~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

January 16, 2020

**H. 4504**

Introduced by Reps. Davis, Daning, Moore, Matthews, Hiott, Forrest and Hixon

S. Printed 1/16/20--H.

Read the first time April 30, 2019.

**THE COMMITTEE ON AGRICULTURE, NATURAL**

**RESOURCES AND ENVIRONMENTAL AFFAIRS**

To whom was referred a Bill (H. 4504) to amend Section 44‑96‑100, Code of Laws of South Carolina, 1976, relating in part to penalties for violating waste tire regulations, so as to change, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking SECTION 3 in its entirety.

Renumber sections to conform.

Amend title to conform.

DAVID R. HIOTT for Committee.

**A** **BILL**

TO AMEND SECTION 44‑96‑100, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING IN PART TO PENALTIES FOR VIOLATING WASTE TIRE REGULATIONS, SO AS TO CHANGE CERTAIN PENALTY REQUIREMENTS; TO AMEND SECTION 44‑96‑170, RELATING TO THE REGULATION OF WASTE TIRES, SO AS TO AUTHORIZE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO PROMULGATE REGULATIONS AND MAKE CERTAIN PERMITTING DECISIONS CONCERNING WASTE TIRE MANAGEMENT; TO AMEND SECTION 44‑96‑450, RELATING TO PENALTIES FOR VIOLATION OF CERTAIN STATE SOLID WASTE MANAGEMENT LAWS, SO AS TO CHANGE CERTAIN PENALTY REQUIREMENTS; AND FOR OTHER PURPOSES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 44‑96‑100(B) of the 1976 Code is amended to read:

“(B) A person who wilfully or with gross negligence or recklessness violates a permit, permit condition, or final determination or order of the department, or a regulation promulgated pursuant to this article regarding Sections 44‑96‑160(X), 44‑96‑170(H), or 44‑96‑190(A) is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars for each day of violation or imprisoned for not more than one year, or both. If the conviction is for a second or subsequent offense, the punishment must be a fine not to exceed twenty‑five thousand dollars for each day of violation or imprisonment not to exceed two years, or both. The provisions of the subsection do not apply to officials and employees of a local government owning or operating, or both, a municipal solid waste management facility or to officials and employees of a region, comprised of local governments, owning or operating, or both, a regional municipal solid waste management facility.”

SECTION 2. Section 44‑96‑170(J) and (O) of the 1976 Code is amended to read:

“(J)(1) Not later than twelve months after this chapter is effective, the department shall promulgate regulations requiring all collectors, processors, recyclers, haulers, and disposers of waste tires to obtain a permit or registration issued by the department.

(2) The regulations promulgated pursuant to this subsection must set forth the requirements for the issuance, denial, suspension, and revocation of such permits or registrations.

(3) After the effective date of the regulations promulgated pursuant to this subsection, a person shall not collect, haul, recycle, or process waste tires unless that person has obtained a permit or registration from the department for that activity or, for an interim period to be determined by the department, is seeking a permit or registration from the department for that activity.

(4) To carry out the purposes and provisions of this section, the department is authorized to:

(a) promulgate such regulations, procedures, or standards as are necessary to protect human health and safety of the environment from the adverse effects of improper, inadequate, or unsound management of waste tires;

(b) issue, deny, suspend, revoke, or modify permits, registrations, or orders under such conditions as the department may prescribe, pursuant to procedures consistent with the South Carolina Administrative Procedures Act, for the management of waste tires; and

(c) conduct inspections and investigations, obtain records of waste tire processing, storage, or hauling activities, obtain samples, and conduct research regarding the operation and maintenance of any waste tire management facility.

(5)(a) The department shall suspend a waste tire processing facility from accepting waste tires when the department determines that the permitted capacity at the facility is exceeded, and after the facility has been provided an opportunity to return to compliance.

(b) Once the department determines that the permitted capacity at the facility is exceeded, the department shall provide a written warning notice to the facility that the permitted capacity has been exceeded and provide seven calendar days to reduce the number of tires at the facility to the permitted limit.

(c) If after seven calendar days the facility has not reduced the number of tires at the facility to the permitted limit, the department will provide written notice to the facility requiring it to cease accepting tires and to reduce the quantity of waste tires and processed tires on‑site to no more than eighty percent of the permitted capacity within twenty‑one calendar days of receipt of the notice.

(d) If after the twenty‑one‑day period the facility fails to comply with the requirements of the written notice as verified by the department, the department shall suspend the facility’s permit via written notice to the facility and shall remove the permitted facility from the Waste Tire Rebate Facility List pursuant to subsection (O).

(e) The suspension shall remain in effect until the facility has reduced the quantity of waste tires and processed tires on‑site to no more than eighty percent of its permitted capacity, as determined by the facility, and verified by the department.

(f) The department shall lift the permit suspension and return the facility to the Waste Tire Rebate Facility List pursuant to the following:

(i) upon verification by the department that the facility has reduced the total quantity of waste tires and processed tires on‑site to no more than eighty percent of its permitted capacity; and

(ii) if, upon referenced verification, the facility does not have any additional citations for material violations that remain unresolved.

(g) The permitted facility shall not receive additional waste tires at the facility until the facility has received written notification from the department that the permit suspension has been lifted. However, during the permit suspension, the permitted facility may continue to process tires and sell product.

(h) Each waste tire accepted by the facility during a suspension period shall be deemed a separate violation and may be deemed a wilful violation subject to the provisions of Section 44‑96‑100(B).

(O)(1) A wholesaler or retailer required to submit a fee pursuant to subsection (N) who delivers or arranges delivery of waste tires to a ~~permitted or approved waste tire recycling facility, or a permitted or approved waste tire processing facility which processes waste tires before recycling~~ facility listed on the Waste Tire Rebate Facility List, may apply for a refund of one dollar for each tire delivered. If waste tires generated in this State, on which a fee has been paid, are delivered to a waste tire facility located outside this State, a wholesaler or retailer may apply for a refund of one dollar per tire delivered if the receiving facility is ~~permitted or approved by the host state as a waste tire recycling facility or a waste tire processing facility which processes waste tires before recycling~~ listed on the Waste Tire Rebate Facility List; in no case may a refund be approved for a number of tires delivered in excess of the number of new tires sold by the individual wholesaler or retailer. Verification must be provided as required by the South Carolina State Department of Revenue. All refunds made pursuant to this subsection must be charged against the appropriate county’s distributions under subsection (N).

(2) The department shall maintain the list of facilities known as the Waste Tire Rebate Facility List.

(3) The Waste Tire Rebate Facility List shall include department‑permitted waste tire processing facilities that fulfill the requirements of a waste tire recycling facility, as defined in Section 44‑96‑40(68)(d), and facilities located outside of South Carolina that are permitted or approved by the host state and that also fulfill the requirements of a waste tire recycling facility, as defined in Section 44‑96‑40(68)(d).

(4) The department shall remove from the Waste Tire Rebate Facility List any facility whose permit has been revoked or suspended, until the permit has been reinstated by the department or host state.”

SECTION 3. Section 44‑96‑450(B) of the 1976 Code is amended to read:

“(B) A person who wilfully or with gross negligence or recklessness violates any provision of this article, ~~or~~ a regulation promulgated pursuant to this article, or a permit, permit condition, or final determination or order of the department is guilty of a misdemeanor and, upon conviction, shall be fined not more than ten thousand dollars for each day of violation or imprisoned for not more than one year, or both. If the conviction is for a second or subsequent offense, the punishment shall be a fine not to exceed twenty‑five thousand dollars for each day of violation or imprisonment not to exceed two years, or both. The provisions of this subsection shall not apply to officials and employees of a local government owning or operating, or both, a municipal solid waste management facility or to officials and employees of a region, comprised of local governments, owning or operating, or both, a regional municipal solid waste management facility.”

SECTION 4. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 5. This act takes effect upon approval by the Governor.

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