

Article 9.

Solid Waste Management.

Part 2B. Scrap Tire Disposal Act.

**§ 130A-309.51. Title.**

This Part may be cited as the "North Carolina Scrap Tire Disposal Act." (1989, c. 784, s. 3.)

**§ 130A-309.52. Findings; purpose.**

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

(b) The purpose of this Part is to provide statewide guidelines and structure for the environmentally safe disposal of scrap tires to be administered through units of local government. (1989, c. 784, s. 3.)

**§ 130A-309.53. Definitions.**

Unless a different meaning is required by the context, the following definitions shall apply throughout this Part:

- (1) "Collection site" means a site used for the storage of scrap tires.
- (2) "Disposal fee" is any amount charged by a tire collector, tire processor, or unit of local government in exchange for accepting scrap tires.
- (3) "In-county scrap tire" means any scrap tire brought for disposal from inside the county in which the collection or processing site is located.
- (4) "Out-of-county scrap tire" means any scrap tire brought for disposal from outside the county in which the collection or processing site is located.
- (5) "Processing site" means a site actively used to produce or manufacture usable materials, including fuel, from scrap tires. Commercial enterprises processing scrap tires shall not be considered solid waste management facilities insofar as the provisions of G.S. 130A-294(a)(4) and G.S. 130A-294(b) are concerned.
- (6) "Scrap tire" means a tire that is no longer suitable for its original, intended purpose because of wear, damage, or defect.
- (7) "Tire" means a continuous solid or pneumatic rubber covering that encircles the wheel of a vehicle. Bicycle tires and other tires for vehicles propelled by human power are not subject to the provisions of this Part.
- (8) "Tire collector" means a person who owns or operates a site used for the storage, collection, or deposit of more than 50 scrap tires.

- (9) "Tire hauler" means a person engaged in the picking up or transporting of scrap tires for the purpose of storage, processing, or disposal.
- (10) "Tire processor" means a person who engages in the processing of scrap tires or one who owns or operates a tire processing site.
- (11) "Tire retailer" means a person who engages in the retail sale of a tire in any quantity for any use or purpose by the purchaser other than for resale. (1989, c. 784, s. 3; 1991, c. 221, s. 2; 1995 (Reg. Sess., 1996), c. 594, s. 21.)

**§ 130A-309.54. Use of scrap tire tax proceeds.**

Article 5B of Chapter 105 imposes a tax on new tires to provide funds for the disposal of scrap tires, for the cleanup of inactive hazardous waste sites under Part 3 of this Article, and for all the purposes for which the Bernard Allen Memorial Emergency Drinking Water Fund may be used under G.S. 87-98. A county may use proceeds of the tax distributed to it under that Article only for the disposal of scrap tires pursuant to the provisions of this Part or for the abatement of a nuisance pursuant to G.S. 130A-309.60. (1989, c. 784, s. 3; 1991, c. 221, s. 3; 1993, c. 364, s. 1(a); 2009-451, s. 13.3B(b).)

**§§ 130A-309.55 through 130A-309.56: Repealed by Session Laws 1991, c. 221, s. 4.**

**§ 130A-309.57. Scrap tire disposal program.**

(a) The owner or operator of any scrap tire collection site shall, within six months after October 1, 1989, provide the Department with information concerning the site's location, size, and the approximate number of scrap tires that are accumulated at the site and shall initiate steps to comply with subsection (b) of this section.

(b) On or after July 1, 1990:

- (1) A person may not maintain a scrap tire collection site or a scrap tire disposal site unless the site is permitted.
- (2) It is unlawful for any person to dispose of scrap tires in the State unless the scrap tires are disposed of at a scrap tire collection site or at a tire disposal site, or disposed of for processing at a scrap tire processing facility.

(c) The Commission shall adopt rules to carry out the provisions of this section. Such rules shall:

- (1) Provide for the administration of scrap tire collector and collection center permits and scrap tire disposal site permits, which may not exceed two hundred fifty dollars (\$250.00) annually.
- (2) Set standards for scrap tire processing facilities and associated scrap tire sites, scrap tire collection centers, and scrap tire collectors.
- (3) Authorize the final disposal of scrap tires at a permitted solid waste disposal facility provided the tires have been cut into sufficiently small parts to assure their proper disposal.
- (4) Repealed by Session Laws 2013-413, s. 18. For effective date, see Editor's note.

(d) A permit is not required for:

- (1) A tire retreading business where fewer than 1,000 scrap tires are kept on the business premises;
- (2) A business that, in the ordinary course of business, removes tires from motor vehicles if fewer than 1,000 of these tires are kept on the business premises; or
- (3) A retail tire-selling business which is serving as a scrap tire collection center if fewer than 1,000 scrap tires are kept on the business premises.

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

(f) Permitted scrap tire collectors may not contract with a scrap tire processing facility, unless the processing facility documents that it has access to a facility permitted to receive the scrap tires. (1989, c. 784, s. 3; 2012-200, s. 14(a); 2013-413, s. 18.)

**§ 130A-309.58. Disposal of scrap tires.**

(a) Each county is responsible for providing for the disposal of scrap tires located within its boundaries in accordance with the provisions of this Part and any rules issued pursuant to this Part. The following are permissible methods of scrap tire disposal:

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

(b) The Commission may adopt rules approving other permissible methods of scrap tire disposal. Landfilling of whole scrap tires is prohibited. The prohibition against landfilling whole tires applies to all whole pneumatic rubber coverings, but does not apply to whole solid rubber coverings.

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

(d) Each county is responsible for developing a description of scrap tire disposal procedures. These procedures shall be included in the annual report required under G.S. 130A-309.09A. Further, any revisions to the initial description of the scrap tire disposal procedures shall be forwarded to the Department.

(e) A county shall provide, directly or by contract with another unit of local government or private entity, at least one site for scrap tire disposal for that county. The unit of local government or contracting party may not charge a disposal fee for the disposal of scrap tires except as provided in this subsection. A unit of local government or contracting party may charge a disposal fee that does not exceed the cost of disposing of the scrap tires only if:

- (1) The scrap tires are new tires that are being disposed of by their manufacturer because they do not meet the manufacturer's standards for salable tires; or

- (2) The scrap tires are delivered to a local government scrap tire disposal site without an accompanying certificate required by G.S. 130A-309.58(f) that indicates that the tires originated in a county within North Carolina.

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

(g) The provisions of subsection (f) of this section do not apply to tires that are brought for disposal in quantities of five or less by someone other than a tire collector, tire processor, or tire hauler. (1989, c. 784, s. 3; 1991, c. 221, s. 5; 1993, c. 548, s. 4; 1995 (Reg. Sess., 1996), c. 594, s. 22; 1997-209, s. 1; 2013-409, s. 4.)

#### **§ 130A-309.59. Registration of tire haulers.**

(a) Before engaging in the hauling of scrap tires in this State, any tire hauler must register with the Department whereupon the Department shall issue to the tire hauler a scrap tire hauling identification number. A tire retailer licensed under G.S. 105-164.29 and solely engaged in the hauling of scrap tires received by it in connection with the retail sale of replacement tires is not required to register under this section.

(b) Each tire hauler shall furnish its hauling identification number on all certification forms required under G.S. 130A-309.58(f). Any tire retailer engaged in the hauling of scrap tires and not required by subsection (a) of this section to be registered shall supply its merchant identification number on all certification forms required by G.S. 130A-309.58(f). (1989, c. 784, s. 3.)

#### **§ 130A-309.60. Nuisance tire collection sites.**

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

(b) When the Department abates the nuisance pursuant to subsection (a) of this section, the person responsible for the nuisance shall be liable for the actual costs incurred by the Department for its nuisance abatement activities and its administrative and legal expenses related to the abatement. The Department may ask the Attorney General to initiate a civil action to recover these costs from the person responsible for the nuisance. Nonpayment of the actual costs incurred by the Department shall result in the imposition of a lien on the owner's real property on which the tire collection site is located.

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

- (1) A retail business premises where tires are sold if no more than 500 scrap tires are kept on the premises at one time;

- (2) The premises of a tire retreading business if no more than 3,000 scrap tires are kept on the premises at one time;
- (3) A premises where tires are removed from motor vehicles in the ordinary course of business if no more than 500 scrap tires are kept on the premises at one time;
- (4) A solid waste disposal facility where no more than 60,000 scrap tires are stored above ground at one time if all tires received for storage are processed, buried, or removed from the facility within one year after receipt;
- (5) A site where no more than 250 scrap tires are stored for agricultural uses; and
- (6) A construction site where scrap tires are stored for use or used in road surfacing and construction of embankments.

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

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

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

(f) As used in this section, "nuisance" means an unreasonable danger to public health, safety, or welfare or to the environment. (1989, c. 784, s. 3.)

**§ 130A-309.61. Effect on local ordinances.**

This Part preempts any local ordinance regarding the disposal of scrap tires to the extent the local ordinance is inconsistent with this Part or the rules adopted pursuant to this Part. (1989, c. 784, s. 3; 1993, c. 548, s. 5; 1997-209, s. 1.)

**§ 130A-309.62. Fines and penalties.**

Any person who knowingly hauls or disposes of a tire in violation of this Part or the rules adopted pursuant to this Part shall be assessed a civil penalty of fifty dollars (\$50.00) per violation. Each tire hauled or disposed of in violation of this Part or rules adopted pursuant to this Part constitutes a separate violation.

The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1989, c. 784, s. 3; 1998-215, s. 55.)

**§ 130A-309.63:** Repealed by Session Laws 2013-360, s. 14.16(b), effective July 1, 2013.

**§ 130A-309.64. Scrap Tire Disposal Program; other Department activities related to scrap tires.**

(a) The Department may make grants to units of local government to assist them in disposing of scrap tires. To administer the grants, the Department shall establish procedures for applying for a grant and the criteria for selecting among grant applicants. The criteria shall include the financial ability of a unit of local government to provide for scrap tire disposal, the severity of a unit of local government's scrap tire disposal problem, the effort made by a unit of local government to ensure that only tires generated in the normal course of business in this State are provided free disposal, and the effort made by a unit of local government to provide for scrap tire disposal within the resources available to it.

(b) A unit of local government is not eligible for a grant under subsection (a) of this section unless its costs for disposing of scrap tires for the six-month period preceding the date the unit of local government files an application for a grant exceeded the amount the unit of local government received during that period from the proceeds of the scrap tire tax under G.S. 105-187.19. A grant to a unit of local government for scrap tire disposal may not exceed the unit of local government's unreimbursed cost for the six-month period.

(c) The Department may support a position to provide local governments with assistance in developing and implementing scrap tire management programs designed to complete the cleanup of nuisance tire collection sites and prevent scrap tires generated from outside of the State from being presented for free disposal in the State.

(d) The Department may clean up scrap tire collection sites that the Department has determined are a nuisance. The Department may use funds to clean up a nuisance tire collection site only if no other funds are available for that purpose.

(e) The Department shall include in the report to be delivered to the Environmental Review Commission on or before January 15 of each year pursuant to G.S. 130A-309.06(c) a description of the implementation of the North Carolina Scrap Tire Disposal Act under this Part for the fiscal year ending the preceding June 30. The description of the implementation of the North Carolina Scrap Tire Disposal Act shall include a list of the recipients of grants under subsection (a) of this section and the amount of each grant for the previous 12-month period. The report also shall include the amount of funds used to clean up nuisance sites under subsection (d) of this section.

(f) It is the intent of the General Assembly to allow the Department to satisfy grant obligations that extend beyond the end of the fiscal year.

(g) The Department may adopt any rules necessary to implement this section. (2013-360, s. 14.16(c).)

#### Related NC General Statutes

### **§ 105-164.29. Application for certificate of registration by wholesale merchants and retailers.**

(a) Requirement and Application. – Before a person may engage in business as a retailer or a wholesale merchant, the person must obtain a certificate of registration. To obtain a certificate of registration, a person must register with the Department. A wholesale merchant or retailer who has more than one business is required to obtain only one certificate of registration to cover all operations of the business throughout the State. An application for registration must be signed as follows:

- (1) By the owner, if the owner is an individual.
- (2) By a manager, member, or partner, if the owner is an association, a partnership, or a limited liability company.
- (3) By an executive officer or some other person specifically authorized by the corporation to sign the application, if the owner is a corporation. If the application is signed by a person authorized to do so by the corporation, written evidence of the person's authority must be attached to the application.

(b) Issuance. – A certificate of registration is not assignable and is valid only for the person in whose name it is issued. A copy of the certificate of registration must be displayed at each place of business.

(c) Term. – A certificate of registration is valid unless it is revoked for failure to comply with the provisions of this Article or becomes void. A certificate issued to a retailer who makes taxable sales becomes void if, for a period of 18 months, the retailer files no returns or files returns showing no sales.

(d) Revocation. – The failure of a wholesale merchant or retailer to comply with this Article or G.S. 14-401.18 is grounds for revocation of the wholesale merchant's or retailer's certificate of registration. Before the Secretary revokes a wholesale merchant's or retailer's certificate of registration, the Secretary must notify the wholesale merchant or retailer that the Secretary proposes to revoke the certificate of registration and that the proposed revocation will become final unless the wholesale merchant or retailer objects to the proposed revocation and files a request for a Departmental review within the time set in G.S. 105-241.11 for requesting a Departmental review of a proposed assessment. The notice must be sent in accordance with the methods authorized in G.S. 105-241.20. The procedures in Article 9 of this Chapter for review of a proposed assessment apply to the review of a proposed revocation. (1957, c. 1340, s. 5; 1973, c. 476, s. 193; 1979, 2nd Sess., c. 1084; 1991, c. 690, s. 5; 1993, c. 354, s. 17; c. 539, s. 705; 1994, Ex. Sess., c. 24, s. 14(c); 1999-333, s. 8; 2000-140, s. 67(b); 2007-491, s. 19; 2009-451, s. 27A.3(t).)

## Article 5B.

### Scrap Tire Disposal Tax.

#### § 105-187.15. Definitions.

The definitions in G.S. 105-164.3 apply to this Article, except that the term "sale" does not include lease or rental, and the following definitions apply to this Article:

- (1) Scrap tire. - A tire that is no longer suitable for its original, intended purpose because of wear, damage, or defect.
- (2) Tire. - A continuous solid or pneumatic rubber covering encircling a wheel. (1991, c. 221, s. 1.)

#### § 105-187.16. Tax imposed.

(a) Levy. A privilege tax is imposed on a tire retailer at a percentage rate of the sales price of each new tire sold at retail by the retailer. A privilege tax is imposed on a tire retailer and on a tire wholesale merchant at a percentage rate of the sales price of each new tire sold by the retailer or wholesale merchant to a wholesale merchant or retailer for placement on a vehicle offered for sale, lease, or rental by the retailer or wholesale merchant. An excise tax is imposed on a new tire purchased for storage, use, or consumption in this State or for placement in this State on a vehicle offered for sale, lease, or rental. This excise tax is a percentage rate of the purchase price of the tire. These taxes are in addition to all other taxes.

(b) Rate. The percentage rate of the taxes imposed by subsection (a) of this section is set by the following table; the rate is based on the bead diameter of the new tire sold or purchased:

<u>Bead Diameter of Tire</u>	<u>Percentage Rate</u>
Less than 20 inches	2%
At least 20 inches	1%.

(1991, c. 221, s. 1; 1993, c. 548, s. 1; 1997-209, s. 1; 2001-414, s. 22; 2002-10, s. 1.)

#### § 105-187.17. Administration.

The privilege tax this Article imposes on a tire retailer who sells new tires at retail is an additional State sales tax and the excise tax this Article imposes on the storage, use, or consumption of a new tire in this State is an additional State use tax. Except as otherwise provided in this Article, these taxes shall be collected and administered in the same manner as the State sales and use taxes imposed by Article 5 of this Chapter. As under Article 5 of this Chapter, the additional State sales tax paid when a new tire is sold is a credit against the additional State use tax imposed on the storage, use, or consumption of the same tire.

The privilege tax this Article imposes on a tire retailer and on a tire wholesale merchant who sell new tires for placement in this State on a vehicle offered for sale, lease, or rental is a tax on the wholesale sale of the tires. This tax and the excise tax this Article imposes on a new tire purchased for placement in this State on a vehicle offered for sale, lease, or rental shall, to the extent practical, be collected and administered as if they were additional State sales and use taxes. The privilege tax paid when a new tire is sold for placement on a vehicle offered for sale, lease, or rental is a credit against the use tax imposed on the purchase of the same tire for placement in this State on a vehicle offered for sale, lease, or rental. (1991, c. 221, s. 1.)

**§ 105-187.18. Exemptions.**

- (a) The taxes imposed by this Article do not apply to:
  - (1) Bicycle tires and other tires for vehicles propelled by human power.
  - (2) Recapped tires.
  - (3) Tires sold for placement on newly manufactured vehicles.

(b) Except for the exemption for sales a state cannot constitutionally tax, the exemptions and refunds allowed in Article 5 of this Chapter do not apply to the taxes imposed by this Article. (1991, c. 221, s. 1; 1991 (Reg. Sess., 1992), c. 867, s. 1; 1993, c. 364, s. 2; 2003-416, s. 19(a); 2010-166, s. 3.4.)

**§ 105-187.19. Use of tax proceeds.**

(a) The Secretary shall distribute the taxes collected under this Article, less the allowance to the Department of Revenue for administrative expenses, in accordance with this section. The Secretary may retain the cost of collection by the Department, not to exceed four hundred twenty-five thousand dollars (\$425,000) a year, as reimbursement to the Department.

(b) Each quarter, the Secretary shall credit thirty percent (30%) of the net tax proceeds to the General Fund. The Secretary shall distribute the remaining seventy percent (70%) of the net tax proceeds among the counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer.

(c) A county may use funds distributed to it under this section only as provided in G.S. 130A-309.54. A county that receives funds under this section and that has an agreement with another unit of local government under which the other unit of local government provides for the disposal of solid waste for the county shall transfer the amount received under this section to the other unit of local government. A unit of local government to which funds are transferred is subject to the same restrictions on use of the funds as the county. (1991, c. 221, s. 1; 1993, c. 485, s. 13; c. 548, ss. 2, 8; 1997-209, ss. 1, 3; 2004-203, s. 5(h); 2007-153, s. 1; 2007-323, s. 24.2; 2009-451, s. 13.3B(a); 2013-360, s. 14.16(a).)