



House of Representatives

General Assembly

File No. 529

January Session, 2023

Substitute House Bill No. 6486

House of Representatives, April 12, 2023

The Committee on Environment reported through REP. GRESKO of the 121st Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

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, 2023*) (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, private or public sector fleet
9 maintenance garage or other location identified in the approved
10 stewardship plan;

11 (4) "Discarded tire" means any whole tire or whole tire on a rim that
12 a consumer discarded or abandoned, or intends to discard or abandon;

13 (5) "Tire" means a product composed primarily of rubber that is
14 mounted on the wheels of any type of passenger or commercial on-road
15 or off-road motorized vehicle, including passenger vehicles,
16 motorcycles, trucks, buses, mobile homes, trailers, noncommercial
17 aircraft and earthmoving, road building, mining, logging, agricultural,
18 industrial and other vehicles and that provides mobility. "Tire" does not
19 include any tire from any toy, bicycle, commercial aircraft or personal
20 mobility device;

21 (6) "Tire stewardship organization" means an organization created or
22 selected by a producer or producers that designs, submits and
23 implements a tire stewardship plan;

24 (7) "Tire stewardship program" or "program" means the state-wide
25 program described in this section and implemented pursuant to an
26 approved tire stewardship plan;

27 (8) "Performance goals" means annual outcomes proposed by the tire
28 stewardship organization in the tire stewardship plan that measure the
29 performance of the program including tire collection and diversion
30 rates, economic and environmental benefits, beneficial recycling usages
31 and targets, public education and participation and any other specified
32 goal of such program;

33 (9) "Producer" means, with respect to new tires marketed to
34 consumers in the state separately from any vehicle or equipment: (A) If
35 the brand holder of the tire is a resident of the United States, the tire
36 manufacturer; (B) if there is no person described in subparagraph (A) of
37 this subdivision, any person who is not the manufacturer of the tire but
38 who is the owner or licensee of a trademark under which the tire is
39 supplied in this state, whether or not the trademark is registered; (C) if
40 there is no person described in subparagraph (B) of this subdivision, any
41 person who imports any tire into the state for supply to a consumer; or
42 (D) if there is no person described in subparagraph (C) of this
43 subdivision, the retailer who supplies the tire to a consumer.

44 (10) "Recycling" means any process in which discarded tire

45 components and by-products may lose their original identity or form as
46 they are transformed into new, usable or marketable materials.
47 "Recycling" does not include the use of tires or processed materials that
48 are incinerated or used as a fuel or fuel supplement;

49 (11) "Retailer" means any person who supplies a tire to a consumer,
50 including any person who supplies a tire through vehicle service or who
51 supplies a tire through an Internet transaction to be delivered to a
52 consumer in this state; and

53 (12) "Supply" means the transfer of title of a tire for consideration,
54 including, but not limited to, the use of a sales outlet, catalog, Internet
55 web site or similar electronic means.

56 (b) On or before January 1, 2025, each producer, or such producer's
57 designee, shall join a tire stewardship organization and such
58 organization shall submit a plan, for the Commissioner of Energy and
59 Environmental Protection's approval, to establish a state-wide tire
60 stewardship program, as described in this subsection. Any retailer may
61 participate in any such tire stewardship organization. Such tire
62 stewardship program shall, to the extent it is technologically feasible
63 and economically practical: (1) Establish and manage a state-wide
64 collection system utilizing covered entities; (2) provide access to the
65 collection system to the public, free of charge, for the drop-off of
66 discarded tires; (3) ensure discarded tires are picked up from the
67 collection system and transported for recycling; (4) ensure all discarded
68 tires collected in the collection system are resold or recycled; (5) provide
69 suitable storage containers for tires, as required, throughout the
70 collection system; (6) implement public promotion and education about
71 the program; (7) assist in market development, as needed, to achieve
72 performance goals; and (8) finance all program activities solely through
73 producer funding.

74 (c) Any plan submitted pursuant to subsection (b) of this section shall:
75 (1) Identify each producer participating in the program; (2) describe
76 how the program will be financed; (3) establish performance goals for
77 the first two years of the program; (4) describe the industry transition

78 timeline that is required to achieve such performance goals and how the
79 plan will, to the greatest extent economically feasible, utilize existing
80 service providers and infrastructure in the state; (5) identify proposed
81 facilities to be used by the program in the collection system and
82 discarded tire transportation and recycling activities; (6) detail how the
83 program follows the solid waste hierarchy, as defined in the state-wide
84 solid waste management plan established pursuant to section 22a-228 of
85 the general statutes, and will promote the recycling of discarded tires to
86 higher value products and sustainability; and (7) include a description
87 of the public education program that will be used to promote consumer
88 knowledge of such program.

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

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

112 stewardship organization. Such tire stewardship organization shall
113 revise and resubmit the plan to the commissioner not later than forty-
114 five days after receipt of the commissioner's notice of disapproval. Not
115 later than forty-five days after receipt of the revised plan, the
116 commissioner shall review and approve or disapprove the revised plan
117 and provide a notice of determination to the tire stewardship
118 organization. Such stewardship organization may resubmit a revised
119 plan to the commissioner for approval on not more than two occasions.
120 If the tire stewardship organization fails to submit a plan that is
121 acceptable to the commissioner because it does not meet the
122 requirements of subsections (b) to (d), inclusive, of this section, the
123 commissioner shall modify a submitted plan to make it conform to the
124 requirements of subsections (b) to (d), inclusive, of this section and
125 approve it. Not later than one hundred twenty days after the approval
126 of a plan pursuant to this section, the tire stewardship organization shall
127 implement the tire stewardship program.

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

135 (2) Two years after implementation of such tire stewardship
136 program, the tire stewardship organization shall submit updated
137 performance goals to the commissioner that are based on the experience
138 of the program during the first two years of the program.

139 (g) Each tire stewardship organization shall notify the Commissioner
140 of Energy and Environmental Protection of other material changes to
141 the program on an ongoing basis, without resubmission of the plan to
142 the commissioner for approval. Such changes shall include, but not be
143 limited to, any change in the composition, officers or contact
144 information of the tire stewardship organization.

145 (h) Not later than October fifteenth of each year, each tire stewardship
146 organization shall submit an annual report to the Commissioner of
147 Energy and Environmental Protection on a form prescribed by the
148 commissioner. The commissioner shall post such annual report on the
149 Department of Energy and Environmental Protection's Internet web
150 site. Such report shall include: (1) The tonnage of tires collected
151 pursuant to the program from: (A) Municipal transfer stations, (B)
152 retailers, and (C) all other covered entities; (2) the tonnage of tires
153 diverted for recycling; (3) a summary of the public education program
154 that supports the program; (4) an evaluation of the effectiveness of
155 methods and processes used to achieve performance goals of the
156 program; and (5) recommendations for any changes to the program.

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

171 (j) Upon implementation of the tire stewardship program described
172 in this section, any covered entity that participates in such program shall
173 not charge for the receipt of discarded tires that are discarded in this
174 state, provided any such covered entity may reasonably restrict the
175 acceptance of tires by number, source or condition.

176 (k) Not later than three years after the approval of any tire
177 stewardship plan pursuant to this section, the Commissioner of Energy

178 and Environmental Protection shall submit a report, in accordance with
179 the provisions of section 11-4a of the general statutes, to the joint
180 standing committee of the General Assembly having cognizance of
181 matters relating to the environment. Such report shall provide an
182 evaluation of the applicable tire stewardship program and establish a
183 goal for the amount of discarded tires managed under such tire
184 stewardship program and a separate goal for the diversion of tires for
185 recycling, taking into consideration technical and economic feasibilities.

186 (l) Any producer and tire stewardship organization shall be immune
187 from liability for any claim of a violation of antitrust law or unfair trade
188 practice, if such conduct is a violation of antitrust law, to the extent such
189 producer or tire stewardship organization is exercising authority
190 pursuant to the provisions of this section.

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

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

206 (o) Any action brought by the Attorney General pursuant to this
207 section shall have precedence in the order of trial, as provided in section
208 52-191 of the general statutes.

209 (p) In the event that another state implements a tire stewardship or

210 recycling program, any tire stewardship organization may collaborate
 211 with such other state to conserve efforts and resources used in carrying
 212 out the tire stewardship program, provided such collaboration is
 213 consistent with the requirements of this section.

214 (q) The Commissioner of Energy and Environmental Protection may
 215 assess a reasonable fee to any tire stewardship organization, not to
 216 exceed ten per cent of total program costs, for administration of the
 217 applicable tire stewardship program.

218 (r) Any producer who fails to participate in a tire stewardship
 219 program authorized pursuant to this section shall not supply tires in this
 220 state.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2023	New section

ENV Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 24 \$	FY 25 \$
Department of Energy and Environmental Protection	GF - See Below	None	See Below

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 24 \$	FY 25 \$
Various Municipalities	Potential Savings	None	See Below

Explanation

The bill requires, by January 1, 2025, tire producers to join or create a tire stewardship organization, which must submit a plan for statewide tire stewardship to the Department of Energy and Environmental Protection (DEEP) for approval.

This could potentially result in municipal savings, beginning in FY 25, as fewer tires would be part of the municipal solid waste (MSW) stream and subject to any costs for shipping MSW out-of-state.

The extent of any municipal savings would depend on the volume of tires currently being disposed of in the MSW stream and current tip fees for each municipality.¹

¹ The fee charged by the owner or operator of a landfill for the acceptance of a unit weight or volume of [solid waste](#) for disposal, usually done by the truckload. The tipping fee is passed back along the chain of waste acceptor to hauler to generator in the form of fees or taxes. Tipping fees rise as the volume of available landfill space is depleted, or as it becomes harder.

The bill may also result in a revenue gain to DEEP, beginning during the second half of FY 25, as DEEP may assess a fee on the stewardship organization. There will additionally be costs to DEEP, also starting during the second half of FY 25, for administration of the statewide tire stewardship program, which are expected to be minimal given the limited scope of DEEP responsibilities in the bill. Revenues remitted to DEEP from the stewardship organizations would be used to cover DEEP expenses as the bill allows the agency to retain up to 10% of total tire stewardship program costs, for DEEP's administrative role.

Lastly, the bill allows DEEP to civilly enforce program requirements. This has no fiscal impact since it is expected that tire manufacturers will comply with the program, based on experience from existing paint and mattress stewardship programs.

The bill also makes other changes that have no fiscal impact to the state or municipalities.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the volume of tires removed from the MSW stream and the rate of tip fees.

OLR Bill Analysis**sHB 6486*****AN ACT CONCERNING EXTENDED PRODUCER RESPONSIBILITY FOR TIRES.*****SUMMARY**

This bill requires the establishment of a state-wide stewardship program to manage certain discarded tires that, among other things, provides free access to a collection system and ensures discarded tires are resold or recycled. It prohibits tire producers who fail to participate in a program from supplying tires in Connecticut.

The bill requires tire producers, or their designees, to join a stewardship organization that they create or select by January 1, 2025. The stewardship organization must develop a plan to implement the program which must, in turn, be submitted to the Department of Energy and Environmental Protection (DEEP) for approval.

Among other things, the plan must detail how the program will be financed, which may be through a fee structure. The bill also authorizes the DEEP commissioner to assess a reasonable fee, up to 10% of the total program costs, on a tire stewardship organization for program administration.

The bill (1) allows the DEEP commissioner to civilly enforce the program's requirements, (2) sets auditing and reporting requirements, and (3) gives immunity to producers and organizations from claims of antitrust or unfair trade practice violations under certain circumstances. It also generally allows an organization to collaborate with another state with a tire stewardship or recycling program.

EFFECTIVE DATE: October 1, 2023

TIRE PRODUCERS

The bill applies to tire “producers,” which are generally tire manufacturers if the tire brand holder is a U.S. resident. A “brand” is a name, symbol, word, or mark that attributes a tire to its producer.

If there is no manufacturer meeting the above requirement, then the following, in order, would be considered the producer:

1. an owner or licensee of a trademark under which the tire is supplied in Connecticut, regardless of trademark registration;
2. an importer of the tire for supply to a consumer; or
3. the retailer who supplies the tire to a consumer.

Under the bill, a “discarded tire” is a whole tire (including a tire on a rim) a consumer discarded, abandoned, or intends to discard or abandon. Tires the bill covers include products made primarily of rubber that are mounted on wheels of passenger or commercial motorized vehicles, whether on- or off-road, including passenger vehicles; motorcycles; trucks; buses; mobile homes; trailers; noncommercial aircraft; and earthmoving, road building, mining, logging, agricultural, industrial, and other vehicles providing mobility. The bill excludes tires from toys, bicycles, commercial aircrafts, or personal mobility devices.

To “supply” is to transfer a tire’s title for consideration, including through a sales outlet, catalog, or website or similar electronic means.

PROGRAM PURPOSES AND ESTABLISHMENT

By January 1, 2025, the bill requires producers, or their designees, to join a tire stewardship organization, which is a producer-created or -selected organization to design, submit, and implement a tire stewardship plan. The bill allows retailers to participate in the stewardship organization.

Under the bill, the tire stewardship program must, to the extent that it is technologically feasible and economically practical, establish and manage a state-wide collection system using covered entities (e.g.,

transfer stations, tire retailers, dealerships, see below) and provide for the following:

1. free public access to the collection system (i.e., drop-off) for discarded tires;
2. suitable storage containers for tires, as needed, throughout the collection system;
3. public promotion and education about the program;
4. market development, as needed, to meet performance goals; and
5. financing program activities only by producer funding.

The program must also ensure that discarded tires are (1) picked up from the collection system and transported for recycling and (2) resold or recycled. Under the bill, “recycling” includes any process in which discarded tire parts and by-products may lose their original identity or form as they are transformed into new, usable, or marketable materials. But it specifies that recycling does not include incineration or use as fuel or fuel supplement.

“Covered entities” include permitted transfer stations, tire retailers, car dealerships, automotive garages, public or private fleet maintenance garages, and other locations identified in the plan.

PLAN DEVELOPMENT AND SUBMISSION

By the same date (January 1, 2025), a tire stewardship organization must submit a plan to establish a statewide tire stewardship program to the DEEP commissioner for approval.

The plan must:

1. identify each participating producer;
2. describe program’s financing and public education program;
3. establish performance goals for the program’s first two years (see

- below);
4. describe the industry transition timeline needed to achieve the performance goals and how it will use, to the greatest extent economically feasible, existing service providers and infrastructure in Connecticut;
 5. identify proposed program facilities for collection, transportation, and recycling; and
 6. detail how the program (a) follows the state's solid waste hierarchy (see BACKGROUND) and (b) will promote sustainability and recycling discarded tires to higher value products.

Under the bill, a stewardship organization must establish and implement a system to finance the program that covers, but does not exceed, the costs to (1) develop the plan, (2) operate and administer the program, and (3) maintain a financial reserve sufficient to operate the program for six months. The organization's proposed "performance goals" are annual outcomes that measure the program's performance including collection and diversion rates, economic and environmental benefits, beneficial recycling uses and targets, public education and participation, and any other specified goal.

PLAN APPROVAL AND IMPLEMENTATION

The bill requires the DEEP commissioner to determine whether to approve the plan for the tire stewardship program within 90 days after its submission, but after she posts the plan on the department's website and solicits public comments. The bill specifies that the solicitation must not be done in accordance with the Uniform Administrative Procedure Act.

The commissioner must approve a plan if it meets the bill's program, plan, and financing requirements. If the commissioner disapproves the plan, she must give the stewardship organization a notice of determination describing her reasons. The organization must revise and

resubmit its plan within 45 days after receiving the disapproval notice. The commissioner must review and either approve or disapprove a revised plan within 45 days after receiving it and give a notice of determination to the organization. The bill restricts resubmitting a revised plan for approval to no more than two occasions. If the organization fails to provide an acceptable plan, the commissioner must modify its submitted plan to conform with the requirements.

The bill requires the stewardship organization to implement the tire stewardship program within 120 days after plan approval.

CHANGES TO A PLAN

The bill requires a stewardship organization to submit substantial proposed plan changes to the DEEP commissioner for approval. Under the bill, a “substantial change” is a (1) change in the processing facilities used for collected discarded tires or (2) material change to the system for collecting them. The bill has no deadline by which the commissioner must approve a substantial change by the stewardship organization.

The bill also requires an organization to notify the commissioner of other material program changes on an ongoing basis and without resubmitting the plan for approval. These changes include things such as changes to the organization’s composition, officers, or contact information.

The bill requires an organization to submit updated performance goals to the commissioner two years after the program’s implementation. The updated goals must be based on the program’s experience during those first two years.

TIRE COLLECTION FEES

Once the program is implemented, the bill prohibits participating covered entities from charging for the receipt of tires discarded in Connecticut. However, it allows them to reasonably restrict accepting tires by number, source, or condition.

AUDIT REQUIREMENTS

Program Audits

Two years after program implementation, and then every three years, an organization must pay for a program audit by a commissioner-selected auditor. The bill also allows the commissioner to request an audit, but it does not permit more than one audit per year. The audit must (1) review the accuracy of the organization's program data and (2) provide any other program-related information the commissioner requests, but not any proprietary information or trade or business secrets.

The bill requires an organization to maintain all program records for at least three years.

Audited Financial Statements

Existing law requires any product stewardship organization operating in the state to, annually by May 1, submit to DEEP certified audited financial statements and the name of any contractor or organization that has a contract with it valued at \$2,000 or more. DEEP must post and maintain the information on its website (CGS § 22a-905g). This requirement also applies to a tire stewardship organization.

REPORTING REQUIREMENTS**Stewardship Organization**

Annually by October 15, the bill requires a stewardship organization to submit a report to the DEEP commissioner, on a form she prescribes, with the following information:

1. tonnage of tires collected from municipal transfer stations, retailers, and all other covered entities;
2. tonnage of tires diverted for recycling;
3. a summary of the program's public education efforts;
4. an evaluation of the effectiveness of methods and processes used to achieve program performance goals; and

5. recommendations for any program changes.

The report must then be posted on the department's website.

DEEP

Within three years after a plan's approval, the DEEP commissioner must submit a report to the Environment Committee that evaluates the program. The report must also set goals for (1) the amount of discarded tires managed under the program and (2) diverting tires for recycling, considering technical and economic feasibilities.

CIVIL PENALTIES

The bill authorizes the DEEP commissioner to civilly enforce the program's requirements under her existing authority.

It allows the commissioner to ask the attorney general to bring an action for injunctive relief in the New Britain Superior Court if she believes that a person has engaged in, or is about to engage in, any act, practice, or omission that violates the program's requirements. It permits the court to issue a permanent or temporary injunction, restraining order, or other appropriate order, including remedial measures and directing compliance. The bill requires that these actions by the attorney general take precedence over other actions in the order of trial.

LIABILITY PROTECTION

Under the bill, to the extent a producer or an organization is exercising authority according to the bill's provisions, it is immune from liability for any antitrust or unfair trade practice claim based on a violation of antitrust law.

INTERSTATE COLLABORATION

The bill allows a stewardship organization to collaborate with another state that has a similar tire stewardship or recycling program to conserve efforts and resources. However, the collaboration must be consistent with the bill's requirements.

BACKGROUND

Solid Waste Hierarchy

Connecticut’s Comprehensive Materials Management Strategy (i.e., the revised state-wide Solid Waste Management Plan) uses a hierarchy as a guide for solid waste management efforts. The hierarchy emphasizes source reduction, recycling, composting, and energy recovery. It lists landfilling and incineration as last resorts for solid waste disposal.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 27 Nay 6 (03/24/2023)