



General Assembly

Substitute Bill No. 5139

February Session, 2022



**AN ACT CONCERNING EXTENDED PRODUCER RESPONSIBILITY
FOR TIRES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2022*) (a) For the purposes of this
2 section:

3 (1) "Brand" means a name, symbol, word or mark that attributes a tire
4 to the producer of such tire;

5 (2) "Commissioner" means the Commissioner of Energy and
6 Environmental Protection;

7 (3) "Covered entity" means any permitted transfer station, tire
8 retailer, car dealership, automotive garage or private or public sector
9 fleet maintenance garage;

10 (4) "Department" means the Department of Energy and
11 Environmental Protection;

12 (5) "Discarded tire" means any tire that a consumer discarded or
13 abandoned, or intends to discard or abandon;

14 (6) "Tire" means a product composed primarily of rubber that is
15 mounted on the wheels of all types of passenger and commercial on-

16 road and off-road motorized vehicles, including passenger vehicles,
17 motorcycles, trucks, buses, mobile homes, trailers, noncommercial
18 aircraft and earthmoving, road building, mining, logging, agricultural,
19 industrial and other vehicles to provide mobility. "Tire" does not include
20 any tire from any toy, bicycle, commercial aircraft or personal mobility
21 device;

22 (7) "Tire stewardship organization" means the nonprofit organization
23 created by producers or created by any trade association that represents
24 producers who account for a majority of tire production in the United
25 States and that designs, submits and implements the tire stewardship
26 program;

27 (8) "Tire stewardship program" or "program" means the state-wide
28 program described in this section and implemented pursuant to the tire
29 stewardship plan;

30 (9) "Performance goal" means a metric proposed by the tire
31 stewardship organization to measure, on an annual basis, the
32 performance of the tire stewardship program, taking into consideration
33 technical and economic feasibilities, in achieving continuous,
34 meaningful improvement in the rate of tire recycling in the state and any
35 other specified goal of such program;

36 (10) "Producer" means any person who manufactures a tire that is
37 sold, offered for sale or distributed in this state under the producer's
38 own name or brand. "Producer" includes (A) the owner of a trademark
39 or brand under which a tire is sold, offered for sale or distributed in this
40 state, and (B) any person who imports a tire into the United States that
41 is sold or offered for sale in this state and that is manufactured by a
42 person who does not have a presence in the United States. "Producer"
43 does not include any manufacturer of tires with less than one-tenth of
44 one per cent of the nationally recognized market share;

45 (11) "Recycling" means any process in which discarded tires,
46 components and by-products may lose their original identity or form as

47 they are transformed into new, usable or marketable materials.
48 "Recycling" does not include the use of incineration for energy recovery;

49 (12) "Retailer" means any person who sells or offers for sale tires in
50 this state or offers tires for sale in this state to a consumer; and

51 (13) "Sale" means the transfer of title of a tire for consideration,
52 including, but not limited to, the use of a sales outlet, catalog, Internet
53 web site or similar electronic means.

54 (b) On or before July 1, 2023, each producer, or such producer's
55 designee, shall join the tire stewardship organization and such
56 organization shall submit a plan, for the Commissioner of Energy and
57 Environmental Protection's approval, to establish a state-wide tire
58 stewardship program, as described in this subsection. Retailers may
59 participate in any such tire stewardship organization. Such tire
60 stewardship program shall, to the extent it is technologically feasible
61 and economically practical: (1) Minimize public sector involvement in
62 the management of discarded tires; (2) provide for free, convenient and
63 accessible state-wide opportunities for the receipt of discarded tires
64 from any person in the state with a discarded tire that was discarded in
65 the state, including, but not limited to, participating covered entities that
66 accumulate and segregate a minimum of six cubic yards of discarded
67 tires at one time; (3) provide for free collection of discarded tires from
68 municipal transfer stations that accumulate and segregate fewer than
69 one hundred tires, provided the transfer station requires such collection
70 due to space or permit requirements; (4) provide for producer-financed
71 end-of-life management for discarded tires collected pursuant to
72 subdivisions (2) and (3) of this subsection; and (5) provide suitable
73 storage containers at, or make other mutually agreeable storage and
74 transport arrangements for, permitted municipal transfer stations for
75 segregated, discarded tires, at no cost to such municipality.

76 (c) The plan submitted pursuant to subsection (b) of this section shall:
77 (1) Identify each producer participating in the program; (2) describe
78 how the program will be financed; (3) establish performance goals for

79 the first two years of the program; (4) identify proposed facilities to be
80 used by the program; (5) detail how the program follows the solid waste
81 hierarchy, as defined in the state-wide solid waste management plan,
82 and will promote the recycling of discarded tires; and (6) include a
83 description of the public education program that will be used to
84 promote consumer knowledge of such program.

85 (d) Each stewardship organization shall establish and implement a
86 system for financing the tire stewardship program that covers, but does
87 not exceed, the costs of developing the plan described in subsection (c)
88 of this section, operating and administering the program described in
89 subsection (b) of this section and maintaining a financial reserve for six
90 months sufficient to operate the program. Each stewardship
91 organization shall maintain all records relating to the program for a
92 period of not less than three years. Funding of such program may be
93 through a fee structure.

94 (e) The Commissioner of Energy and Environmental Protection shall
95 approve a plan for the establishment of the tire stewardship program,
96 provided such plan meets the requirements of subsections (b) to (d),
97 inclusive, of this section. Prior to making such determination, the
98 commissioner shall post the plan on the department's Internet web site
99 and solicit public comments on the plan. Such solicitation shall not be
100 conducted pursuant to chapter 54 of the general statutes. Not later than
101 ninety days after submission of the plan pursuant to this section, the
102 commissioner shall make a determination whether to approve the plan.
103 In the event that the commissioner disapproves the plan because it does
104 not meet the requirements of subsections (b) to (d), inclusive, of this
105 section, the commissioner shall describe the reasons for the disapproval
106 in a notice of determination that the commissioner shall provide to the
107 tire stewardship organization. Such stewardship organization shall
108 revise and resubmit the plan to the commissioner not later than forty-
109 five days after receipt of the commissioner's notice of disapproval. Not
110 later than forty-five days after receipt of the revised plan, the
111 commissioner shall review and approve or disapprove the revised plan,

112 and provide a notice of determination to the stewardship organization.
113 Such stewardship organization may resubmit a revised plan to the
114 commissioner for approval on not more than two occasions. If the tire
115 stewardship organization fails to submit a plan that is acceptable to the
116 commissioner because it does not meet the requirements of subsections
117 (b) to (d), inclusive, of this section, the commissioner shall modify a
118 submitted plan to make it conform to the requirements of subsections
119 (b) to (d), inclusive, of this section, and approve it. Not later than one
120 hundred twenty days after the approval of a plan pursuant to this
121 section, or one hundred eighty days, in the case of a plan modified by
122 the commissioner, the tire stewardship organization shall implement
123 the tire stewardship program.

124 (f) (1) The tire stewardship organization shall submit any proposed
125 substantial change to the program to the Commissioner of Energy and
126 Environmental Protection for approval. For the purposes of this
127 subdivision, "substantial change" means: (A) A change in the processing
128 facilities to be used for discarded tires collected pursuant to the
129 program, or (B) a material change to the system for collecting tires.

130 (2) Not later than July 1, 2025, the tire stewardship organization shall
131 submit updated performance goals to the commissioner that are based
132 on the experience of the program during the first two years of the
133 program.

134 (g) Each tire stewardship organization shall notify the Commissioner
135 of Energy and Environmental Protection of other material changes to
136 the program on an ongoing basis, without resubmission of the plan to
137 the commissioner for approval. Such changes shall include, but not be
138 limited to, a change in the composition, officers or contact information
139 of the tire stewardship organization.

140 (h) Not later than October fifteenth of each year, each tire stewardship
141 organization shall submit an annual report to the Commissioner of
142 Energy and Environmental Protection, on a form prescribed by the
143 commissioner. The commissioner shall post such annual report on the

144 department's Internet web site. Such report shall include: (1) The
145 tonnage of tires collected pursuant to the program from: (A) Municipal
146 transfer stations, (B) retailers, and (C) all other covered entities; (2) the
147 tonnage of tires diverted for recycling; (3) a summary of the public
148 education program that supports the program; (4) an evaluation of the
149 effectiveness of methods and processes used to achieve performance
150 goals of the program; and (5) recommendations for any changes to the
151 program.

152 (i) Two years after the implementation of the program and every
153 three years thereafter, or upon the request of the Commissioner of
154 Energy and Environmental Protection but not more frequently than
155 once a year, each tire stewardship organization shall cause an audit of
156 the program to be conducted by an auditor selected by the
157 commissioner. Such audit shall review the accuracy of the tire
158 stewardship organization's data concerning the program and provide
159 any other information requested by the commissioner, consistent with
160 the requirements of this section, provided such request does not require
161 the disclosure of any proprietary information or trade or business
162 secrets. Such audit shall be paid for by each tire stewardship
163 organization. Each tire stewardship organization shall maintain all
164 records relating to the program for not less than three years.

165 (j) Upon implementation of the tire stewardship program described
166 in this section, any covered entity that participates in such program shall
167 not charge for the receipt of discarded tires that are discarded in this
168 state, provided any such covered entity may restrict the acceptance of
169 tires by number, source or condition.

170 (k) Not later than three years after the approval of the tire
171 stewardship plan pursuant to this section, the Commissioner of Energy
172 and Environmental Protection shall submit a report, in accordance with
173 the provisions of section 11-4a of the general statutes, to the joint
174 standing committee of the General Assembly having cognizance of
175 matters relating to the environment. Such report shall provide an
176 evaluation of the tire stewardship program and establish a goal for the

177 amount of discarded tires managed under the program and a separate
178 goal for the diversion of tires for recycling, taking into consideration
179 technical and economic feasibilities.

180 (l) Each producer and the tire stewardship organization shall be
181 immune from liability for any claim of a violation of antitrust law or
182 unfair trade practice, if such conduct is a violation of antitrust law, to
183 the extent such producer or tire stewardship organization is exercising
184 authority pursuant to the provisions of this section.

185 (m) The Commissioner of Energy and Environmental Protection may
186 seek civil enforcement of the provisions of this section pursuant to
187 chapter 439 of the general statutes.

188 (n) Whenever, in the judgment of the Commissioner of Energy and
189 Environmental Protection, any person has engaged in, or is about to
190 engage in, any act, practice or omission that constitutes, or will
191 constitute, a violation of any provision of this section, the Attorney
192 General may, at the request of the commissioner, bring an action in the
193 superior court for the judicial district of New Britain for an order
194 enjoining such act, practice or omission. Such order may require
195 remedial measures and direct compliance with the provisions of this
196 section. Upon a showing by the commissioner that such person has
197 engaged in or is about to engage in any such act, practice or omission,
198 the court may issue a permanent or temporary injunction, restraining
199 order or other order, as appropriate.

200 (o) Any action brought by the Attorney General pursuant to this
201 section shall have precedence in the order of trial, as provided in section
202 52-191 of the general statutes.

203 (p) In the event that another state implements a tire stewardship or
204 recycling program, the tire stewardship organization may collaborate
205 with such state to conserve efforts and resources used in carrying out
206 the tire stewardship program, provided such collaboration is consistent
207 with the requirements of this section.

208 (q) The Commissioner of Energy and Environmental Protection may
209 assess a reasonable fee to the tire stewardship organization, not to
210 exceed ten per cent of total program costs, for administration of the tire
211 stewardship program.

212 (r) Any producer who fails to participate in the tire stewardship
213 program shall not sell or offer for sale tires in this state.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2022</i>	New section

ENV *Joint Favorable Subst.*