

1987 Assembly Bill 481

Date of enactment: November 25, 1987  
Date of publication: December 7, 1987

# 1987 Wisconsin Act 110

(Vetoed in Part)

AN ACT to renumber 84.076; to amend 25.40 (1) (a), 144.449 (1) (c), 144.449 (5) and (6), 144.798 (1) (d), 144.798 (2) (intro.) and (c) and 342.06 (1) (d); and to create 20.370 (2) (dj), 20.370 (2) (dL), 84.076 (2), 144.449 (2r), 144.798 (1) (b) and (c), 144.798 (2) (d) and (3) to (5) and 342.14 (1m) of the statutes, relating to removal and recycling of waste tires, establishing a tire recovery fee upon obtaining a title for a new vehicle, granting rule-making authority and making an appropriation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

	<u>1987-88</u>	<u>1988-89</u>
<b>20.370 Natural resources,</b>		
<b>department of</b>		
(2 ) ENVIRONMENTAL STANDARDS		
(dL) Waste tire removal and		
recovery programs;		
administration	PR A 62,500	125,000

SECTION 2. 20.370 (2) (dj) of the statutes is created to read:

20.370 (2) (dj) *Waste tire removal and recovery programs; program activities.* From the moneys received as fees collected under s. 342.14 (1m), all moneys not appropriated under par. (dL) for the waste tire removal and recovery programs under ss. 144.449 and 144.798.

SECTION 3. 20.370 (2) (dL) of the statutes is created to read:

20.370 (2) (dL) *Waste tire removal and recovery programs; administration.* From the moneys received as fees collected under s. 342.14 (1m), the amounts in the schedule for the administration of the waste tire removal and recovery programs under ss. 144.449 and 144.798. On June 30 of each year the unencumbered balance in this appropriation shall be transferred to the appropriation under par. (dj).

SECTION 4. 25.40 (1) (a) of the statutes is amended to read:

25.40 (1) (a) All collections of the department of transportation or the office of the commissioner of transportation and all moneys transferred under s. 84.59 (3) except net sales taxes as determined in s. 77.61 (4) (b) or (c), other revenues specified in ch. 218 derived from the issuance of licenses under the author-

ity of the commissioner of banking which shall be paid into the general fund and revenues collected under s. 341.25 that are pledged to the fund created under s. 84.59 (2) and fees collected under s. 342.14 (1m) that are deposited in the general fund and credited to the appropriation under s. 20.370 (2) (dj).

SECTION 5. 84.076 of the statutes, as created by 1987 Wisconsin Act 27, is renumbered 84.076 (1).

SECTION 6. 84.076 (2) of the statutes is created to read:

84.076 (2) The department shall use or encourage the use of the maximum possible amount of rubber recovered from waste tires as surfacing material, structural material and fill for all highway improvements, as defined under s. 84.06 (1), consistent with standard engineering practices. The department shall promulgate rules specifying the proportion of recovered rubber that may be used in various types of highway improvements.

SECTION 7. 144.449 (1) (c) of the statutes, as created by 1987 Wisconsin Act 27, is amended to read:

144.449 (1) (c) "Waste tire" has the meaning given under s. 84.076 (1).

SECTION 8. 144.449 (2r) of the statutes is created to read:

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144.449 (2r) ENFORCEMENT ACTION. To carry out a nuisance abatement under sub. (2), the department may refer a nuisance abatement to the attorney general for enforcement action.

SECTION 9. 144.449 (5) and (6) of the statutes, as created by 1987 Wisconsin Act 27, are amended to read:

144.449 (5) RECOVERY OF EXPENSES. The department ~~shall~~ may ask the attorney general to initiate a civil action to recover from the person responsible for the nuisance the reasonable and necessary costs incurred by the department for its nuisance abatement activities and its administrative and legal expenses related to the abatement. The department's certification of expenses shall be prima facie evidence that the expenses are reasonable and necessary.

(6) OTHER ABATEMENT. This section does not change the existing authority of the department to enforce any existing laws or of any person to abate a nuisance. The department may reimburse a person for the costs of any such abatement.

SECTION 10. 144.798 (1) (b) and (c) of the statutes are created to read:

144.798 (1) (b) "Solid waste facility" has the meaning given under s. 144.43 (5).

(c) "Tire dump" has the meaning given under s. 144.449 (1) (b).

SECTION 11. 144.798 (1) (d) of the statutes, as created by 1987 Wisconsin Act 27, is amended to read:

144.798 (1) (d) "Waste tire" has the meaning given under s. 84.076 (1).

SECTION 12. 144.798 (2) (intro.) and (c) of the statutes, as created by 1987 Wisconsin Act 27, are amended to read:

144.798 (2) (title) FEE USE PLAN. (intro.) The department shall promulgate, by rule, a statewide plan for the use of moneys appropriated under s. 20.370 (2) (dj) to accomplish all of the following:

(c) The providing of grants under sub. (3) for development costs or operating costs of innovative recovery activities.

SECTION 13. 144.798 (2) (d) and (3) to (5) of the statutes are created to read:

144.798 (2) (d) Any recovery activity conducted by the department under sub. (5).

(3) GRANTS; ELIGIBILITY; APPLICATIONS. (a) A municipality, governmental body, as defined in s. 19.82 (1), private business or nonprofit organization which meets eligibility requirements established by the department by rule may apply to the department for a grant for development costs or operating costs of a recovery activity.

(b) A grant application shall comply with the department's requirements as to contents, form and manner of submission.

(c) No grant may be awarded for a recovery activity which receives less than 95% of its tires from Wisconsin tire dumps, retailers or residents.

(d) The department shall promulgate rules concerning requirements for the documentation of the sources from which a tire dump receives tires for the purpose of establishing eligibility under par. (c). The burden of proof shall be on the applicant to show that the eligibility requirement under par. (c) is met.

(4) GRANT AMOUNTS. In awarding grants, the department shall give a higher priority to applications for development costs than to applications for operating costs.

(5) OTHER RECOVERY ACTIVITIES BY DEPARTMENT. The department may conduct a recovery activity designed to reduce the volume of waste tires in a tire dump that does not receive at least 95% of its tires from Wisconsin retailers and residents if the department, after due diligence, is unable to recover nuisance abatement expenses under s. 144.449 (5) from a person responsible for a nuisance at a tire dump after the department has initiated abatement activities.

SECTION 14. 342.06 (1) (d) of the statutes is amended to read:

342.06 (1) (d) If the vehicle is a new vehicle being registered for the first time, the signature of a dealer authorized to sell ~~such~~ that new vehicle, the total of the number of tires normally used on the vehicle during its operation on the highways plus the number of any spare tires with which the vehicle is normally equipped and; the manufacturer's document of origin. ~~Such~~ The document of origin shall contain ~~such~~ the information as ~~is prescribed~~ specified by the department.

SECTION 15. 342.14 (1m) of the statutes is created to read:

342.14 (1m) Upon filing an application under sub. (1), by the owner of a new vehicle being registered for the first time, a tire recovery fee of \$2 times the total of the number of tires normally used on the vehicle during its operation on the highways plus the number of any spare tires with which the vehicle is normally equipped.

SECTION 16. **Nonstatutory provisions.** (1) The department of natural resources shall establish a committee under section 15.04 (1) (c) of the statutes to advise the department of natural resources in developing the plan required under section 144.798 (2) of the statutes, as affected by this act. The committee shall include the secretary of natural resources, the secretary of development, the secretary of transportation and the executive director of the Wisconsin housing and economic development authority or their designees.

(2) The department of natural resources shall submit the proposed rules required under section 144.798 (2) and (3) of the statutes, as affected by this act, to the legislative council under section 227.15 (1) of statutes no later than the first day of the 7th month after the effective date of this subsection.

(3) The authorized FTE positions for the department of natural resources are increased by 3.5 PR

positions on the effective date of this subsection, to be funded from the appropriation under section 20.370 (2) (dL) of the statutes, for the purpose of providing staffing for tire recovery activities.

**SECTION 17. Initial applicability.** The treatment of sections 342.06 (1) (d) and 342.14 (1m) of the statutes first applies to an application made on the first day of the 5th month commencing after publication for a certificate of title for a new vehicle.

**SECTION 18. Effective dates.** This act takes effect on the day after publication, except as follows:

(1) The treatment of section 84.076 of the statutes and the creation of section 84.076 (2) of the statutes take effect on the first day of the 2nd month after publication.

(2) The treatment of section 144.798 (3) of the statutes takes effect on the first day of the 7th month after publication.

(3) The treatment of sections 342.06 (1) (d) and 342.14 (1m) of the statutes takes effect on the first day of the 5th month commencing after publication.

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