



**PA 23-62**—sHB 6486  
*Environment Committee*

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

**SUMMARY:** This act requires the establishment of a statewide 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 act requires tire producers, or their designees, to join a tire stewardship organization that they create or select by January 1, 2025. The 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 act also authorizes the DEEP commissioner to assess a reasonable fee, up to 10% of the total program costs, on tire stewardship organizations for program administration.

The act (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.

Lastly, the act requires the Department of Transportation (DOT) commissioner to do needed laboratory testing related to a pilot program on using tire-derived asphalt on primary state roadways throughout the state. By January 1, 2025, the DOT commissioner must submit a report to the Environment Committee on the efficacy and suitability of using tire-derived asphalt on these roadways. The report must include (1) a recommendation on its use and (2) an estimate of the volume or number of tires needed to sustain any recommended use.

**EFFECTIVE DATE:** October 1, 2023, except the DOT pilot program and reporting provisions are effective upon passage.

### **TIRE PRODUCERS**

The act 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;

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2. an importer of the tire for supply to a consumer; or
3. the retailer who supplies the tire to a consumer.

Under the act, 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 act covers include products made primarily of rubber that are mounted on wheels of passenger or commercial motorized vehicles, whether on- or off-road; motorcycles; trucks; buses; mobile homes; trailers; noncommercial aircraft; and earthmoving, road building, mining, logging, agricultural, industrial, and other vehicles providing mobility. The act excludes tires from toys, bicycles, commercial aircraft, and 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 act 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. It allows retailers to participate in the stewardship organization.

Under the act, the tire stewardship program must, to the extent that it is technologically feasible and economically practical, establish and manage a statewide 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 with 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 act, “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. It may include the use of tires or processed materials that are incinerated out-of-state or used as a 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), each 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 the program’s financing and public education program;

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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 act, the 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 act 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 act specifies that the solicitation must not be done under the Uniform Administrative Procedure Act.

The commissioner must approve a plan if it meets the act'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 act 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 and approve it.

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

### CHANGES TO A PLAN

The act requires stewardship organizations to submit substantial proposed plan changes to the DEEP commissioner for approval. Under the act, 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 act has no deadline by which the commissioner must approve the change.

Organizations must notify the commissioner of other material program changes

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on an ongoing basis and without resubmitting the plan for approval. These include things such as changes to the organization's composition, officers, or contact information. They must also 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 act 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*

The act requires organizations, starting two years after program implementation, and then every three years, to pay for a program audit by a commissioner-selected auditor. The commissioner may request an audit, but no 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.

Organizations must 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 tire stewardship organizations.

### REPORTING REQUIREMENTS

#### *Stewardship Organizations*

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

1. the tonnage of tires collected from municipal transfer stations, retailers, and all other covered entities;
2. the 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

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5. recommendations for any program changes.

The commissioner must post these reports on the department's website.

### *DEEP*

Within three years after a plan's approval, the DEEP commissioner must give the Environment Committee a report 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 act 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. The court may issue a permanent or temporary injunction, restraining order, or other appropriate order, including remedial measures and directing compliance. These actions by the attorney general take precedence over other actions in the order of trial.

### LIABILITY PROTECTION

Under the act, to the extent a producer or an organization is exercising authority according to the act'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 act 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 act's requirements.

### BACKGROUND

#### *Solid Waste Hierarchy*

Connecticut's Comprehensive Materials Management Strategy (i.e., the revised statewide 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.