

1 AN ACT in relation to environmental matters.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 5. The Environmental Protection Act is amended  
5 by changing Sections 54.12, 54.13, and 55.3 as follows:

6 (415 ILCS 5/54.12) (from Ch. 111 1/2, par. 1054.12)  
7 Sec. 54.12. "Tire storage site" means a site where used  
8 tires are stored or processed, other than (1) the site at  
9 which the tires were separated from the vehicle wheel rim,  
10 (2) the site where the used tires were accepted in trade as  
11 part of a sale of new tires, or (3) a site at which ~~both--new~~  
12 ~~and--used~~ tires are sold at retail in the regular course of  
13 business, and at which not more than 250 used tires are kept  
14 at any time or (4) a facility at which tires are sold at  
15 retail provided that the facility maintains less than 1300  
16 recyclable tires, 1300 tire carcasses, and 1300 used tires on  
17 site and those tires are stored inside a building or so that  
18 they are prevented from accumulating water.  
19 (Source: P.A. 89-200, eff. 1-1-96.)

20 (415 ILCS 5/54.13) (from Ch. 111 1/2, par. 1054.13)  
21 Sec. 54.13. "Used tire" means a worn, damaged, or  
22 defective tire that ~~which~~ is not mounted on a vehicle wheel  
23 rim.  
24 (Source: P.A. 86-452.)

25 (415 ILCS 5/55.3) (from Ch. 111 1/2, par. 1055.3)  
26 Sec. 55.3. (a) Upon finding that an accumulation of used  
27 or waste tires creates an immediate danger to health, the  
28 Agency may take action pursuant to Section 34 of this Act.  
29 (b) Upon making a finding that an accumulation of used

1 or waste tires creates a hazard posing a threat to public  
2 health or the environment, the Agency may undertake  
3 preventive or corrective action in accordance with this  
4 subsection. Such preventive or corrective action may consist  
5 of any or all of the following:

6 (1) Treating and handling used or waste tires and  
7 other infested materials within the area for control of  
8 mosquitoes and other disease vectors.

9 (2) Relocation of ignition sources and any used or  
10 waste tires within the area for control and prevention of  
11 tire fires.

12 (3) Removal of used and waste tire accumulations  
13 from the area.

14 (4) Removal of soil and water contamination related  
15 to tire accumulations.

16 (5) Installation of devices to monitor and control  
17 groundwater and surface water contamination related to  
18 tire accumulations.

19 (6) Such other actions as may be authorized by  
20 Board regulations.

21 (c) The Agency may, subject to the availability of  
22 appropriated funds, undertake a consensual removal action for  
23 the removal of up to 1,000 used or waste tires at no cost to  
24 the owner according to the following requirements:

25 (1) Actions under this subsection shall be taken  
26 pursuant to a written agreement between the Agency and  
27 the owner of the tire accumulation.

28 (2) The written agreement shall at a minimum  
29 specify:

30 (i) that the owner relinquishes any claim of  
31 an ownership interest in any tires that are removed,  
32 or in any proceeds from their sale;

33 (ii) that tires will no longer be allowed to  
34 be accumulated at the site;

1 (iii) that the owner will hold harmless the  
2 Agency or any employee or contractor utilized by the  
3 Agency to effect the removal, for any damage to  
4 property incurred during the course of action under  
5 this subsection, except for gross negligence or  
6 intentional misconduct; and

7 (iv) any conditions upon or assistance  
8 required from the owner to assure that the tires are  
9 so located or arranged as to facilitate their  
10 removal.

11 (3) The Agency may by rule establish conditions and  
12 priorities for removal of used and waste tires under this  
13 subsection.

14 (4) The Agency shall prescribe the form of written  
15 agreements under this subsection.

16 (d) The Agency shall have authority to provide notice to  
17 the owner or operator, or both, of a site where used or waste  
18 tires are located and to the owner or operator, or both, of  
19 the accumulation of tires at the site, whenever the Agency  
20 finds that the used or waste tires pose a threat to public  
21 health or the environment, or that there is no the owner or  
22 operator, or both, is not proceeding in accordance with a  
23 tire removal agreement approved under Section 55.4.

24 The notice provided by the Agency shall include the  
25 identified preventive or corrective action, and shall provide  
26 an opportunity for the owner or operator, or both, to perform  
27 such action.

28 For sites with more than 250,000 passenger tire  
29 equivalents, following the notice provided for by this  
30 subsection (d), the Agency may enter into a written  
31 reimbursement agreement with the owner or operator of the  
32 site. The agreement shall provide a schedule for the owner  
33 or operator to reimburse the Agency for costs incurred for  
34 preventive or corrective action, which shall not exceed 5

1 years in length. An owner or operator making payments under a  
2 written reimbursement agreement pursuant to this subsection  
3 (d) shall not be liable for punitive damages under subsection  
4 (h) of this Section.

5 (e) In accordance with constitutional limitations, the  
6 Agency shall have authority to enter at all reasonable times  
7 upon any private or public property for the purpose of taking  
8 whatever preventive or corrective action is necessary and  
9 appropriate in accordance with the provisions of this  
10 Section, including but not limited to removal, processing or  
11 treatment of used or waste tires, whenever the Agency finds  
12 that used or waste tires pose a threat to public health or  
13 the environment.

14 (f) In undertaking preventive, corrective or consensual  
15 removal action under this Section the Agency may consider use  
16 of the following: rubber reuse alternatives, shredding or  
17 other conversion through use of mobile or fixed facilities,  
18 energy recovery through burning or incineration, and landfill  
19 disposal. To the extent practicable, the Agency shall  
20 consult with the Department of Commerce and Community Affairs  
21 regarding the availability of alternatives to landfilling  
22 used and waste tires, and shall make every reasonable effort  
23 to coordinate tire cleanup projects with applicable programs  
24 that relate to such alternative practices.

25 (g) Except as otherwise provided in this Section, the  
26 owner or operator of any site or accumulation of used or  
27 waste tires at which the Agency has undertaken corrective or  
28 preventive action under this Section shall be liable for all  
29 costs thereof incurred by the State of Illinois, including  
30 reasonable costs of collection. Any monies received by the  
31 Agency hereunder shall be deposited into the Used Tire  
32 Management Fund. The Agency may in its discretion store,  
33 dispose of or convey the tires that are removed from an area  
34 at which it has undertaken a corrective, preventive or

1 consensual removal action, and may sell or store such tires  
2 and other items, including but not limited to rims, that are  
3 removed from the area. The net proceeds of any sale shall be  
4 credited against the liability incurred by the owner or  
5 operator for the costs of any preventive or corrective  
6 action.

7 (h) Any person liable to the Agency for costs incurred  
8 under subsection (g) of this Section may be liable to the  
9 State of Illinois for punitive damages in an amount at least  
10 equal to, and not more than 2 times, the costs incurred by  
11 the State if such person failed without sufficient cause to  
12 take preventive or corrective action pursuant to notice  
13 issued under subsection (d) of this Section.

14 (i) There shall be no liability under subsection (g) of  
15 this Section for a person otherwise liable who can establish  
16 by a preponderance of the evidence that the hazard created by  
17 the tires was caused solely by:

- 18 (1) an act of God;
- 19 (2) an act of war; or
- 20 (3) an act or omission of a third party other than  
21 an employee or agent, and other than a person whose act  
22 or omission occurs in connection with a contractual  
23 relationship with the person otherwise liable.

24 For the purposes of this subsection, "contractual  
25 relationship" includes, but is not limited to, land  
26 contracts, deeds and other instruments transferring title or  
27 possession, unless the real property upon which the  
28 accumulation is located was acquired by the defendant after  
29 the disposal or placement of used or waste tires on, in or at  
30 the property and one or more of the following circumstances  
31 is also established by a preponderance of the evidence:

- 32 (A) at the time the defendant acquired the  
33 property, the defendant did not know and had no  
34 reason to know that any used or waste tires had been

1 disposed of or placed on, in or at the property, and  
2 the defendant undertook, at the time of acquisition,  
3 all appropriate inquiries into the previous  
4 ownership and uses of the property consistent with  
5 good commercial or customary practice in an effort  
6 to minimize liability;

7 (B) the defendant is a government entity which  
8 acquired the property by escheat or through any  
9 other involuntary transfer or acquisition, or  
10 through the exercise of eminent domain authority by  
11 purchase or condemnation; or

12 (C) the defendant acquired the property by  
13 inheritance or bequest.

14 (j) Nothing in this Section shall affect or modify the  
15 obligations or liability of any person under any other  
16 provision of this Act, federal law, or State law, including  
17 the common law, for injuries, damages or losses resulting  
18 from the circumstances leading to Agency action under this  
19 Section.

20 (k) The costs and damages provided for in this Section  
21 may be imposed by the Board in an action brought before the  
22 Board in accordance with Title VIII of this Act, except that  
23 subsection (c) of Section 33 of this Act shall not apply to  
24 any such action.

25 (l) The Agency shall, when feasible, consult with the  
26 Department of Public Health prior to taking any action to  
27 remove or treat an infested tire accumulation for control of  
28 mosquitoes or other disease vectors. The Agency may by  
29 contract or agreement secure the services of the Department  
30 of Public Health, any local public health department, or any  
31 other qualified person in treating any such infestation as  
32 part of an emergency or preventive action.

33 (m) Neither the State, the Agency, the Board, the  
34 Director, nor any State employee shall be liable for any

1 damage or injury arising out of or resulting from any action  
2 taken under this Section.

3 (Source: P.A. 89-445, eff. 2-7-96.)