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SENATE BILL NO. 794

Offered January 8, 2025

Prefiled December 28, 2024

A BILL to amend the Code of Virginia by adding in Chapter 14 of Title 10.1 an article numbered 3.8, consisting of sections numbered 10.1-1425.40 through 10.1-1425.43, relating to tire stewardship program established; report.

Patron—Head

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 14 of Title 10.1 an article numbered 3.8, consisting of sections numbered 10.1-1425.40 through 10.1-1425.43, as follows:

Article 3.8.

Tire Stewardship Program.

§ 10.1-1425.40. Definitions.

As used in this article, unless the context requires a different meaning:

"Brand" means a name, symbol, word, or mark that attributes a tire to the producer of such tire.

"Covered entity" means any permitted transfer station, tire retailer, car dealership, automotive garage, private or public sector fleet maintenance garage, or other location identified in an approved tire stewardship plan pursuant to § 10.1-1425.41.

"Discarded tire" means any whole tire or whole tire on a rim that a consumer discarded or abandoned, or intends to discard or abandon.

"Performance goals" means annual outcomes proposed by a tire stewardship organization in the tire stewardship plan pursuant to § 10.1-1425.41 that measure the performance of the program, including tire collection and diversion rates, economic and environmental benefits, beneficial recycling usages and targets, public education and participation, and any other specified goals of such program.

"Producer" means, with respect to new tires marketed to consumers in the Commonwealth separately from any new vehicle or equipment:

1. If the brand holder of the tire is a resident of the United States, the tire manufacturer;

2. If there is no person described in subdivision 1, any person that is not the manufacturer of the tire but that is the owner or licensee of a trademark under which the tire is supplied in the Commonwealth, whether or not such trademark is registered;

3. If there is no person described in subdivision 1 or 2, any person that imports any tire into the Commonwealth for supply to a consumer; or

4. If there is no person described in subdivision 1, 2, or 3, the retailer that supplies the tire to a consumer.

"Recycling" means any process in which discarded tire components and by-products may lose their original identity or form as they are transformed into new, usable, or marketable materials. "Recycling" may include the use of tires or processed materials that are incinerated or used as a fuel or fuel supplement, provided such incineration does not occur in the Commonwealth.

"Retailer" means any person that supplies a tire to a consumer, including any person that supplies a tire through (i) a vehicle service or (ii) an Internet transaction to be delivered to a consumer in the Commonwealth.

"Supply" means the transfer of the title of a tire for consideration, including through means of a sales outlet, catalog, website, or similar electronic means.

"Tire" means a product composed primarily of rubber that is mounted on the wheels of any type of passenger or commercial on-road or off-road motorized vehicle, including passenger vehicles, motorcycles, trucks, buses, mobile homes, trailers, noncommercial aircraft, and earthmoving, road building, mining, logging, agricultural, industrial, and similar vehicles, and that provides mobility. "Tire" does not include any tire from a toy, bicycle, commercial aircraft, or personal mobility device.

"Tire stewardship organization" means the organization created or selected by a producer or producers that designs, submits, and implements a tire stewardship plan pursuant to § 10.1-1425.41.

"Tire stewardship program" or "program" means the statewide program established pursuant to § 10.1-1425.41 and implemented pursuant to an approved tire stewardship plan.

§ 10.1-1425.41. Tire stewardship program.

A. Any producer, or such producer's designee, shall join a tire stewardship organization and such organization shall submit a plan, subject to approval by the Department, to establish a statewide tire stewardship program pursuant to this article. Such tire stewardship program shall, to the extent it is

59 *technically feasible and economically practical, (i) establish and manage a statewide collection system*
60 *utilizing covered entities; (ii) provide statewide equitable access to the collection system to the public, free of*
61 *charge, for the drop-off of discarded tires; (iii) ensure discarded tires are picked up from the collection*
62 *system and transported for recycling; (iv) ensure all discarded tires collected in the collection system are*
63 *resold or recycled; (v) provide suitable storage containers for tires, as necessary, throughout the collection*
64 *system; (vi) implement public promotion and education about the program; (vii) assist in market*
65 *development, as needed, to achieve performance goals; and (viii) finance all program activities solely*
66 *through producer funding.*

67 *B. Any plan submitted pursuant to subsection A shall (i) identify each producer participating in the*
68 *program; (ii) describe how the program will be financed; (iii) establish performance goals for the first two*
69 *years of the program; (iv) describe the industry transition timeline that is required to achieve such*
70 *performance goals and how the plan will, to the greatest extent economically feasible, utilize existing service*
71 *providers and infrastructure in the Commonwealth; (v) identify proposed facilities to be used by the program*
72 *in the collection system and discarded tire transportation and recycling activities; (vi) detail how the*
73 *program will promote sustainability and the recycling of discarded tires to higher value products; and (vii)*
74 *include a description of the public education program that will be used to promote consumer knowledge of*
75 *such program.*

76 *C. Each tire stewardship organization shall establish and implement a system for financing the tire*
77 *stewardship program that covers, but does not exceed, the costs of developing the plan described in*
78 *subsection B, operating and administering the program, and maintaining a financial reserve for six months*
79 *sufficient to operate the program. Funding of such program may be through a fee structure.*

80 *D. The Department shall approve a plan for the establishment of a tire stewardship program, provided*
81 *that such plan meets the requirements of this section. Prior to making any such determination, the*
82 *Department shall post such plan on the Department's website and solicit public comments on such plan. Such*
83 *solicitation shall not be subject to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). No*
84 *later than 90 days after submission of the plan pursuant to subsection A, the Department shall make a*
85 *determination as to whether it will approve the plan. If the Department does not approve such plan, the*
86 *Department shall describe the reasons for the disapproval in a notice of determination that the Department*
87 *shall provide to the tire stewardship organization. Such tire stewardship organization shall revise and*
88 *resubmit such plan to the Department no later than 45 days after receipt of the Department's notice of*
89 *disapproval. No later than 45 days after receipt of such revised plan, the Department shall review and*
90 *approve or disapprove such revised plan and provide a notice of determination to the tire stewardship*
91 *organization. Such tire stewardship organization may resubmit a revised plan to the Department for approval*
92 *on no more than two occasions. If a tire stewardship organization fails to submit a plan that is acceptable to*
93 *the Department because it does not meet the requirements of this section, the Department may modify a*
94 *submitted plan to make it conform to the requirements of this section and approve such modified plan. No*
95 *later than 120 days after the approval of a plan pursuant to this subsection, the tire stewardship organization*
96 *shall implement the tire stewardship program.*

97 *E. A tire stewardship organization shall submit any proposed substantial change to its tire stewardship*
98 *program to the Department for approval prior to implementation of such change. For the purposes of this*
99 *subsection, "substantial change" means (i) a change in the processing facilities to be used for discarded tires*
100 *collected pursuant to the tire stewardship program or (ii) a material change to the system for collecting tires.*

101 *F. Beginning two years after implementation of a tire stewardship program, a tire stewardship*
102 *organization shall submit updated performance goals to the Department that are based on the experience of*
103 *the program during the first two years of the program.*

104 *G. Each tire stewardship organization shall notify the Department of other material changes to its*
105 *program on an ongoing basis, without resubmission of the plan to the Department for approval. Such*
106 *changes shall include any change in the composition, officers, or contact information of the tire stewardship*
107 *organization.*

108 *H. Any producer that fails to participate in a tire stewardship program authorized pursuant to this section*
109 *shall not supply tires in the Commonwealth.*

110 *I. Upon implementation of a tire stewardship program described in this section, any covered entity that*
111 *participates in such program shall not charge for the receipt of discarded tires that are discarded in the*
112 *Commonwealth, provided that any such covered entity may reasonably restrict the acceptance of tires by*
113 *number, source, or condition.*

114 *J. In the event that another state implements a tire stewardship or recycling program, any tire*
115 *stewardship organization may collaborate with such other state to conserve efforts and resources in carrying*
116 *out its tire stewardship program, provided that such collaboration is consistent with the provisions of this*
117 *article.*

118 *K. The Department may assess a reasonable fee to any tire stewardship organization, not to exceed 10*
119 *percent of total program costs, for administration by the Department of the applicable tire stewardship*

120 program.

121 **§ 10.1-1425.42. Reporting requirements.**

122 A. No later than October 15 of each year, each tire stewardship organization shall submit an annual
123 report to the Department on a form prescribed by the Department. Such report shall include (i) the tonnage
124 of tires collected pursuant to the program from municipal transfer stations, retailers, and all other covered
125 entities; (ii) the tonnage of tires diverted for recycling; (iii) a summary of the public education program that
126 supports the program; (iv) an evaluation of the effectiveness of methods and processes used to achieve
127 performance goals of the program; and (v) recommendations for any changes to the program. The
128 Department shall post such report on the Department's website.

129 B. Two years after the implementation of a tire stewardship program and every three years thereafter, or
130 upon the request of the Department but not more frequently than once a year, each tire stewardship
131 organization shall cause an audit of the tire stewardship program to be conducted by an auditor selected by
132 the Department. Such audit shall review the accuracy of the tire stewardship organization's data concerning
133 the program and provide any other information requested by the Department, consistent with the
134 requirements of this article, provided that such request does not require the disclosure of any proprietary
135 information or trade or business secrets. Such audit shall be paid for by the tire stewardship organization.
136 Each tire stewardship organization shall maintain all records relating to the program for not less than three
137 years.

138 C. Not later than three years after the approval of any tire stewardship plan pursuant to this article and
139 every three years thereafter, the Department shall submit a report to the Governor and the General Assembly
140 that (i) provides an evaluation of the applicable tire stewardship program and (ii) establishes a goal for the
141 amount of discarded tires managed under such tire stewardship program and a separate goal for the
142 diversion of tires for recycling, taking into consideration technical and economic feasibilities.

143 **§ 10.1-1425.43. Enforcement.**

144 The Office of the Attorney General may, at the request of the Department, enforce the provisions of this
145 article by taking enforcement action against any person that fails to comply with this article.

146 **2. That any producer of tires, or a producer's designee, as defined in § 10.1-1425.40 of the Code of**
147 **Virginia, as created by this act, that supplies tires in the Commonwealth shall, on or before January 1,**
148 **2027, join a tire stewardship organization and such organization shall submit a plan to the Department**
149 **of Environmental Quality to establish a statewide tire stewardship program pursuant to the provisions**
150 **of Article 3.8 (§ 10.1-1425.40 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia, as created by**
151 **this act.**