

54:32F-1

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2004 **CHAPTER:** 46
NJSA: 54:32F-1 (Local tire management program)
BILL NO: A3106 (Substituted for S1660)
SPONSOR(S): Quigley

DATE INTRODUCED: June 14, 2004

COMMITTEE: **ASSEMBLY:** Budget
SENATE ----

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** June 24,2004
SENATE: June 24, 2004

DATE OF APPROVAL: June 29, 2004

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Assembly Committee Substitute enacted)

A3106

[SPONSOR'S STATEMENT:](#) (Begins on page 5 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

S1660

[SPONSOR'S STATEMENT:](#) (Begins on page 5 of original bill) [Yes](#)

Bill and Sponsors Statement identical to A3106

COMMITTEE STATEMENT: **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

Identical to Assembly Statement to A3106

FLOOR AMENDMENT STATEMENT: No

[LEGISLATIVE FISCAL ESTIMATE:](#) [Yes](#)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

P.L. 2004, CHAPTER 46, *approved June 29, 2004*
Assembly Committee Substitute for
Assembly, No. 3106

1 **AN ACT** establishing a local tire management program and imposing
2 a fee on the purchase of new motor vehicle tires and supplementing
3 Title 54 and Title 13 of the Revised Statutes.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. a. As used in this section:

9 "Division" means the Division of Taxation in the Department of the
10 Treasury;

11 "Director" means the Director of the Division of Taxation in the
12 Department of the Treasury;

13 "Motor vehicle" includes any vehicle propelled otherwise than by
14 muscular power, including trailers and semi trailers, or any other type
15 of vehicle drawn by a motor vehicle, designed for use on the public
16 highways, but excepting a vehicles that runs only upon rails or tracks;

17 "New motor vehicle tire" shall not include a recapped tire;

18 "Tire" means a continuous covering encircling a wheel for a motor
19 vehicle in which a person or property is or may be transported or
20 which is or may be drawn upon a road or highway; and

21 "Vendor" means any entity engaged in the retail sale of new motor
22 vehicle tires, the retail sale of new motor vehicle tires sold as a
23 component part of a motor vehicle, and the purchase for lease or rental
24 of new motor vehicle tires transferred as a component part of a leased
25 motor vehicle.

26 b. There is imposed on the purchaser a fee of \$1.50 upon the sale
27 of a new motor vehicle tire if: that sale is subject to the sales tax
28 imposed pursuant the "Sales and Use Tax Act," P.L.1966, c.30
29 (C.54:32B-1), including new motor vehicle tires sold as a component
30 part of a motor vehicle if the sale of the motor vehicle is subject to the
31 sales tax and new motor vehicle tires transferred as a component part
32 of the lease of a motor vehicle if the purchase for lease of the motor
33 vehicle is subject to the sales tax. The fee imposed under this section
34 shall be collected by the vendor and, except in the case of vendors
35 engaged in the retail sale of new motor vehicle tires sold as a
36 component part of a motor vehicle, and in the lease or rental of new
37 motor vehicle tires transferred as a component part of a leased motor
38 vehicle, shall be separately stated on any bill, receipt, invoice or similar

1 document provided to the purchaser, but shall not be considered part
2 of the receipt for purpose of determining tax pursuant to P.L.1966,
3 c.30.

4 c. The fee shall not be imposed on the sale of a new motor vehicle
5 tire, including new motor vehicle tires sold as a component part of a
6 motor vehicle or transferred as a component part of a leased motor
7 vehicle, if the purchaser or transferee is exempt from the tax imposed
8 under the "Sales and Use Tax Act" pursuant to subsection (a) or (b)
9 of section 9 of P.L.1966, c.30 (C.54:32B-9).

10 d. Each person required to collect the fee imposed by this section
11 shall be personally liable for the fee imposed, collected or required to
12 be collected under this section. Any such person shall have the same
13 right in respect to collecting the fee from a purchaser as if the fee
14 were a part of the sales price and payable at the same time.

15 e. In carrying out the provisions of this section, the director shall
16 have all of the powers and authority granted in P.L.1966, c.30
17 (C.54:32B-1 et seq.). The fee shall be filed and paid in a manner
18 prescribed by the director. The director shall promulgate such rules
19 and regulations as the director determines are necessary to effectuate
20 the provisions of this section.

21 f. The fee imposed by this section shall be governed by the
22 provisions of the State Uniform Tax Procedure Law, R.S.54:48-1 et
23 seq.

24 g. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1
25 et seq.) to the contrary, the director may adopt immediately upon filing
26 with the Office of Administrative Law such regulations as the director
27 deems necessary to implement the provisions of this act, which shall
28 be effective for a period not to exceed 180 days following enactment
29 of P.L. , c. (C.) (now pending before the Legislature as this
30 bill) and may thereafter be amended, adopted or readopted by the
31 director in accordance with the requirements of P.L.1968, c.410.

32
33 2. After the Division of Taxation in the Department of the
34 Treasury is reimbursed for costs incurred in the collection of the fee
35 imposed pursuant to section 1 of P.L. , c. (C.) (now pending
36 before the Legislature as this bill), the first \$2.3 million collected in
37 each fiscal year shall be deposited in the Tire Management and
38 Cleanup Fund, established pursuant to section 3 of P.L. , c.
39 (C.) (now pending before the Legislature as this bill). Any
40 additional revenue collected shall be available for appropriation to the
41 Department of Transportation to support snow removal operations.

42
43 3. There is established the Tire Management and Cleanup Fund as
44 a nonlapsing fund in the Department of Environmental Protection in
45 which shall be annually deposited the sum provided pursuant to
46 section 2 of P.L. , c. (C.) (now pending before the Legislature

1 as this bill) and any recoveries made pursuant to subsection c. of
2 section 4 of P.L. , c. (C.) (now pending before the Legislature as
3 this bill).

4
5 4. a. There is established in the Department of Environmental
6 Protection a Local Tire Management Program for the proper cleanup
7 of abandoned tire piles and to provide grants to counties and
8 municipalities for proper cleanup of abandoned tire piles within their
9 respective jurisdictions.

10 b. The department may enter any property, facility, premises or
11 site for the purpose of conducting inspections, sampling of soil or
12 water, copying or photocopying documents or records, and otherwise
13 determining if tires may be illegally accumulated.

14 c. The department shall recover to the use of the Tire
15 Management and Cleanup Fund from the site owner or the person
16 responsible for the accumulation of tires at the site, jointly and
17 severally, all sums expended from the fund to manage tires at an illegal
18 waste tire site, except that the department may decline to pursue such
19 recovery if it finds the amount involved too small or the likelihood of
20 recovery too uncertain.

21 d. The department may impose a lien on the real property on
22 which the waste tire site is located equal to the estimated cost to bring
23 the tire site into compliance, including attorney's fees and court costs.
24 An owner whose property has such a lien imposed may release that
25 property from a lien claimed under this subsection by filing with the
26 clerk of the Superior Court a cash or surety bond, payable to the
27 department in the amount of the estimated cost of bringing the tire site
28 into compliance with department rules, including attorney's fees and
29 court costs, or the value of the property after the abatement action is
30 complete, whichever is less.

31 e. This section does not limit the use of other remedies available
32 to the department.

33 f. The Commissioner of the Department of Environmental
34 Protection may adopt any rules and regulations necessary for the
35 implementation of this section.

36
37 5. This act shall take effect on August 1, 2004.
38
39
40

41 _____
42 Creates local tire management program and establishes a fee on new
43 tire purchases.

ASSEMBLY, No. 3106

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED JUNE 14, 2004

Sponsored by:

Assemblywoman JOAN M. QUIGLEY

District 32 (Bergen and Hudson)

SYNOPSIS

Imposes a fee on the sale of new motor vehicle tires.

CURRENT VERSION OF TEXT

As introduced.



A3106 QUIGLEY

2

1 AN ACT concerning motor vehicle tires, and supplementing Title 13 of
2 the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. As used in this act:

8 "Department" means the Department of Environmental Protection.

9 "Division" means the Division of Taxation in the Department of the
10 Treasury.

11 "Director" means the Director of the Division of Taxation in the
12 Department of the Treasury.

13 "Motor vehicle" includes all vehicles propelled otherwise than by
14 muscular power, excepting such vehicles as run only upon rails or
15 tracks and motorized bicycles.

16 "Person" means any individual or business concern.

17 "Scrap tire" means a motor vehicle tire that is no longer suitable for
18 its original intended purpose because of wear, damage, or defect, and
19 which is frequently discarded in an unlawful manner.

20 "Sold within the State" or "sales within the State" means all sales
21 of retailers engaged in business within the State and, in the case of
22 manufacturers, wholesalers and distributors, all sales of products for
23 use and consumption within the State. It shall be presumed that all
24 sales of manufacturers, wholesalers and distributors sold within the
25 State are for use and consumption within the State unless it is
26 determined by the director that the products are shipped out of State
27 for out-of-State use.

28

29 2. a. There is imposed upon each person engaged in business in
30 the State a fee of \$1.50 for each new motor vehicle tire sold at retail
31 within the State. The fee imposed under this section shall be stated
32 separately on the invoice to the purchaser. For the purposes of this
33 section, a motor vehicle tire sold at retail shall include such tires when
34 sold as a component part of a new motor vehicle or whenever new
35 tires are installed on a used motor vehicle prior to that vehicle being
36 offered for sale.

37 b. The fee imposed under this section shall not apply to sales within
38 the State of new motor vehicle tires to a person solely for the purpose
39 of resale provided the subsequent retail sale within the State is subject
40 to the fee. The fee imposed under this section shall not apply to
41 recapped tires.

42 c. Every person subject to the fee on the sale of new motor vehicle
43 tires imposed pursuant to subsection a. of this section shall, on or
44 before March 15 of each year, prepare and file a return, under oath,
45 for the preceding calendar year with the director on forms and
46 containing any information as the director shall prescribe. The return

A3106 QUIGLEY

1 shall indicate the dollar value of the sales within the State of new
2 motor vehicle tires and at the same time the person shall pay the full
3 amount of fees due.

4 d. If a return required by this section is not filed, or if a return
5 when filed is incorrect or insufficient in the opinion of the director, the
6 amount of fees due shall be determined by the director based on
7 collections from the person liable for the payment of the fees during
8 the previous five years. Notice of the determination shall be given to
9 the person liable for the payment of the fees. The determination shall
10 finally and irrevocably fix the fees unless the person against whom it
11 is assessed, within 90 days after the giving of the notice of the
12 determination, shall file a protest in writing as provided in
13 R.S.54:49-18 and request a hearing, or unless the director on the
14 director's own motion shall redetermine the same. After the hearing
15 the director shall give notice of the determination to the person to
16 whom the fees are assessed.

17 e. Any person who shall fail to file a return when due or to pay any
18 fee when the fee becomes due, as herein provided, shall be subject to
19 such penalties and interest as may be provided by law. If the director
20 determines that the failure to comply with any provision of this section
21 was excusable under the circumstances, the director may remit any
22 part of the penalty as shall be appropriate under the circumstances.

23 f. In addition to the other powers granted by this section, the
24 director may:

25 (1) Delegate to any officer or employee of the division those
26 powers and duties as the director may deem necessary to carry out
27 efficiently the provisions of this section, and the person or persons to
28 whom the powers have been delegated shall possess and may exercise
29 all of the powers and perform all of the duties delegated by the
30 director;

31 (2) Prescribe and distribute all necessary forms for the
32 implementation of this section; and

33 (3) Adopt any rules and regulations necessary for the
34 implementation of this section.

35 g. Notwithstanding the provisions of subparagraph (C) of
36 paragraph (2) of subsection (k) of section 4 of P.L.1945, c.162
37 (C.54:10A-4), if any, to the contrary, any deduction of the fee imposed
38 pursuant to subsection a. of this section allowed in computing a
39 taxpayer's taxable income which the taxpayer is required to report to
40 the United States Treasury Department for the purpose of computing
41 its federal taxable income shall be allowed in determining the
42 taxpayer's "entire net income" pursuant to subsection (k) of section 4
43 of P.L.1945, c.162 (C.54:10A-4).

44 h. The fee imposed pursuant to this section shall be governed in all
45 respects by the provisions of the "State Tax Uniform Procedure Law,"
46 R.S.54:48-1 et seq., except only to the extent that a specific provision
47 of this section may be in conflict therewith.

A3106 QUIGLEY

1 3. The Tire Management and Cleanup Fund is established as a
2 nonlapsing, revolving fund in the Department of the Treasury. The
3 Tire Management and Cleanup Fund shall be administered by the
4 Department of Environmental Protection and credited, in addition to
5 any appropriations made thereto, with all fees or penalties imposed
6 pursuant to section 2 of P.L. , c. (C.)(pending in the
7 Legislature as this bill), and any sums received as voluntary
8 contributions from private sources. Interest received on moneys in the
9 Tire Management and Cleanup Fund shall be credited to the fund.
10 Unless otherwise expressly provided by the specific appropriation
11 thereof by the Legislature, which shall take the form of a discrete
12 legislative appropriations act and shall not be included within the
13 annual appropriations act, all available moneys in the Tire Management
14 and Cleanup Fund shall be appropriated annually solely for the
15 following purposes and no others:

16 a. Not less than \$2,300,000 of the estimated annual balance of the
17 Tire Management and Cleanup Fund shall be used by the department
18 to administer a program for the proper cleanup of abandoned scrap tire
19 piles and to provide grants to counties and municipalities for the
20 proper cleanup of abandoned scrap tire piles within their respective
21 jurisdictions;

22 b. The remainder of the estimated annual balance of the Tire
23 Management and Cleanup Fund shall be used by the Department of
24 Transportation to support snow removal operations.
25

26 4. a. In order to properly determine how moneys authorized
27 pursuant to section 3 of P.L. , c. (pending in the Legislature as this
28 bill) are to be used to cleanup abandoned scrap tire piles:

29 (1) The department shall have the right to enter any property,
30 facility, premises or site for the purpose of conducting inspections,
31 sampling of soil or water, copying or photocopying documents or
32 records, or otherwise determining if scrap tires may be illegally
33 accumulated;

34 (2) The department shall recover to the use of the Tire
35 Management and Cleanup Fund from the owner or person responsible
36 for the accumulation of scrap tires at the site, jointly and severally, all
37 sums expended from the Tire Management and Cleanup Fund pursuant
38 to subsection a. of section 3 of P.L. , c. (pending in the Legislature
39 as this bill) to properly manage scrap tires at an illegal scrap tire pile
40 site, except that the department may decline to pursue such recovery
41 if the department finds that the amount involved too small or the
42 likelihood of recovery too uncertain;

43 (3) The department may impose a lien on the real property on
44 which the illegal scrap tire pile site is located and the accumulated
45 scrap tires equal to the estimated costs to bring the illegal scrap tire
46 pile site into compliance, including attorney's fees and court costs.

1 Any owner whose property has such a lien imposed may release the
2 property from any lien claimed under this subsection by filing with the
3 clerk of the Superior Court a cash or surety bond, payable to the
4 department in the amount of the estimated cost of bringing the illegal
5 scrap tire pile site into compliance with the rules and regulations
6 adopted by the department therefor, including attorney's fees and court
7 costs, or the value of the property after the abatement action is
8 complete, whichever is less.

9 b. Pursuit of any of the remedies specified under this section shall
10 not preclude or limit the use of other remedies available to the
11 department pursuant to law.

12
13 5. a. The Commissioner of Environmental Protection shall adopt,
14 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
15 (C.52:14B-1 et seq.), rules and regulations as are necessary to
16 effectuate the provisions of P.L. , c. (C.)(pending in the
17 Legislature as this bill).

18 b. The director shall adopt, pursuant to the "Administrative
19 Procedure Act," rules and regulations as are necessary to effectuate
20 the provisions of section 2 of P.L. , c. (C.)(pending in the
21 Legislature as this bill).

22
23 6. This act shall take effect immediately.

24
25
26 STATEMENT

27
28 This bill imposes a fee of \$1.50 for each new motor vehicle tire sold
29 at retail within the State. The fee must be stated separately on the
30 invoice to the purchaser. A motor vehicle tire sold at retail includes
31 the tires when sold as a component part of a new motor vehicle or
32 whenever new tires are installed on a used motor vehicle prior to that
33 vehicle being offered for sale.

34 The fee will not apply to sales within the State of new motor
35 vehicle tires to a person solely for the purpose of resale provided the
36 subsequent retail sale within the State is subject to the fee. The fee
37 will not apply to recapped tires.

38 The proposed FY 2005 Budget recommends the enactment of a
39 new tire surcharge of \$1.50 on the sale of new tires, which is expected
40 to generate a total of \$12.3 million in new revenue in FY 2005.

41 The bill establishes the Tire Management and Cleanup Fund as a
42 nonlapsing, revolving fund in the Department of the Treasury. The
43 Fund will be administered by the Department of Environmental
44 Protection (DEP) and credited with the fee revenues. All available
45 moneys in the Fund will be appropriated annually solely for the
46 following purposes and no others:

A3106 QUIGLEY

1 (1) Not less than \$2,300,000 of the estimated annual balance of the
2 Fund shall be used by the DEP to administer a program for the proper
3 cleanup of abandoned scrap tire piles and to provide grants to counties
4 and municipalities for the proper cleanup of abandoned scrap tire piles
5 within their respective jurisdictions; and

6 (2) The remainder of the estimated annual balance of the Fund will
7 be used by the Department of Transportation to support snow removal
8 operations.

9 The uninhibited discarding of used tires has created an unnecessary
10 addition to the State's already costly solid waste disposal system.
11 These scrap tires must be picked-up and removed from vacant lots,
12 roadsides, open spaces, parks, and from all other public and private
13 property throughout the State on which they have been discarded.
14 Beyond being an eyesore, scrap tire piles serve as breeding areas for
15 mosquitoes.

16 To offset the cost of proper scrap tire pile management, many states
17 have implemented a small surcharge on the sale of new tires, typically
18 ranging from \$1.00 to \$2.50 per tire. In New Jersey, private tire
19 retailers currently levy a small fee per tire to cover their used tire
20 disposal costs.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 3106

STATE OF NEW JERSEY

DATED: JUNE 22, 2004

The Assembly Budget Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 3106.

This Assembly Committee Substitute for Assembly Bill No. 3106 establishes a Local Tire Management Program in the Department of Environmental Protection for the proper cleanup of abandoned tire piles and to provide grants to counties and municipalities for proper cleanup of abandoned tire piles.

To fund these grants, and for other purposes, the substitute imposes a fee of \$1.50 on the purchaser of a new motor vehicle tire if the purchase is subject to sales tax. The fee is also imposed on new tires that are component parts of a purchased or leased motor vehicle. After collection costs, the substitute directs that the first \$2.3 million in fees collected be deposited in the Tire Management and Cleanup Fund, a nonlapsing fund in the Department of Environmental Protection. Additional fee revenues shall be available for appropriation to the Department of Transportation to support snow removal operations.

The substitute authorizes the Department of Environmental Protection to enter a property to determine if tires may be illegally accumulating, to seek to recover from the site owner or the person responsible for the accumulation the costs of managing or removing the tires, and to impose a lien on the real property on which the waste site is located.

The provisions of the substitute become effective on August 1, 2004, and apply to tires sold on and after that date.

FISCAL IMPACT

The Governor's budget message anticipated that this fee would yield \$12.3 million in Fiscal Year 2005. The delayed implementation might be expected to reduce the revenue by about \$1 million. The first \$2.3 million would go to the Tire Management and Cleanup Fund in the Department of Environmental Protection. The remaining \$9-10 million would be available to the Department of Transportation for snow removal costs.

SENATE, No. 1660

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED JUNE 7, 2004

Sponsored by:

Senator BERNARD F. KENNY, JR.

District 33 (Hudson)

SYNOPSIS

Imposes a fee on the sale of new motor vehicle tires.

CURRENT VERSION OF TEXT

As introduced.



S1660 KENNY

2

1 AN ACT concerning motor vehicle tires, and supplementing Title 13 of
2 the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. As used in this act:

8 "Department" means the Department of Environmental Protection.

9 "Division" means the Division of Taxation in the Department of the
10 Treasury.

11 "Director" means the Director of the Division of Taxation in the
12 Department of the Treasury.

13 "Motor vehicle" includes all vehicles propelled otherwise than by
14 muscular power, excepting such vehicles as run only upon rails or
15 tracks and motorized bicycles.

16 "Person" means any individual or business concern.

17 "Scrap tire" means a motor vehicle tire that is no longer suitable for
18 its original intended purpose because of wear, damage, or defect, and
19 which is frequently discarded in an unlawful manner.

20 "Sold within the State" or "sales within the State" means all sales
21 of retailers engaged in business within the State and, in the case of
22 manufacturers, wholesalers and distributors, all sales of products for
23 use and consumption within the State. It shall be presumed that all
24 sales of manufacturers, wholesalers and distributors sold within the
25 State are for use and consumption within the State unless it is
26 determined by the director that the products are shipped out of State
27 for out-of-State use.

28

29 2. a. There is imposed upon each person engaged in business in
30 the State a fee of \$1.50 for each new motor vehicle tire sold at retail
31 within the State. The fee imposed under this section shall be stated
32 separately on the invoice to the purchaser. For the purposes of this
33 section, a motor vehicle tire sold at retail shall include such tires when
34 sold as a component part of a new motor vehicle or whenever new
35 tires are installed on a used motor vehicle prior to that vehicle being
36 offered for sale.

37 b. The fee imposed under this section shall not apply to sales within
38 the State of new motor vehicle tires to a person solely for the purpose
39 of resale provided the subsequent retail sale within the State is subject
40 to the fee. The fee imposed under this section shall not apply to
41 recapped tires.

42 c. Every person subject to the fee on the sale of new motor vehicle
43 tires imposed pursuant to subsection a. of this section shall, on or
44 before March 15 of each year, prepare and file a return, under oath,
45 for the preceding calendar year with the director on forms and
46 containing any information as the director shall prescribe. The return

1 shall indicate the dollar value of the sales within the State of new
2 motor vehicle tires and at the same time the person shall pay the full
3 amount of fees due.

4 d. If a return required by this section is not filed, or if a return
5 when filed is incorrect or insufficient in the opinion of the director, the
6 amount of fees due shall be determined by the director based on
7 collections from the person liable for the payment of the fees during
8 the previous five years. Notice of the determination shall be given to
9 the person liable for the payment of the fees. The determination shall
10 finally and irrevocably fix the fees unless the person against whom it
11 is assessed, within 90 days after the giving of the notice of the
12 determination, shall file a protest in writing as provided in
13 R.S.54:49-18 and request a hearing, or unless the director on the
14 director's own motion shall redetermine the same. After the hearing
15 the director shall give notice of the determination to the person to
16 whom the fees are assessed.

17 e. Any person who shall fail to file a return when due or to pay any
18 fee when the fee becomes due, as herein provided, shall be subject to
19 such penalties and interest as may be provided by law. If the director
20 determines that the failure to comply with any provision of this section
21 was excusable under the circumstances, the director may remit any
22 part of the penalty as shall be appropriate under the circumstances.

23 f. In addition to the other powers granted by this section, the
24 director may:

25 (1) Delegate to any officer or employee of the division those
26 powers and duties as the director may deem necessary to carry out
27 efficiently the provisions of this section, and the person or persons to
28 whom the powers have been delegated shall possess and may exercise
29 all of the powers and perform all of the duties delegated by the
30 director;

31 (2) Prescribe and distribute all necessary forms for the
32 implementation of this section; and

33 (3) Adopt any rules and regulations necessary for the
34 implementation of this section.

35 g. Notwithstanding the provisions of subparagraph (C) of
36 paragraph (2) of subsection (k) of section 4 of P.L.1945, c.162
37 (C.54:10A-4), if any, to the contrary, any deduction of the fee imposed
38 pursuant to subsection a. of this section allowed in computing a
39 taxpayer's taxable income which the taxpayer is required to report to
40 the United States Treasury Department for the purpose of computing
41 its federal taxable income shall be allowed in determining the
42 taxpayer's "entire net income" pursuant to subsection (k) of section 4
43 of P.L.1945, c.162 (C.54:10A-4).

44 h. The fee imposed pursuant to this section shall be governed in all
45 respects by the provisions of the "State Tax Uniform Procedure Law,"
46 R.S.54:48-1 et seq., except only to the extent that a specific provision

1 of this section may be in conflict therewith.

2

3 3. The Tire Management and Cleanup Fund is established as a
4 nonlapsing, revolving fund in the Department of the Treasury. The
5 Tire Management and Cleanup Fund shall be administered by the
6 Department of Environmental Protection and credited, in addition to
7 any appropriations made thereto, with all fees or penalties imposed
8 pursuant to section 2 of P.L. , c. (C.)(pending in the
9 Legislature as this bill), and any sums received as voluntary
10 contributions from private sources. Interest received on moneys in the
11 Tire Management and Cleanup Fund shall be credited to the fund.
12 Unless otherwise expressly provided by the specific appropriation
13 thereof by the Legislature, which shall take the form of a discrete
14 legislative appropriations act and shall not be included within the
15 annual appropriations act, all available moneys in the Tire Management
16 and Cleanup Fund shall be appropriated annually solely for the
17 following purposes and no others:

18 a. Not less than \$2,300,000 of the estimated annual balance of the
19 Tire Management and Cleanup Fund shall be used by the department
20 to administer a program for the proper cleanup of abandoned scrap tire
21 piles and to provide grants to counties and municipalities for the
22 proper cleanup of abandoned scrap tire piles within their respective
23 jurisdictions;

24 b. The remainder of the estimated annual balance of the Tire
25 Management and Cleanup Fund shall be used by the Department of
26 Transportation to support snow removal operations.

27

28 4. a. In order to properly determine how moneys authorized
29 pursuant to section 3 of P.L. , c. (pending in the Legislature as this
30 bill) are to be used to cleanup abandoned scrap tire piles:

31 (1) The department shall have the right to enter any property,
32 facility, premises or site for the purpose of conducting inspections,
33 sampling of soil or water, copying or photocopying documents or
34 records, or otherwise determining if scrap tires may be illegally
35 accumulated;

36 (2) The department shall recover to the use of the Tire
37 Management and Cleanup Fund from the owner or person responsible
38 for the accumulation of scrap tires at the site, jointly and severally, all
39 sums expended from the Tire Management and Cleanup Fund pursuant
40 to subsection a. of section 3 of P.L. , c. (pending in the Legislature
41 as this bill) to properly manage scrap tires at an illegal scrap tire pile
42 site, except that the department may decline to pursue such recovery
43 if the department finds that the amount involved too small or the
44 likelihood of recovery too uncertain;

45 (3) The department may impose a lien on the real property on
46 which the illegal scrap tire pile site is located and the accumulated

1 scrap tires equal to the estimated costs to bring the illegal scrap tire
2 pile site into compliance, including attorney's fees and court costs.
3 Any owner whose property has such a lien imposed may release the
4 property from any lien claimed under this subsection by filing with the
5 clerk of the Superior Court a cash or surety bond, payable to the
6 department in the amount of the estimated cost of bringing the illegal
7 scrap tire pile site into compliance with the rules and regulations
8 adopted by the department therefor, including attorney's fees and court
9 costs, or the value of the property after the abatement action is
10 complete, whichever is less.

11 b. Pursuit of any of the remedies specified under this section shall
12 not preclude or limit the use of other remedies available to the
13 department pursuant to law.

14

15 5. a. The Commissioner of Environmental Protection shall adopt,
16 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
17 (C.52:14B-1 et seq.), rules and regulations as are necessary to
18 effectuate the provisions of P.L. , c. (C.)(pending in the
19 Legislature as this bill).

20 b. The director shall adopt, pursuant to the "Administrative
21 Procedure Act," rules and regulations as are necessary to effectuate
22 the provisions of section 2 of P.L. , c. (C.)(pending in the
23 Legislature as this bill).

24

25 6. This act shall take effect immediately.

26

27

28

STATEMENT

29

30 This bill imposes a fee of \$1.50 for each new motor vehicle tire sold
31 at retail within the State. The fee must be stated separately on the
32 invoice to the purchaser. A motor vehicle tire sold at retail includes
33 the tires when sold as a component part of a new motor vehicle or
34 whenever new tires are installed on a used motor vehicle prior to that
35 vehicle being offered for sale.

36 The fee will not apply to sales within the State of new motor
37 vehicle tires to a person solely for the purpose of resale provided the
38 subsequent retail sale within the State is subject to the fee. The fee
39 will not apply to recapped tires.

40 The proposed FY 2005 Budget recommends the enactment of a
41 new tire surcharge of \$1.50 on the sale of new tires, which is expected
42 to generate a total of \$12.3 million in new revenue in FY 2005.

43 The bill establishes the Tire Management and Cleanup Fund as a
44 nonlapsing, revolving fund in the Department of the Treasury. The
45 Fund will be administered by the Department of Environmental
46 Protection (DEP) and credited with the fee revenues. All available

S1660 KENNY

6

1 moneys in the Fund will be appropriated annually solely for the
2 following purposes and no others:

3 (1) Not less than \$2,300,000 of the estimated annual balance of the
4 Fund shall be used by the DEP to administer a program for the proper
5 cleanup of abandoned scrap tire piles and to provide grants to counties
6 and municipalities for the proper cleanup of abandoned scrap tire piles
7 within their respective jurisdictions; and

8 (2) The remainder of the estimated annual balance of the Fund will
9 be used by the Department of Transportation to support snow removal
10 operations.

11 The uninhibited discarding of used tires has created an unnecessary
12 addition to the State's already costly solid waste disposal system.
13 These scrap tires must be picked-up and removed from vacant lots,
14 roadsides, open spaces, parks, and from all other public and private
15 property throughout the State on which they have been discarded.
16 Beyond being an eyesore, scrap tire piles serve as breeding areas for
17 mosquitoes.

18 To offset the cost of proper scrap tire pile management, many states
19 have implemented a small surcharge on the sale of new tires, typically
20 ranging from \$1.00 to \$2.50 per tire. In New Jersey, private tire
21 retailers currently levy a small fee per tire to cover their used tire
22 disposal costs.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 1660
STATE OF NEW JERSEY
211th LEGISLATURE

DATED: JUNE 29, 2004

SUMMARY

Synopsis: Imposes a fee on the sale of new motor vehicle tires.
Type of Impact: Revenue gain to Tire Management and Cleanup Fund.
Agencies Affected: Department of Environmental Protection (DEP), Department of the Treasury, Department of Transportation.

Office of Legislative Services Estimate

Fiscal Impact	Year 1	Year 2	Year 3
State Revenue	\$12.9 million (approximate)	\$12.9 million (approximate)	\$12.9 million (approximate)

- ! Imposes a fee of \$1.50 for each new motor vehicle tire sold at retail within the state.
- ! According to information from the automotive tire industry, approximately one tire is sold annually for each resident in a state, i.e. about 8.6 million tires.

BILL DESCRIPTION

Senate Bill No. 1660 of 2004 imposes a fee of \$1.50 for each new motor vehicle tire sold at retail within the State. The fee must be stated separately on the invoice to the purchaser. A motor vehicle tire sold at retail includes the tires when sold as a component part of a new motor vehicle or whenever new tires are installed on a used motor vehicle prior to that vehicle being offered for sale.

The fee will not apply to sales within the State of new motor vehicle tires to a person solely for the purpose of resale provided the subsequent retail sale within the State is subject to the fee. The fee will not apply to recapped tires.

The bill establishes the Tire Management and Cleanup Fund as a nonlapsing, revolving fund in the Department of the Treasury. The Fund will be administered by the Department of Environmental Protection (DEP) and credited with the fee revenues. All available moneys in the Fund will be appropriated annually solely for the following purposes and no others:

(1) Not less than \$2,300,000 of the estimated annual balance of the Fund shall be used by the DEP to administer a program for the proper cleanup of abandoned scrap tire piles and to provide grants to counties and municipalities for the proper cleanup of abandoned scrap tire piles within their respective jurisdictions; and

(2) The remainder of the estimated annual balance of the Fund will be used by the Department of Transportation to support snow removal operations.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

According to information provided by the Rubber Manufacturer's Association, approximately one tire is sold in a state for each resident of the state, annually. This bill proposes a fee of \$1.50 per tire. Using this guide, the Tire Management and Cleanup Fund would expect receipts of about \$12.9 million annually using a state population of 8,600,000. Of this total, the bill proposes that at least \$2.3 million be used by the Department of Environmental Protection. The remainder, \$10.6 million, would be available to the Department of Transportation.

Section: *Authorities, Utilities, Transportation and Communications*

Analyst: *Mark J. Trease*
Associate Fiscal Analyst

Approved: *David J. Rosen*
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1660**

STATE OF NEW JERSEY

DATED: JUNE 18, 2004

The Senate Budget and Appropriations Committee reports favorably a committee substitute for Senate Bill No. 1660.

This committee substitute establishes a Local Tire Management Program in the Department of Environmental Protection for the proper cleanup of abandoned tire piles and to provide grants to counties and municipalities for proper cleanup of abandoned tire piles.

To fund these grants, and for other purposes, the substitute imposes a fee of \$1.50 on the purchaser of a new motor vehicle tire if the purchase is subject to sales tax. The fee imposition also applies to new tires that are component parts of a purchased or leased motor vehicle. After collection costs, the first \$2.3 million in fees collected will be deposited in the Tire Management and Cleanup Fund, a nonlapsing fund in the Department of Environmental Protection. Additional fee revenues shall be available for appropriation to the Department of Transportation to support snow removal operations.

The substitute authorizes the Department of Environmental Protection to enter a property to determine if tires may be illegally accumulating, to seek to recover from the site owner or the person responsible for the accumulation the costs of managing or removing the tires, and to impose a lien on the real property on which the waste site is located.

The provisions of the substitute would become effective on August 1, 2004.

FISCAL IMPACT

The Governor's budget message anticipated that this fee would yield \$12.3 million in Fiscal Year 2005. The delayed implementation might be expected to reduce the revenue by about \$1 million. The first \$2.3 million would go to the Tire Management and Cleanup Fund in the Department of Environmental Protection. The remaining \$9-10 million would be available to the Department of Transportation for snow removal costs.