

1 H.269

2 Introduced by Representative Deen of Westminster

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; solid waste; product stewardship;
6 motor vehicle tires

7 Statement of purpose of bill as introduced: This bill proposes to establish a
8 product stewardship program for waste motor vehicle tires.

9 An act relating to the collection of recycling of waste motor vehicle tires

10 It is hereby enacted by the General Assembly of the State of Vermont:

11 Sec. 1. 10 V.S.A. chapter 169 is added to read:

12 CHAPTER 169. COLLECTION AND RECYCLING

13 OF WASTE MOTOR VEHICLE TIRES

14 Subchapter 1. Definitions

15 § 7601. DEFINITIONS

16 As used in this chapter:

17 (1) “Agency” means the Agency of Natural Resources.

18 (2) “Brand” means a name, symbol, word, or traceable mark

19 that identifies a motor vehicle tire and attributes the motor vehicle tire to the

20 owner or licensee of the brand as the manufacturer.

1 (3) “Collection rate” means a percentage of the number of waste tires
2 that each manufacturer or waste tire stewardship organization collects by an
3 established date. The collection rate is calculated by dividing the total number
4 of the waste tires that are collected during a calendar year by the average
5 number of motor vehicle tires that were estimated to have been sold in the
6 State by participating manufacturers during the previous three calendar years.
7 Estimates of motor vehicle tires sold in the State may be based on a reasonable
8 pro rata calculation based on national sales.

9 (4) “Consumer” means any person who presents or delivers any number
10 of waste tires to a collection facility that is included in an approved waste tire
11 stewardship plan.

12 (5) “Legacy waste tire pile” means an accumulation of 100 or more
13 waste tires, whether or not they are lying upon another, that:

14 (A) is located on a parcel of real property, other than a parcel used by
15 a person engaged in farming, as that term is defined in section 6001 of this
16 title; and

17 (B) is not enclosed by a building.

18 (6) “Manufacturer” means a person who:

19 (A) manufactures or manufactured a motor vehicle tire under its own
20 brand or label for sale in the State;

1 (B) sells in the State under its own brand or label a motor vehicle tire
2 produced by another supplier;

3 (C) owns a brand that it licenses or licensed to another person for use
4 on a motor vehicle tire sold in the State;

5 (D) imports into the United States for sale in the State a motor
6 vehicle tire manufactured by a person without a presence in the United States;

7 (E) manufactures a motor vehicle tire for sale in the State without
8 affixing a brand name; or

9 (F) assumes the responsibilities, obligations, and liabilities of a
10 manufacturer as defined under subdivisions (A) through (E) of this subdivision
11 (6), provided that the Secretary may enforce the requirements of this chapter
12 against a manufacturer defined under subdivisions (A) through (E) of this
13 subdivision (6) if a person who assumes the manufacturer's responsibilities
14 fails to comply with the requirements of this chapter.

15 (7) "Motorized electric powered bicycle or tricycle" means a bicycle or
16 tricycle that is equipped with an assistance motor that has a maximum piston
17 displacement of 48 cubic centimeters or less, that may also be self-propelled,
18 and that is operated at speeds of less than 20 miles per hour.

19 (8) "Motor vehicle" means all vehicles operated in the State that are
20 propelled or drawn by power other than muscular power.

1 (A) “Motor vehicle” includes:

2 (i) “all-terrain vehicles” which shall have the same meaning as in
3 23 V.S.A. § 3501(5).

4 (ii) “motorcycles” which shall have the same meaning as in
5 23 V.S.A. § 4(18);

6 (iii) farm tractors and farm trailers;

7 (iv) “motor-driven cycles” which shall have the same meaning as
8 in 23 V.S.A. § 4(45).

9 (B) “Motor vehicle” shall not mean:

10 (i) an electric personal assistive mobility device which shall have
11 the same meaning as in 23 V.S.A. § 66;

12 (ii) a motorized electric powered bicycle or tricycle;

13 (iii) a lawn mower; or

14 (iv) a specialized construction vehicle, such as motorized highway
15 building equipment, a road-making appliance, a tracked vehicle, and an aircraft
16 pushback tractor.

17 (9) “Motor vehicle tire” means a tire designed for on-road use on a
18 motor vehicle.

19 (10) “Retailer” means a person who sells a motor vehicle tire to a person
20 in the State through any means, including a sales outlet, a catalogue, the
21 telephone, the Internet, or any electronic means.

1 (11) “Secretary” means the Secretary of Natural Resources.

2 (12) “Sell” or “sale” means any transfer to a person for consideration of
3 title or of the right of a person to use by lease or sales contract a motor vehicle
4 tire in the State of Vermont. “Sell” or “sale” does not include the sale, resale,
5 lease, or transfer of a used motor vehicle tire or a manufacturer’s or a
6 distributor’s wholesale transaction with a distributor or a retailer.

7 (13) “Tire” means a continuous solid or pneumatic rubber covering
8 encircling the wheel of a motor vehicle.

9 (14) “Waste tire” means a motor vehicle tire that has been removed
10 from a motor vehicle and is no longer suitable for its original purpose because
11 of wear, tear, damage, defect, or other reason.

12 (15) “Waste tire stewardship organization” or “stewardship
13 organization” means an organization appointed by one or more manufacturers
14 to act as an agency on behalf of a manufacturer or manufacturers to design,
15 submit, implement, and administer a waste tire stewardship plan under this
16 chapter.

17 Subchapter 2. Waste Tire Stewardship Program

18 § 7604. SALE OF MOTOR VEHICLE TIRES; STEWARDSHIP

19 ORGANIZATION REGISTRATION

20 Sale prohibited. Beginning on January 1, 2019, except as set forth under
21 section 7609 of this title, a manufacturer of a motor vehicle tire shall not sell,

1 offer for sale, or deliver to a retailer for subsequent sale a motor vehicle tire
2 unless all the following have been met:

3 (1) The manufacturer is:

4 (A) implementing an approved waste tire stewardship plan; or

5 (B) participating in a waste tire stewardship organization that is
6 registered with the Secretary and that is implementing an approved waste tire
7 stewardship plan.

8 (2) The manufacturer or waste tire stewardship organization has paid the
9 fee under section 7620 of this title.

10 (3) The name of the manufacturer and the manufacturer's brands are
11 designated on the Agency website as covered by an approved waste tire
12 stewardship plan.

13 § 7605. REGISTRATION OF MANUFACTURER OR WASTE TIRE

14 STEWARDSHIP ORGANIZATION

15 (a) Manufacturer registration requirements. On or before October 1, 2017,
16 and annually thereafter, a manufacturer of motor vehicle tires sold or offered
17 for sale in the State shall register with the Secretary.

18 (b) Waste tire stewardship organization registration. A manufacturer of
19 motor vehicle tires may meet the requirements of this chapter by participating
20 in a waste tire stewardship organization that registers with the Secretary on or

1 before October 1, 2017, and annually thereafter, and that meets the
2 requirements of section 7606 of this title.

3 (c) Registration form. The Secretary shall provide the registration form to
4 the manufacturer or waste tire stewardship organization. The registration form
5 shall include:

6 (1) for a manufacturer registering independently:

7 (A) a list of the manufacturer's brands offered for sale in the
8 State; and

9 (B) the name, address, and contact information of a person
10 responsible for ensuring the manufacturer's compliance with this chapter.

11 (2) for a waste tire stewardship organization:

12 (A) a list of the manufacturers participating in the waste tire
13 stewardship organization;

14 (B) the name, address, and contact information of a person
15 responsible for ensuring each participating manufacturer's compliance with
16 this chapter;

17 (C) a description of how the waste tire stewardship organization
18 meets the requirements of sections 7604, 7607, and 7608 of this title for
19 manufacturers, including any reasonable requirements for participation in the
20 waste tire stewardship organization; and

1 (D) the name, address, and contact information of a person whom a
2 nonmember manufacturer can contact regarding how to participate in the waste
3 tire stewardship organization as a method of satisfying the requirements of this
4 chapter.

5 (d) Renewal of registration. A manufacturer or waste tire stewardship
6 organization may renew a registration without changes by notifying the
7 Agency of Natural Resources on a form provided by the Secretary.

8 § 7606. WASTE TIRE STEWARDSHIP ORGANIZATIONS;

9 REQUIREMENTS

10 Qualifications for a waste tire stewardship organization. To qualify as a
11 waste tire stewardship organization under this chapter, a stewardship
12 organization shall:

13 (1) commit to assume the responsibilities, obligations, and liabilities of
14 the manufacturers participating in the waste tire stewardship organization;

15 (2) not create unreasonable barriers for participation by manufacturers in
16 the waste tire stewardship organization;

17 (3) maintain a public website that lists all manufacturers and
18 manufacturers' brands covered by the waste tire stewardship organization's
19 approved waste tire stewardship plan; and

20 (4) register with the Secretary as required under section 7605 of
21 this title.

1 § 7607. WASTE TIRE STEWARDSHIP PLANS

2 (a) Stewardship plan required. On or before January 1, 2018, each
3 manufacturer selling, offering for sale, distributing, or offering for promotional
4 purposes a motor vehicle tire in the State shall individually or as part of a
5 waste tire stewardship organization submit a waste tire stewardship plan to the
6 Secretary for review.

7 (b) Waste tire stewardship plan; minimum requirements. Each waste tire
8 stewardship plan shall include, at a minimum, all of the following elements:

9 (1) List of manufacturers and brands. Each waste tire stewardship plan
10 shall list:

11 (A) all participating manufacturers and contact information for each
12 of the participating manufacturers; and

13 (B) the brands of motor vehicle tires covered by the stewardship plan.

14 (2) Free collection of waste tires. Each waste tire stewardship plan shall
15 provide for the collection of waste tires from consumers at no cost to
16 consumers. A manufacturer shall not refuse the collection of a waste tire based
17 on the brand or manufacturer of the motor vehicle tire.

18 (3) Convenient collection location. Each waste tire stewardship
19 plan shall:

20 (A) Provide for notification of all retailers of an opportunity to
21 participate at no cost as a collection location under the plan.

1 (B) Allow all retailers who meet requirements specified in the plan,
2 all municipalities, and all certified solid waste management facilities to opt to
3 be a collection facility under the plan at no cost to the retailer, municipality, or
4 certified solid waste management facility.

5 (C) Provide, at a minimum, in each county of the State no fewer than
6 two collection facilities that provide for the collection of waste tires throughout
7 the year. All collection facilities specified in the plan shall register with the
8 Secretary and shall comply with all applicable laws for operation.

9 (D) Provide for the acceptance from a consumer of up to 12 waste
10 tires per visit. A collection facility may agree to accept more than 12 waste
11 tires per visit.

12 (4) Collection rate. Each waste tire stewardship plan shall include a
13 collection rate performance goal approved by the Secretary. In the first year of
14 the plan, manufacturers shall have a collection rate performance goal of 50
15 percent of the participating manufacturer's motor vehicle tires sold, by unit, in
16 the State in the previous calendar year.

17 (5) Method of disposition. Each waste tire stewardship plan shall
18 include a description of the method that will be used to manage waste tires
19 responsibly. A manufacturer or waste tire stewardship organization shall
20 recycle or reuse at least 50 percent of collected waste tires, provided that use of
21 waste tires as tire-derived fuel shall not be considered reuse or recycling.

1 (6) Education and outreach. Each waste tire stewardship plan shall
2 include an education and outreach program that may include media
3 advertising, retail displays, articles in trade and other journals and publications,
4 and other public educational efforts. At a minimum, the education and
5 outreach program shall notify the public of the following:

6 (A) that there is a free collection program for waste tires; and

7 (B) the location of collection points for waste tires and how a
8 consumer can access the collection program.

9 (7) Compliance with appropriate environmental standards. In
10 implementing a waste tire stewardship plan, a manufacturer shall comply with
11 all applicable laws related to the collection, transportation, and disposal of
12 waste tires.

13 (8) Reimbursement. A waste tire stewardship plan shall include
14 a reimbursement procedure that is consistent with the requirements of
15 subchapter 3 of this chapter.

16 (c) Implementation. A manufacturer or a waste tire stewardship
17 organization shall include provisions in the waste tire stewardship plan for the
18 implementation of the program in conjunction with those retailers,
19 municipalities, and certified solid waste management facilities acting as
20 collection facilities under a program. A manufacturer or waste tire stewardship
21 organization shall not impose transportation or recycling costs on retailers,

1 municipalities, or certified solid waste management facilities acting as
2 collection facilities under a program. A manufacturer or waste tire stewardship
3 organization shall provide retailers, municipalities, and certified solid waste
4 management facilities acting as collection facilities products or equipment for
5 setting up a collection point and for providing for the pickup of collected waste
6 tires, including arranging for the management of those waste tires.

7 (d) Term of waste tire stewardship plan. A stewardship plan approved by
8 the Secretary under section 7610 of this title shall have a term not to exceed
9 five years, provided that the manufacturer remains in compliance with the
10 requirements of this chapter and the terms of the approved plan.

11 § 7608. ANNUAL REPORT; PLAN AUDIT

12 (a) Annual report. On or before March 1, 2020, and annually thereafter, a
13 manufacturer of motor vehicle tires or a waste tire stewardship organization
14 representing manufacturers of motor vehicle tires shall submit a report to the
15 Secretary that contains the following:

16 (1) the estimated total number of motor vehicle tires sold in the State in
17 the previous calendar year;

18 (2) the number of waste tires collected by the manufacturer or the waste
19 tire stewardship organization in the prior calendar year;

20 (3) the collection rate achieved in the prior calendar year under the
21 waste tire stewardship plan;

1 (4) the locations for all collection points set up by the manufacturer or
2 the waste tire stewardship organization and contact information for each
3 location;

4 (5) examples and description of educational materials used to increase
5 collection;

6 (6) the manner in which the collected waste tires were managed,
7 including:

8 (A) the number of waste tires collected from legacy waste tire piles;

9 (B) the number of collected waste tires recycled or reused; and

10 (C) the number of collected waste tires disposed of as tire-derived
11 fuel or otherwise incinerated.

12 (7) any material change to the waste tire stewardship plan approved by
13 the Secretary under section 7610 of this title; and

14 (8) the cost of implementation of the waste tire stewardship plan,
15 including the costs of collection, recycling, education, and outreach.

16 (b) Plan audit. Beginning on January 1, 2024, and every five years
17 thereafter, a manufacturer or waste tire stewardship organization shall hire an
18 independent third party to audit the plan and plan operation. The auditor shall
19 examine the effectiveness of the plan in collecting and disposing of waste tires.
20 The auditor shall examine the cost-effectiveness of the plan and compare it to
21 that of waste tire stewardship plans in other jurisdictions. The auditor shall

1 make recommendations to the Secretary on ways to increase the efficacy and
2 cost-effectiveness of the waste tire stewardship plan.

3 § 7609. NEW MANUFACTURERS; SMALL MANUFACTURERS

4 (a) New manufacturers.

5 (1) A manufacturer of a motor vehicle tire who, after January 1, 2019,
6 seeks to sell, offer for sale, or offer for promotional purposes in the State a
7 motor vehicle tire not previously sold in the State, shall notify the Secretary
8 prior to selling or offering for sale or promotion a motor vehicle tire not
9 covered by an approved waste tire stewardship plan.

10 (2) The Secretary shall list a manufacturer who supplies notice under
11 this subsection as a “new manufacturer” on the Agency’s website. A
12 manufacturer that supplies notice under this subsection shall have 90 days, not
13 including the time required for public comment under subsection 7610(e) of
14 this title, to either join an existing waste tire stewardship organization or
15 submit a waste tire stewardship plan for approval to the Secretary.

16 (b) Small manufacturers. A manufacturer who annually sells, offers for
17 sale, distributes, or imports in or into the State motor vehicles with a total retail
18 value of less than \$5,000.00 is exempt from the requirements of this chapter.

19 § 7610. AGENCY RESPONSIBILITIES

20 (a) Review and approve stewardship plans. The Secretary shall review and
21 approve or deny waste tire stewardship plans submitted under section 7607 of

1 this title. The Secretary shall approve a waste tire stewardship plan if the

2 Secretary finds that the plan:

3 (1) complies with the requirements of subsection 7607(b) of this title;

4 (2) provides adequate notice to the public of the collection opportunities
5 available for waste tires;

6 (3) ensures that collection of waste tires will occur in an
7 environmentally sound fashion that is consistent with the law; and

8 (4) promotes the collection and disposal of waste tires.

9 (b) Assessment of performance. The Secretary shall assess each
10 manufacturer's or waste tire stewardship organization's performance under an
11 approved waste tire stewardship plan, including whether a manufacturer or
12 waste tire stewardship organization achieved the collection rate performance
13 goal for the year. If a manufacturer or waste tire stewardship organization fails
14 to achieve its collection rate performance goal, the Secretary shall impose a
15 penalty under section 7612 of this title.

16 (c) Plan amendment. The Secretary, in his or her discretion or at the
17 request of a manufacturer or a waste tire stewardship organization, may require
18 a manufacturer or a stewardship organization to amend an approved plan. The
19 Secretary shall subject all plan amendments to the public input provisions of
20 subsection (e) of this section.

1 (d) Notification of program information. The Secretary shall conduct
2 outreach and education activities to provide notice to the public, retailers,
3 municipalities, certified solid waste management facilities, wholesalers, and
4 haulers of information regarding the waste tire stewardship program. At a
5 minimum, the education and outreach program shall provide notice of the
6 following:

7 (1) that there is a free collection program for waste tires;

8 (2) the location of collection points and how to access the collection
9 program; and

10 (3) the opportunity of retailers, manufacturers, and certified solid waste
11 management facilities to participate in waste tire stewardship plan at no cost.

12 (e) Public input. The Secretary shall establish a process under which a
13 waste tire stewardship plan is, prior to plan approval or amendment, available
14 for public review and comment for 30 days. In establishing such a process, the
15 Secretary shall consult with interested persons, including manufacturers,
16 environmental groups, wholesalers, retailers, municipalities, and solid waste
17 districts.

18 (f) Registrations. The Secretary shall accept, review, and approve or deny
19 manufacturer registrations or the waste tire stewardship organization
20 registrations required by this chapter. The Secretary may revoke a registration
21 of a manufacturer or a waste tire stewardship organization for actions that are

1 unreasonable, unnecessary, or contrary to the requirements or the policy of this
2 chapter.

3 (g) Supervisory capacity. The Secretary shall act in a supervisory capacity
4 over the actions of a manufacturer or a waste tire stewardship organization
5 registered under this chapter. In acting in this capacity, the Secretary shall
6 review the actions of the manufacturer or the waste tire stewardship
7 organization to ensure that they are reasonable, necessary, and limited to
8 carrying out requirements of and policy established by this chapter.

9 (h) Special handling requirements. The Secretary may adopt, by rule,
10 special handling requirements for the collection, transport, and disposal of
11 waste tires.

12 (i) Approved plans; Internet posting. The Secretary shall post on the
13 Agency website the names of all manufacturers and manufacturers' brands that
14 are covered under an approved waste tire stewardship plan. For waste tire
15 stewardship organizations, the Secretary may link to the list of manufacturers
16 and manufacturers' brands on the waste tire stewardship organization's
17 website.

18 § 7611. RETAILER OBLIGATIONS

19 (a) Sale prohibited. Except as set forth under subsection (b) of this section,
20 beginning on January 1, 2019, no retailer shall sell or offer for sale a motor
21 vehicle tire unless the retailer has reviewed the Agency website required in

1 subsection 7610(i) of this title to determine that the manufacturer of the motor
2 vehicle tire is implementing an approved waste tire stewardship plan or is a
3 member of a waste tire stewardship organization.

4 (b) Inventory exception; expiration or revocation of manufacturer
5 registration. A retailer shall not be responsible for an unlawful sale of a motor
6 vehicle tire under this subsection if:

7 (1) the retailer purchased the motor vehicle tire prior to January 1,
8 2019; or

9 (2) the manufacturer's waste tire stewardship plan expired or was
10 revoked, and the retailer took possession of the in-store inventory of motor
11 vehicle tires prior to the expiration or revocation of the manufacturer's waste
12 tire stewardship plan.

13 (c) Educational material. A manufacturer or waste tire stewardship
14 organization supplying motor vehicle tires to a retailer shall provide the retailer
15 with educational materials describing collection opportunities for waste tires.

16 The retailer shall make the educational materials available to consumers.

17 § 7612. PENALTIES FOR FAILURE TO ACHIEVE PERFORMANCE

18 COLLECTION GOAL

19 (a) Assessment of penalty. The Secretary shall assess a penalty against a
20 manufacturer or waste tire stewardship organization that fails to achieve the
21 collection rate performance goal in its waste tire stewardship plan.

1 (b) Amount of penalty. The Secretary shall assess a penalty under this
2 section as follows:

3 (1) If the manufacturer achieved less than 50 percent of the collection
4 rate performance goal, the manufacturer shall pay a penalty of \$1.00 per tire
5 difference between the collection rate performance goal and the actual number
6 of waste tires collected in the calendar year;

7 (2) If the manufacturer achieved 50 percent or greater of the collection
8 rate performance goal, the manufacturer shall pay a penalty of \$0.50 per tire
9 difference between the collection rate performance goal and the actual number
10 of waste tires collected in the calendar year.

11 (c) Disposition of penalties. The Secretary shall deposit penalties collected
12 under this section in the Solid Waste Management Assistance Account of the
13 Waste Management Assistance Fund for the proper disposal of waste tires as
14 provided for in subdivision 6618(b)(10) of this title, including the elimination
15 of legacy waste tire piles.

16 Subchapter 3. Reimbursement and Cost Recovery
17 § 7614. REIMBURSEMENT; AUTHORIZATION

18 (a) Reimbursement of motor vehicle tire manufacturers.

19 (1) A manufacturer or a waste tire stewardship organization operating
20 under an approved waste tire stewardship plan that collects waste tires that are
21 not listed under its approved waste tire stewardship plan is entitled to

1 reimbursement from the manufacturer of the collected waste tire or the waste
2 tire stewardship organization representing the manufacturer of the collected
3 waste tire of reimbursable costs per tire incurred in collecting waste tires.

4 (2) Reimbursement may be requested by a collecting manufacturer or
5 waste tire stewardship organization only after that manufacturer or stewardship
6 organization has achieved the collection rate performance goal approved by the
7 Secretary under section 7607 of this title.

8 (b) Reimbursable costs. Under this subchapter, a manufacturer or a waste
9 tire stewardship organization may seek reimbursement only for those costs
10 incurred in collecting the waste tires subject to the reimbursement request.

11 Reimbursable costs include:

12 (1) costs of collection, transport, recycling, and other methods of
13 disposition identified in an approved waste tire stewardship plan; and

14 (2) reasonable educational, promotional, or administrative costs.

15 § 7615. REIMBURSEMENT PROCESS

16 (a) Reimbursement request.

17 (1) A manufacturer or waste tire stewardship organization that incurs
18 reimbursable costs under section 7614 of this title shall submit a request to the
19 manufacturer of the collected waste tire or the waste tire stewardship
20 organization in which the manufacturer of the collected waste tire is
21 participating.

1 (2) A manufacturer or waste tire stewardship organization that receives
2 a request for reimbursement may, prior to payment and within 30 days of
3 receipt of the request for reimbursement, request an independent audit of
4 submitted reimbursement costs.

5 (3) The independent auditor shall verify the reasonableness of the
6 reimbursement request, including the costs sought for reimbursement, the
7 amount of reimbursement, and the reimbursable costs assessed by each of the
8 two programs.

9 (4) If the independent audit confirms the reasonableness of the
10 reimbursement request, the manufacturer or waste tire stewardship
11 organization requesting the audit shall pay the cost of the audit and the amount
12 of the reimbursement calculated by the independent auditor. If the
13 independent audit indicates the reimbursement request was not reasonable, the
14 manufacturer or waste tire stewardship organization that initiated the
15 reimbursement request shall pay the cost of the audit and the amount of the
16 reimbursement calculated by the independent auditor.

17 (b) Role of Agency. The Agency shall not provide assistance or otherwise
18 participate in a reimbursement request, audit, or other action under this section,
19 unless subject to subpoena before a court of jurisdiction.

1 § 7616. PRIVATE RIGHT OF ACTION

2 (a) Action against manufacturer with no waste tire stewardship plan. A
3 manufacturer or waste tire stewardship organization implementing an approved
4 waste tire stewardship plan in compliance with the requirements of this chapter
5 may bring a civil action against another manufacturer or waste tire stewardship
6 organization for damages when:

7 (1) the plaintiff manufacturer or waste tire stewardship organization
8 incurs more than \$1,000.00 in actual reimbursable costs collecting, handling,
9 recycling, or properly disposing of waste tires that were sold or offered for sale
10 in the State by that other manufacturer;

11 (2) the manufacturer from whom damages are sought:

12 (A) can be identified as the manufacturer of the collected waste tires
13 from a brand or marking on the waste tire or from other information available
14 to the plaintiff manufacturer or waste tire stewardship organization; and

15 (B) does not operate or participate in an approved waste tire
16 stewardship organization in the State or is not otherwise in compliance with
17 the requirements of this chapter.

18 (b) Action against manufacturer with an approved waste tire stewardship
19 plan. A manufacturer or waste tire stewardship organization in compliance
20 with the requirements of this chapter may bring a civil action for damages

1 against a manufacturer or waste tire stewardship organization in the State that
2 is in compliance with the requirements of this chapter, provided that:

3 (1) a plaintiff manufacturer or waste tire stewardship organization
4 submitted a reimbursement request to another manufacturer or waste tire
5 stewardship organization under section 7615 of this title; and

6 (2) the manufacturer or waste tire stewardship organization does not
7 receive reimbursement within:

8 (A) 90 days of the reimbursement request, if no independent audit is
9 requested under section 7615 of this title; or

10 (B) 60 days after completion of an audit if an independent audit is
11 requested under section 7615 of this title, and the audit confirms the validity of
12 the reimbursement request.

13 (c) Action against individual manufacturer.

14 (1) A civil action under this section may be brought against an
15 individual manufacturer only if the manufacturer is implementing its own
16 waste tire stewardship plan or the manufacturer has failed to register to
17 participate in a waste tire stewardship plan.

18 (2) A manufacturer participating in an approved waste tire stewardship
19 plan covering multiple manufacturers shall not be sued individually for
20 reimbursement.

1 (3) An action against a manufacturer participating in a waste tire
2 stewardship plan covering multiple manufacturers shall be brought against the
3 stewardship organization implementing the plan.

4 (d) Role of Agency. The Agency shall not be a party to or be required to
5 provide assistance or otherwise participate in a civil action authorized under
6 this section solely due to its regulatory requirements under this chapter, unless
7 subject to subpoena before a court of jurisdiction.

8 (e) Damages; definitions. As used in this section, “damages” means the
9 actual, reimbursable costs a plaintiff manufacturer or waste tire stewardship
10 organization incurs in collecting, handling, recycling, or properly disposing of
11 waste tires reasonably identified as having originated from another
12 manufacturer or waste tire stewardship organization.

13 Subchapter 4. General Provisions

14 § 7618. CONFIDENTIALITY OF SUBMITTED DATA

15 (a) Confidentiality. The Secretary shall make reports and data submitted
16 under this chapter available for public inspection and copying, provided that:

17 (1) information protected under the Uniform Trade Secrets Act, as
18 codified under 9 V.S.A. chapter 143, or under the trade secret exemption under
19 1 V.S.A. § 317(c)(9) shall be exempt from public inspection and copying under
20 the Public Records Act;

1 (2) the Secretary may publish information confidential under
2 subdivision (1) of this subsection in a summary or aggregated form that does
3 not directly or indirectly identify individual manufacturers, distributors, or
4 retailers.

5 (b) Omission of trade secret information. The Secretary may require, as a
6 part of a report submitted under this chapter, that the manufacturer or waste
7 tire stewardship organization submit a report that does not contain trade secret
8 information and is available for public inspection and review.

9 (c) Total number of waste tires. The total number of waste tires collected
10 under an approved waste tire stewardship plan is not confidential business
11 information under the Uniform Trade Secrets Act, as codified under 9 V.S.A.
12 chapter 143, and is subject to inspection and review under the Public Records
13 Act, 1 V.S.A. chapter 5, subchapter 3.

14 § 7619. ANTITRUST; CONDUCT AUTHORIZED

15 (a) Activity authorized. A manufacturer, a group of manufacturers, or a
16 waste tire stewardship organization implementing or participating in an
17 approved waste tire stewardship plan under this chapter for the collection,
18 transport, processing, and end-of-life management of waste tires is individually
19 or jointly immune from liability for the conduct under State laws relating to
20 antitrust, restraint of trade, unfair trade practices, and other regulation of trade
21 or commerce under 9 V.S.A. chapter 63, subchapter 1, to the extent that the

1 conduct is reasonably necessary to plan, implement, and comply with the
2 manufacturer's, group of manufacturers', or waste tire stewardship
3 organization's chosen system for managing waste tires. This subsection shall
4 also apply to conduct of a retailer or wholesaler participating in a waste tire
5 stewardship organization's approved waste tire stewardship plan when the
6 conduct is necessary to plan and implement the manufacturer's or waste tire
7 stewardship organization's collection or recycling system for waste tires.

8 (b) Limitations on anti-trust activity. Subsection (a) of this section shall
9 not apply to an agreement among manufacturers, groups of manufacturers,
10 retailers, wholesalers, or waste tire stewardship organizations affecting the
11 price of motor vehicle tires or any agreement restricting the geographic area in
12 which, or customers to whom, motor vehicle tires are sold.

13 § 7620. FEES

14 (a) A manufacturer or waste tire stewardship organization shall pay
15 \$15,000.00 annually for operation under a waste tire stewardship plan
16 approved by the Secretary under section 7610 of this title.

17 (b) The Secretary shall deposit fees collected under subsection (a) of this
18 section in the Environmental Permit Fund established under 3 V.S.A. § 2805.

19 § 7621. RULEMAKING; PROCEDURE

20 The Secretary may adopt rules or procedures to implement the requirements
21 of this chapter.

1 Sec. 2. 10 V.S.A. § 8003 is amended to read:

2 § 8003. APPLICABILITY

3 (a) The Secretary may take action under this chapter to enforce the
4 following statutes and rules, permits, assurances, or orders implementing the
5 following statutes:

6 * * *

7 (29) 10 V.S.A. chapter 169, relating to the collection and recycling of
8 waste tires.

9 * * *

10 Sec. 3. 10 V.S.A. § 8503 is amended to read:

11 § 8503. APPLICABILITY

12 (a) This chapter shall govern all appeals of an act or decision of the
13 secretary, excluding enforcement actions under chapters 201 and 211 of this
14 title and rulemaking, under the following authorities and under the rules
15 adopted under those authorities:

16 (1) The following provisions of this title:

17 * * *

18 (P) chapter 166 (collection and recycling of electronic waste).

19 (Q) chapter 164 (collection and disposal of mercury-containing
20 lamps).

21 * * *

