Representa-
24 tives' Committee on Ways and Means in conjunction with legisla-
25 tive proposals incorporating the report's findings.

26 (d) The Department of Transportation and Department of
27 Public Works shall review and revise existing bid procedures and
28 specifications for the purchase or use of products and materials to
29 eliminate any procedures and specifications that explicitly dis-
30 criminate against products and materials with recycled content,
31 except where the procedures and specifications are necessary to
32 protect the health, safety, and welfare of the public.

33 (e) The Department of Transportation and the Highway Depart-
34 ment shall review and revise its bid products and specifications on
35 a continuing basis to use products and materials with recycled
36 content and shall, in developing new procedures and specifica-
37 tions, encourage the use of products and materials with recycled
38 content.

1 SECTION 11. Tire procurement.

2 The Massachusetts Department of Procurement and General
3 Services is hereby authorized and directed to undertake a study to
4 determine the economic feasibility of purchasing retreaded tires
5 for all state vehicles. Within one year of the effective date of this
6 act, the Massachusetts Department of General services and Pro-
7 curement shall submit a copy of the report to the House and
8 Senate Clerk's Office of the General Court detailing its findings.

