

CHAPTER 46

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

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

C.54:32F-1 Definitions relative to local tire management program; fee, imposition, collection.

1. a. As used in this section:

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

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

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

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

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

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

b. There is imposed on the purchaser a fee of \$1.50 upon the sale of a new motor vehicle tire if: that sale is subject to the sales tax imposed pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1), including new motor vehicle tires sold as a component part of a motor vehicle if the sale of the motor vehicle is subject to the sales tax and new motor vehicle tires transferred as a component part of the lease of a motor vehicle if the purchase for lease of the motor vehicle is subject to the sales tax. The fee imposed under this section shall be collected by the vendor and, except in the case of vendors engaged in the retail sale of new motor vehicle tires sold as a component part of a motor vehicle, and in the lease or rental of new motor vehicle tires transferred as a component part of a leased motor vehicle, shall be separately stated on any bill, receipt, invoice or similar document provided to the purchaser, but shall not be considered part of the receipt for purpose of determining tax pursuant to P.L.1966, c.30.

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

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

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

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

g. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the director may adopt immediately upon filing with the Office of Administrative Law such regulations as the director deems necessary to implement the provisions of this act, which shall be effective for a period not to exceed 180 days following enactment of P.L.2004, c.46 (C.54:32F-1 et al.) and may thereafter be amended, adopted or readopted by the director in accordance with the requirements of P.L.1968, c.410.

C.54:32F-2 Disbursement, use of fees.

2. After the Division of Taxation in the Department of the Treasury is reimbursed for costs incurred in the collection of the fee imposed pursuant to section 1 of P.L.2004, c.46 (C.54:32F-1), the first \$2.3 million collected in each fiscal year shall be deposited in the Tire Management and Cleanup Fund, established pursuant to section 3 of P.L.2004, c.46 (C.13:1E-224). Any

additional revenue collected shall be available for appropriation to the Department of Transportation to support snow removal operations.

C.13:1E-224 Tire Management and Cleanup Fund.

3. There is established the Tire Management and Cleanup Fund as a nonlapsing fund in the Department of Environmental Protection in which shall be annually deposited the sum provided pursuant to section 2 of P.L.2004, c.46 (C.54:32F-2) and any recoveries made pursuant to subsection c. of section 4 of P.L.2004, c.46 (C.13:1E-225).

C.13:1E-225 Local Tire Management Program.

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

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

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

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

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

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

5. This act shall take effect on August 1, 2004.

Approved June 29, 2004.