

1 HB808
2 110363-1
3 By Representatives Ford, Allen, Thigpen, Grantland, Sherer,
4 Sanderford, Wood, Gipson, Baker (L) and Lindsey
5 RFD: Commerce
6 First Read: 01-APR-09

2
3
4
5
6
7
8 SYNOPSIS: The Alabama Scrap Tire Environmental
9 Quality Act, regulates the remediation of scrap
10 tires through the Alabama Department of
11 Environmental Management.

12 This bill would provide further for defined
13 terms; allow a transporter that has a storage limit
14 by the department to accumulate more than 100 scrap
15 tires; provide further for cleanups of scrap tire
16 accumulations; provide that Class One and Class Two
17 receivers are not required to use a permitted
18 transporter for certain tires being transported;
19 provide for transportation of scrap tires to a
20 landfill approved for scrap tire disposal; provide
21 further for manifests; provide further for
22 financial assurance by a fuel user; provide further
23 for the administration and enforcement of the act;
24 provide further for distribution of environmental
25 fee proceeds; and to provide further for penalties
26 for violations of this chapter.

1 Amendment 621 of the Constitution of Alabama
2 of 1901, now appearing as Section 111.05 of the
3 Official Recompilation of the Constitution of
4 Alabama of 1901, as amended, prohibits a general
5 law whose purpose or effect would be to require a
6 new or increased expenditure of local funds from
7 becoming effective with regard to a local
8 governmental entity without enactment by a 2/3 vote
9 unless: it comes within one of a number of
10 specified exceptions; it is approved by the
11 affected entity; or the Legislature appropriates
12 funds, or provides a local source of revenue, to
13 the entity for the purpose.

14 The purpose or effect of this bill would be
15 to require a new or increased expenditure of local
16 funds within the meaning of the amendment. However,
17 the bill does not require approval of a local
18 governmental entity or enactment by a 2/3 vote to
19 become effective because it comes within one of the
20 specified exceptions contained in the amendment.

21
22 A BILL
23 TO BE ENTITLED
24 AN ACT

25
26 To amend Sections 22-40A-3, 22-40A-4, 22-40A-5,
27 22-40A-6, 22-40A-7, 22-40A-9, 22-40A-10, 22-40A-11, 22-40A-13,

1 22-40A-14, 22-40A-15, 22-40A-19, and 22-40A-21, and to repeal
2 Section 22-40A-18 of the Code of Alabama 1975, Alabama Scrap
3 Tire Environmental Quality Act; to provide further for defined
4 terms, accumulation and expansion of limits, cleanups,
5 receivers, transportation of scrap tires, manifests, financial
6 assurance, administration and enforcement, the distribution of
7 environmental fee proceeds; and for criminal penalties for
8 violation of this chapter; and in connection therewith would
9 have as its purpose or effect the requirement of a new or
10 increased expenditure of local funds within the meaning of
11 Amendment 621 of the Constitution of Alabama of 1901, now
12 appearing as Section 111.05 of the Official Recompilation of
13 the Constitution of Alabama of 1901, as amended.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Sections 22-40A-3, 22-40A-4, 22-40A-5,
16 22-40A-6, 22-40A-7, 22-40A-9, 22-40A-10, 22-40A-11, 22-40A-13,
17 22-40A-14, 22-40A-15, 22-40A-19, and 22-40A-21, Code of
18 Alabama 1975, are amended to read as follows:

19 "§22-40A-3.

20 "The following terms shall have the following
21 meanings unless the context clearly indicates otherwise:

22 "(1) APPROVED. Authorized, certified, permitted by,
23 or meets standards of a regulatory authority.

24 "(2) CLEANUP. For purposes of this chapter, cleanup
25 means the cleaning up, remediation, control, or removal of
26 scrap tires from the environment.

1 "(3) CONSUMER. a. For purposes of this chapter a
2 consumer is defined as either:

3 "1. A retail purchaser.

4 "2. A dealer who buys a tire to be installed on a
5 vehicle for resale.

6 "b. A wholesale purchaser who buys tires for resale
7 is not considered a consumer.

8 "(4) DEPARTMENT. The Alabama Department of
9 Environmental Management (ADEM) or its successor organization
10 or organizations having similar responsibility.

11 "(5) AUTHORIZED DISPOSAL. For purposes of this
12 chapter only, "authorized disposal" shall be the deposit of a
13 tire in a landfill properly permitted landfill to accept tires
14 and tire materials for disposal.

15 "(6) ENFORCEMENT OFFICER. An employee of the
16 department, or the person appointed by the county commission
17 to enforce this chapter, and any deputy enforcement officers
18 enforcing this chapter under the supervision of the
19 enforcement officer, and which county commission has a
20 delegation agreement with the department, or other municipal,
21 county, or state law enforcement officers authorized to
22 enforce this chapter.

23 "(7) FUEL USER. A processor which uses tire derived
24 fuel as a source of energy and has been permitted by the
25 department or local air pollution control agency for the use
26 of tire derived fuel.

1 " (8) INNOCENT LANDOWNER. ~~Any person, company,~~
2 ~~corporation, or governmental entity holding an interest in~~
3 ~~real property upon which scrap tires are discarded illegally~~
4 ~~by another party without specific permission from the holder~~
5 ~~of the real property interest, provided the holder took~~
6 ~~reasonable steps to prevent foreseeable acts of illegal~~
7 ~~disposal.~~ a. An owner of real property upon which there is
8 located an accumulation of scrap tires who meets all of the
9 following conditions:

10 "1. The scrap tires were disposed of on the property
11 after the owner acquired title to or obtained financial
12 interest in the property, or the scrap tires were disposed of
13 before the owner acquired title to the property and the owner
14 lacked actual knowledge of the waste after conducting
15 reasonable due diligence or title was acquired by intestate
16 succession or devise.

17 "2. The owner did not have knowledge that the scrap
18 tires were being disposed of on the property, or the owner
19 took steps, including, but not limited to, posting signs to
20 prevent disposal on the property.

21 "3. The owner did not participate in or consent to
22 the disposal of scrap tires on the property.

23 "4. The owner did not receive any financial benefit
24 from the disposal of scrap tires on the property.

25 "5. Title to the property was not transferred to the
26 owner for the purpose of evading liability for operating an
27 unauthorized accumulation of scrap tires.

1 "6. The person or persons responsible for disposing
2 of the scrap tires on the property, in doing so, was not
3 acting as an agent for the property owner or interest holder.

4 "b. The State of Alabama shall be considered an
5 innocent landowner for properties it owns or holds upon which
6 scrap tires are disposed in which disposal the state did not
7 participate nor to which the state consented.

8 "(9) PERMITTED LANDFILL. Any For the purposes of
9 this chapter only, any landfill that is permitted by the
10 department to accept scrap tires and scrap tire material.

11 "(10) PERMITTED PROCESSOR. Any person engaged in the
12 processing of tires as defined in this section that has
13 received the proper permit from the department. A retreader or
14 sorter is not considered a processor.

15 "(11) PERMITTED TRANSPORTER. A person who has
16 received the proper transporter permit from the department.

17 "(12) PERSON. Any individual, organization,
18 business, or entity, whether or not organized for profit.

19 "(13) PROCESSED TIRE MATERIAL. Any material produced
20 from tires or tire materials through any chemical, physical,
21 or thermal process, including, but not limited to, baling.

22 "(14) PROCESSING. For purposes of tire processing,
23 the term includes any of the following activities related to
24 pneumatic tires:

25 "a. The compression and binding of whole tires or
26 processed tire material or bailing.

1 "b. Shredding, reducing, or altering tires by any
2 physical, chemical, or thermal process, including,
3 specifically, the burning of tires as a fuel.

4 "c. Incorporating whole scrap tires into any end use
5 product or structure where the scrap tire is not deconstructed
6 into its component parts.

7 "d. Punching or stamping products from whole scrap
8 tires or producing processed tire material, crumb, or ground
9 rubber product, whether or not that product is held for sale
10 or used in the facility to produce an end product.

11 " (15) RECYCLING or REUSE. A use of scrap tire or
12 processed tire materials other than for land disposal,
13 including, but not limited to, new products, rubber modified
14 asphalt, civil engineering applications, or fuel use.

15 " (16) REGISTERED RECEIVER. Either a ~~class one~~ Class
16 One receiver or ~~class two~~ Class Two receiver defined as:

17 "a. Class ~~one~~ One receivers are retail tire dealers,
18 retreaders, and used tire dealers.

19 "b. Class ~~two~~ Two receivers include all other
20 receivers of scrap tires, other than class one receivers, that
21 generate or accumulate a minimum of 10 scrap tires in a year,
22 specifically including, among others, any component of
23 government, vehicle fleet maintenance or dismantling, rental
24 or sales operations, or any other activity that generates
25 scrap tires, whether or not organized for profit.

26 " (17) REMEDIATION. This term is synonymous with
27 "cleanup."

1 "(18) REPLACEMENT TIRE. Any pneumatic tire sold to
2 the consumer regardless of whether or not mounted on a rim or
3 wheel.

4 "(19) RESPONSIBLE PARTY or PERSON RESPONSIBLE. With
5 respect to the remediation of any accumulation of scrap tires
6 on any property, ~~the person who deposited the tires on the~~
7 ~~property, if known and if different than the person who holds~~
8 ~~title to the property, unless that person qualifies as an~~
9 ~~innocent landowner.~~ a person who meets one or more of the
10 following conditions:

11 "a. A person who deposited the scrap tires on the
12 property, if other than the person who holds title to or has a
13 financial interest in the property.

14 "b. A person who holds title to or has a financial
15 interest in the property, and who does not qualify as an
16 innocent landowner.

17 "(20) RETAIL TIRE DEALER. For purposes of this
18 chapter, a retail tire dealer shall include any person selling
19 replacement tires to the consumer, whether or not mounted on a
20 rim.

21 "(21) RETREADED CASING REPLACEMENT TIRE. Any
22 retreaded casing sold to the consumer, regardless of whether
23 or not mounted on a rim or wheel.

24 "(22) RETREADER. Any person engaged in the
25 retreading of used tires.

26 "(23) SCRAP TIRE. Any pneumatic tire no longer
27 suitable or useable for its original purpose and, in addition,

1 includes, but is not limited to, all tires with a
2 manufacturing defect, except those that are in the process of
3 being returned to the manufacturer for a refund.

4 "(24) SCRAP TIRE COMMISSION (STC). The commission
5 established in this chapter.

6 "(25) SCRAP TIRE ENVIRONMENTAL FEE. The fee
7 established by this chapter, to be collected on the purchase
8 of replacement tires.

9 "(26) SCRAP TIRE FUND (STF). The separate fund
10 established by this chapter.

11 "(27) SCRAP TIRE STUDY COMMISSION (STSC). The
12 commission created by Sections 22-40-1 to 22-40-11, inclusive.

13 "(28) SOLID ~~WASTE DISPOSAL~~ WASTES and RECYCLABLE
14 MATERIALS MANAGEMENT ACT. Chapter 27 of this title.

15 "(29) THREAT. A condition creating a substantial
16 probability of harm, where the probability and potential
17 extent of harm makes it reasonably necessary to take immediate
18 action to prevent, reduce, or mitigate damage to persons,
19 property, the environment, natural resources, or the public
20 health and safety.

21 "(30) TIRE DEALER. Any person engaged in the sale of
22 tires to the consumer, whether or not mounted on a rim or
23 wheel.

24 "(31) TIRE DERIVED FUEL (TDF). Any tire or processed
25 tire material intended for use as fuel.

26 "(32) USED REPLACEMENT TIRE. Any pneumatic tire that
27 is capable of reuse as a tire, directly or following repair,

1 regrooving, or retread, excluding any processed tire material,
2 end use product or by-product derived from scrap tires, that
3 meets the following requirements:

4 "a. If a tire is designed for highway use it must
5 still have more than two thirty-seconds inch of tread.

6 "b. The tire is stored in a rack or a stack, but not
7 in a pile, in a manner consistent with National Fire
8 Protection Association guidelines for tire storage, as well as
9 vector control standards.

10 "c. The tire is stored in a manner to allow
11 inspection of each individual tire.

12 "(33) UNAUTHORIZED DISPOSAL. For purposes of this
13 chapter only, "unauthorized disposal" shall be the deposit,
14 dumping, or placing of any tire, scrap tire, tire chips, tire
15 shreds, or tire materials into or on any public or private
16 land or water, and not having a permit from the department.

17 "§22-40A-4.

18 "(a) No person may accumulate more than 100 scrap
19 tires, except as a permitted processor, registered receiver,
20 or permitted landfill, or transporter who has requested and
21 been granted a storage limit by the department.

22 "(b) No person may expose accumulated scrap tires to
23 the elements for more than 30 days.

24 "(c) A ~~class one~~ Class One receiver as defined in
25 Section 22-40A-3 may accumulate up to 1,500 scrap tires, or a
26 higher number as set by regulation of the department for those
27 engaged in used tire sales.

1 "(d) A ~~class two~~ Class Two receiver as defined in
2 Section 22-40A-3 may accumulate up to 300 tires. Provided,
3 however, that ~~class two~~ Class Two receivers that are tire
4 manufacturers are excluded from the 300-tire limit, provided
5 the tires are not exposed to the elements.

6 "§22-40A-5.

7 "(a) Accumulations of scrap tires for whatever
8 purpose, not in accordance with this chapter, shall be removed
9 by the person ~~responsible for the creation or the maintenance~~
10 ~~of~~ who created or maintained the accumulation, or if ~~the~~ that
11 person ~~responsible~~ is not determined, by the landowner or
12 financial interest holder if the landowner or financial
13 interest holder does not qualify as an innocent landowner.

14 "(b) All persons with more than 100 scrap tires on
15 their property who are not registered receivers of scrap tires
16 or a permitted processor shall report this fact to the
17 department and provide the number of scrap tires and the
18 location. This report shall be made no later than 12 months
19 after September 1, 2003.

20 "(c) The department shall establish by regulations a
21 ranking system for remediation, and shall award all contracts
22 for cleanup in accordance with this ranking system.

23 "(d) The department shall provide regulations for
24 cleanup, which shall apply to all cleanups.

25 "(e) Department cleanup action shall be carried out
26 in accordance with any applicable state contracting
27 requirements.

1 "(f) The overall management of the remediation of
2 all scrap tires within the State of Alabama is the
3 responsibility of the department.

4 "(g) Each cleanup contractor shall satisfy all
5 relevant laws, regulations, or other legal ordinances during
6 the cleanup.

7 "§22-40A-6.

8 "(a) For purposes of this chapter, there shall be
9 two classes of receivers, ~~class one~~ Class One receivers and
10 ~~class two~~ Class Two receivers as defined in Section 22-40A-3.

11 "(b) Receivers of both classes are not required to
12 obtain a permit as a transporter, as otherwise required under
13 Section 22-40A-7, for transporting scrap tires for disposal or
14 further processing. For ~~class two~~ Class Two receivers this
15 exception applies only to scrap tires they generate and does
16 not apply to scrap tires generated by other persons.

17 "(c) ~~Class one receivers~~ Receivers of both classes
18 are not required to use a permitted transporter for purposes
19 of transporting their tires or their customers' tires between
20 their business locations or between a customer site and the
21 receiver.

22 "(d) All receivers shall register without fee with
23 the department and obtain a receiver number and vehicle
24 decals, at no cost, equal to the number of vehicles in the
25 receiver's fleet used to transport scrap tires. Decals shall
26 be carried visibly in or on the vehicle in accordance with
27 department regulations.

1 "(e) Class One receivers registered with the
2 department and collecting and remitting fees in accordance
3 with Section 22-40A-14 shall not be subject to the disposal
4 fees established under the Solid Wastes and Recyclable
5 Materials Management Act for only scrap tires delivered to
6 permitted landfills for disposal.

7 "§22-40A-7.

8 "(a) No person, except properly registered
9 receivers, may engage in the transportation of scrap tires,
10 whether or not for profit, without holding a valid transporter
11 permit issued by the department, unless otherwise exempted by
12 this chapter or unless allowed by department regulation, if he
13 or she transports more than eight scrap tires at any one time.
14 An application for a permit shall be made in the form required
15 by the department and provide such information as the
16 department may, by regulation, require.

17 "(b) The department, by regulation, may set higher
18 tire transportation limits than provided in subsection (a) for
19 special situations, such as an authorized amnesty program.

20 "(c) Permitted transporters shall receive decals
21 equal in number to the number of vehicles in the transporter's
22 fleet, at no cost. Decals shall be visibly displayed in or on
23 the vehicle, in accordance with department regulations.

24 "(d) Persons making applications as transporters
25 shall pay an application fee as determined by the department.
26 Applicants shall provide information that the department
27 requires by regulation.

1 "(e) Transporter permits shall be valid for three
2 years, unless revoked for violating this chapter or the
3 department's regulations.

4 "(f) Transporters shall deliver scrap tires that
5 have been properly manifested as required by Section 22-40A-9
6 and departmental regulations, only to either of the following:

7 "(1) A receiver, processor, or other transporter,
8 permitted or registered under this chapter.

9 "(2) A permitted landfill approved to accept scrap
10 tires for disposal.

11 "(g) Transporter decals shall be displayed in
12 conformance with regulations issued by the department on any
13 vehicle engaged in the collection and transportation of scrap
14 tires and may be transferred only to vehicles owned and
15 operated by that business.

16 "(h) Receivers of both classes who are transporting
17 used or scrap tires for their own purposes shall maintain
18 inside the vehicle during transport appropriate documentation
19 that each such transport is for his or her own use and for the
20 indicated purpose.

21 "(i) Both intrastate and interstate transport of
22 used and scrap tires are subject to regulation by the
23 department.

24 "§22-40A-9.

25 "(a) The department shall develop and promulgate a
26 manifest through rulemaking.

1 "(b) All scrap tire receivers, transporters,
2 processors, and landfills are required to use a written
3 manifest as prescribed in this section and as provided by
4 regulations of the department. The manifest ~~shall be~~
5 ~~originated by the receiver and~~ shall identify the quantity of
6 tires transported, stored, or processed, and other information
7 as the department may require. The manifest shall be required
8 to accompany the transportation, storage, and processing of
9 scrap tires until the tires are processed or disposed.

10 "(c) Records shall be retained for a minimum of
11 three years, or as otherwise required by the department.

12 "(d) The department may establish regulations for
13 transport of out-of-state tires into Alabama.

14 "§22-40A-10.

15 "(a) The department shall, by regulation, establish
16 the financial assurance levels and methods that are to be set
17 to provide funds to abate any problems created as a result of
18 a failure by the transporter or processor to properly manage
19 scrap tires.

20 "(b) Receivers of either class are not required to
21 post financial assurance.

22 "(c) Permitted transporters and processors shall
23 post financial assurance. A fuel user that registers with the
24 department shall post financial assurance if the user stores
25 whole tires or shredded tires in excess of amounts the
26 department establishes by regulation or in excess of permitted
27 limits.

1 "§22-40A-11.

2 "(a) ~~The~~ Except as provided for herein, the
3 department is designated by this chapter as the administrating
4 agency for this chapter including administering remediation
5 and enforcement programs; provided, however, the department
6 may enter into delegation agreements with county commissions
7 for enforcement of this chapter. The department is hereby
8 authorized to carry out the purposes of this chapter and is
9 empowered to administer and enforce this chapter using the
10 authorities granted to it by the Environmental Management Act.

11 "(b) The department shall develop and manage a
12 remediation contract program for cleanup, management, or
13 disposal of scrap tires.

14 "(c) The department may by regulation exempt certain
15 tires under this chapter and grant variances or place
16 additional requirements on persons subject to this chapter and
17 the department's regulations.

18 "(d) The department shall administer the program in
19 a way to ensure enforcement of the chapter in all counties.

20 "(e) Department funds and resources as provided by
21 the Scrap Tire Fund (STF) may be used for support of on-going
22 training for delegated county programs, department staff, and
23 others involved in the enforcement of this chapter.

24 "(f) The department, after holding a hearing in
25 accordance with the procedures set forth by regulation, may
26 revoke, suspend, or deny a receiver registration, a processor

1 or transporter permit, or an exemption or variance based on
2 the requirements of this chapter.

3 "(g) Those funds collected by the department for
4 violations pursuant to this chapter shall be directed to the
5 Scrap Tire Fund, except for a portion of those funds directed
6 to the department to cover expenses to obtain a penalty.

7 "(h) The department, by regulation, may develop
8 other incentive programs to reduce illegal scrap tire
9 disposal.

10 "§22-40A-13.

11 "The Alabama Department of ~~Economic and Community~~
12 ~~Affairs (ADECA)~~ Environmental Management (ADEM) is designated
13 as the department of state government responsible for
14 development and management of an end use market development
15 ~~grants~~ program. ~~The cost of administration of these grants~~
16 ~~shall not exceed five percent of the funds allocated for the~~
17 ~~ADECA grant program.~~ ADECA ADEM may choose to negotiate
18 agreements with any person to participate in the end use
19 marketing development ~~grants~~ program.

20 "§22-40A-14.

21 "(a) A scrap tire environmental fee shall be
22 collected at the point of sale from the consumer on
23 replacement tires, whether or not the tires are mounted on a
24 rim or wheel, in the amount of one dollar (\$1) per tire, and
25 shall be remitted to the Department of Revenue on a monthly
26 basis. Out-of-state tires, such as fleet tires, not purchased
27 in the State of Alabama must be returned to the point of

1 origin for disposal or the scrap tire environmental fee shall
2 be imposed for each tire brought into the state and must be
3 remitted to the Department of Revenue. In addition, the scrap
4 tire environmental fee shall be collected on a retreaded
5 casing replacement tire when sold to a consumer.

6 "(b) The fees imposed by subsection (a) shall be
7 paid monthly to the Department of Revenue by the 20th day of
8 the following month, accompanied by forms as prescribed by the
9 Department of Revenue. The forms shall contain a printed
10 declaration that the information is being reported under
11 penalty of perjury and shall be subscribed by the person who
12 completes the forms, showing the number of tires subject to
13 the environmental fee and such other information as the
14 Department of Revenue may require.

15 "(c) The tire dealer may retain ~~five~~ seven percent
16 of the fees collected per each report timely filed, to cover
17 costs associated with the collection and payment of the fee to
18 the Department of Revenue. No recovery of administrative costs
19 shall be allowed, nor any monies retained by a tire dealer,
20 from any scrap tire environmental fees that are not paid
21 before becoming delinquent.

22 "(d) The fee imposed in subsection (a) shall be
23 collected and administered by the Department of Revenue in
24 accordance with Chapter 2A of Title 40. The Department of
25 Revenue shall also impose interest on any scrap tire
26 environmental fee paid after the due date in accordance with
27 Section 40-1-44.

1 "(e) The Department of Revenue may promulgate and
2 enforce rules and regulations to effectuate the scrap tire
3 environmental fee provisions of this chapter. All rules and
4 regulations promulgated shall have the same force and effect
5 of law.

6 "(f) In addition to any and all other funds
7 heretofore or hereafter appropriated, there is hereby
8 appropriated from the State General Fund to the Department of
9 Revenue, to offset its costs to implement and administer this
10 chapter, as a first charge against the fees collected pursuant
11 to this chapter, for the fiscal year ending September 30,
12 2003, the sum of sixty thousand dollars (\$60,000). Every year
13 thereafter as a first charge against the revenues collected,
14 an amount of revenue shall be appropriated to the Department
15 of Revenue to offset its costs of collection.

16 "(g) The Department of Revenue may share
17 information, data, reports, or documentation related to the
18 collection and administration of the fee imposed in subsection
19 (a) with the department for the purpose of administering the
20 provisions of this chapter, notwithstanding any provisions of
21 law requiring confidentiality.

22 "§22-40A-15.

23 "The net proceeds of the scrap tire environmental
24 fee levied by Section 22-40A-14 shall be distributed as
25 follows:

26 "(1) To pay the costs of remediation, abatement,
27 removal, or other remedial action within the range of 45

1 percent to 75 percent of monies deposited to the Scrap Tire
2 Fund during the previous budget year, including equipment,
3 labor, supplies, and materials related to tire stockpiles
4 throughout the state, including all approved costs incurred by
5 other public agencies involved in these activities by contract
6 with the department.

7 "(2) To pay the costs of the department associated
8 with the development and enforcement of regulations, not to
9 exceed 20 percent of monies deposited to the Scrap Tire Fund
10 during the previous budget year, including personnel,
11 training, materials, and equipment relating to administration
12 of this chapter and for the training of enforcement personnel
13 within the department, county, and other governmental
14 organizations. Funds not expended by the department during a
15 budget year shall be returned to the Scrap Tire Fund not later
16 than January 1 following the end of the budget year.

17 "(3) To administer a program, within the range of
18 zero percent to 20 percent of monies deposited to the Scrap
19 Tire Fund during the previous budget year, ~~managed by ADECA,~~
20 directed at statewide educational and technical seminars for
21 the public or regulated communities, or both; coordination of
22 state and federal agencies for promoting and developing
23 markets, and technical assistance from the scrap tire staff of
24 the department related to reuse and market development. The
25 department shall maintain an on-line directory of as an
26 alternative alternatives to the landfill disposal of scrap
27 tires or processed tire material ~~as an end use.~~ ADECA The

1 department or its successor organization shall be so
2 authorized by this chapter for these purposes, and shall
3 inform and update the Scrap Tire Commission of marketing plans
4 and technical assistance programs developed pursuant to this
5 chapter.

6 "(4) To fund the programs delegated by the
7 department to counties for enforcement of regulations, not to
8 exceed 10 percent of monies deposited to the Scrap Tire Fund
9 during the previous budget year, including personnel,
10 training, materials, and equipment relating to administration
11 of this chapter.

12 "(5) To pay the tire retailer, not to exceed ~~five~~
13 seven percent of fees collected, for collection and accounting
14 costs associated with collection of the fee and the monthly
15 distribution to the Department of Revenue, as specified in
16 subsection (c) of Section 22-40A-14.

17 "(6) To pay the costs of administration of the
18 Department of Revenue, not to exceed two percent of monies, to
19 include the first charge against revenues pursuant to
20 subsection (f) of Section 22-40A-14, deposited to the Scrap
21 Tire Fund during the previous budget year, associated with
22 establishment of the Scrap Tire Fund and for the receipt of
23 funds from all income sources pursuant to this chapter,
24 disbursements, and auditing revenues in the Scrap Tire Fund.

25 "§22-40A-19.

26 "~~(a) Disposing of scrap tires in violation of this~~
27 ~~chapter shall constitute a Class C felony. Any person who~~

1 intentionally, knowingly, recklessly, or with criminal
2 negligence:

3 "(1) Accumulates scrap tires in violation of this
4 chapter, upon conviction, shall be subject to a term of
5 imprisonment not exceeding three months.

6 "(2) Processes scrap tires in violation of this
7 chapter, upon conviction, shall be subject to a term of
8 imprisonment not exceeding six months.

9 "(3) Transports scrap tires in violation of this
10 chapter, upon conviction, shall be subject to a term of
11 imprisonment not exceeding one year.

12 "(4) Engages in unauthorized disposal of scrap tires
13 in violation of this chapter, upon conviction, shall be
14 subject to a term of imprisonment of not more than 10 years
15 nor less than one year and one day and in addition, may be
16 fined not more than ten thousand dollars (\$10,000) for each
17 violation.

18 "(5) Makes any false statement or representation in
19 any document used to comply with this chapter, upon
20 conviction, shall be subject to a term of imprisonment of not
21 more than 10 years nor less than one year and one day and in
22 addition, may be fined not more than fifteen thousand dollars
23 (\$15,000) for each violation.

24 "(b) Any person convicted of ~~disposing or processing~~
25 ~~of scrap tires in violation of~~ violating this chapter shall
26 also be personally and financially responsible for the proper

1 removal of the scrap tires according to this chapter and any
2 rules or regulations promulgated by the department.

3 "(c) Any person who ~~knowingly or recklessly makes~~
4 ~~any false statement or representation in any document used to~~
5 ~~comply with~~ does not comply with the requirements of this
6 chapter is liable for a civil penalty for each violation or,
7 for continuing violations, for each day that the violation
8 continues, in accordance with subdivisions (17) to (20),
9 inclusive, of Section 22-22A-5.

10 "(d) The enforcement officers may issue citations
11 for any nonclassified or misdemeanor violation of this
12 chapter, and upon conviction, the violator or violators shall
13 be fined a minimum of three hundred dollars (\$300) for each
14 separate violation.

15 "(e) In addition to the financial responsibility
16 required by subsection (b), a fine of five dollars (\$5) per
17 tire shall be assessed against any party who accumulates,
18 transfers, transports, or stores processes or engages in
19 unauthorized disposal of scrap tires in violation of this
20 chapter, which fee shall be in addition to all other fines or
21 penalties assessed under this chapter.

22 "(f) In the enforcement of this chapter, department
23 employees and ~~county~~ enforcement officers shall have all
24 authority granted to the license inspector pursuant to Section
25 40-12-10, and in addition, may investigate any and all
26 reported violations of this chapter within the county, and may
27 independently monitor all scrap tire receivers, transporters,

1 and processors within the county for compliance with this
2 chapter. The enforcement officer may issue citations using the
3 Uniform Non-Traffic Citation and Complaint as provided under
4 Rule 20 of the Alabama Rules of Judicial Administration. ~~The~~
5 ~~enforcement officer in each county shall share information~~
6 ~~regarding possible violations in another county with the~~
7 ~~enforcement officer for that county.~~ All local enforcement
8 officers and department employees shall share with each other
9 information regarding violations and possible violations of
10 this chapter irrespective of county or municipal jurisdiction.

11 "§22-40A-21.

12 "(a) There is created the Scrap Tire Commission
13 (STC) to review the implementation of this chapter, including
14 the scrap tire program, and recommend changes to this chapter
15 to the Legislature, as needed. The STC may promulgate
16 regulations to establish procedures for its operations. On
17 September 1, 2003, the present monies received under the
18 existing Alabama Scrap Tire Study Commission (STSC) are
19 transferred to the Scrap Tire Fund created herein.

20 "(b) The Scrap Tire Commission shall be comprised of
21 the following individuals or their designees or a
22 representative of each of the authorities listed below:

23 "(1) The State Health Officer.

24 "(2) The Director of the Alabama Department of
25 Environmental Management.

26 "(3) ~~The Director of the Alabama Department of~~
27 ~~Economic and Community Affairs (ADECA)~~ Transportation.

1 "(4) The Association of County Commissions of
2 Alabama.

3 "(5) The Alabama Tire Dealers Association shall be
4 represented by two members, one of which shall be the
5 president of the association.

6 "(6) The Rubber Manufacturers Association.

7 "(7) A representative of the scrap tire industry,
8 appointed by the Governor.

9 "(8) A representative of the scrap tire processing
10 industry, appointed by the Lieutenant Governor.

11 "(9) A representative of the environmental
12 community, appointed by the Speaker of the House of
13 Representatives.

14 "(10) A representative of the scrap tire ~~class two~~
15 Class Two receivers, appointed by the Business Council of
16 Alabama.

17 "(c) The STC shall review the implementation of the
18 law and effectiveness of the revenue derived from the law to
19 accomplish the intended purposes and advise the Legislature
20 and the department as appropriate.

21 "(d) The STC shall meet quarterly for the first two
22 years at a minimum, and thereafter as determined by the STC,
23 but no less than annually. The department ~~and ADECA~~ shall
24 report scrap tire program status to the STC at each regularly
25 called meeting of the STC. Expenses of the STC shall be paid
26 from the Scrap Tire Fund.

1 "(e) Members of the STC shall be reimbursed for
2 expenses when attending meetings representing the STC from the
3 Scrap Tire Fund. Reimbursement shall be approved and certified
4 by the director of the department upon receipt of appropriate
5 documentation in accordance with Sections 36-7-1 through
6 36-7-42.

7 "(f) After seven years or upon the recommendation of
8 the STC and the department, the Legislature shall consider
9 reducing that portion of the scrap tire environmental fee
10 directed towards cleanup. Provided, that any reduction in the
11 scrap tire environmental fee shall become effective October 1
12 following the year in which the STC and the department concur
13 that a reduction is in order. However, the fee shall not be
14 reduced below fifty cents (\$.50) in order to assure adequate
15 enforcement of the law by the department and cooperating
16 counties and to fund unanticipated cleanups, as needed.

17 "(g) The STC shall establish the percentages for
18 distribution of funds that accumulate in the Scrap Tire Fund,
19 except as otherwise specified by this chapter.

20 "(h) Prior to the promulgation of any proposed
21 regulation dealing with this chapter, the department shall
22 receive the approval of the STC. The STC shall provide the
23 department a response to its request for approval within 60
24 days of receipt of such request unless such other time is
25 mutually agreed upon by the department and the STC.

1 "(i) STSC members representing those entities
2 specified in subsection (b) shall continue as members of the
3 new STC unless or until replacements are appointed.

4 "(j) After September 1, 2003, existing members of
5 the STSC, or their replacements who become members of the STC,
6 must meet within 90 days. The department shall notify the STC
7 of the time and place of the initial meeting.

8 "(k) The department ~~and ADECA~~, through the STC,
9 shall report biennially to the Legislature on the activities
10 of the scrap tire programs authorized by this chapter,
11 including recommendations. Such reports shall be submitted by
12 the STC."

13 Section 2. Section 22-40A-18, Code of Alabama 1975,
14 is hereby repealed.

15 Section 3. Although this bill would have as its
16 purpose or effect the requirement of a new or increased
17 expenditure of local funds, the bill is excluded from further
18 requirements and application under Amendment 621, now
19 appearing as Section 111.05 of the Official Recompilation of
20 the Constitution of Alabama of 1901, as amended, because the
21 bill defines a new crime or amends the definition of an
22 existing crime.

23 Section 4. This act shall become effective on the
24 first day of the third month following its passage and
25 approval by the Governor, or its otherwise becoming law.