



An Article by Peter H. Gunst

WASTE NOT WANT NOT: DON'T GET IN THE DUMPS ABOUT TIRE DISPOSAL

According to the Environmental Protection Agency, over 290 million scrap tires were generated in the United States in 2003. When these tires are illegally dumped, they provide an ideal breeding ground for rats and mosquitoes and create toxic fire hazards. It is no surprise, then, that the prevention of illegal tire dumping has been on the minds of lawmakers and law enforcement agencies around the country. This increased focus means it's more important than ever for tire dealers to be aware of state laws affecting the storage, transportation and disposal of waste tires and to take steps to insure compliance with these regulations. A dealer who doesn't do his homework runs the risk of incurring steep civil penalties and even criminal prosecution.

Currently, forty-eight states have statutes regulating waste tires. For example, most states charge consumers a fee on the sale of new or replacement tires, with the money going to programs aimed at recycling, clean-up, or reducing the number of waste tires. Some states, such as Kansas and California, make tire retailers responsible for collecting and reporting these fees.

In addition to fee collection, states have placed an increasing number of responsibilities on tire retailers to insure that waste tires are being handled appropriately. Minnesota and Mississippi, for example, place limits on the number of waste tires a dealer can store at any one time. In Illinois, Louisiana and Indiana, dealers must advertise that they are required to accept old tires from customers purchasing replacements.

Dealers are also held accountable for the disposal of their waste tires. In a growing number of locations, a tire retailer can only contract with a tire hauling and disposal service licensed by the state. Furthermore, simply asking the tire hauling service whether they are properly licensed, or employing a “don’t ask, don’t tell” policy with regard to the tires once they leave the dealer’s property is not sufficient to protect a dealer from liability.

Some states specifically require a tire retailer to obtain additional information from its tire disposal service. For example, in Minnesota and Mississippi, tire retailers are required to maintain the license identification number of their waste tire transporter for three years. In Maryland, tire retailers must keep records detailing each waste tire collection and where the tires were deposited. Nevada requires manifests containing the date of collection and signature of an operator of an approved disposal facility where the tires were taken. These regulations are enforced through spot-checks of tire dealers by state officials.

Although it might be tempting for a tire dealer to save money by hiring the local junkman to haul its waste tires away, that decision could result in disastrous consequences. Penalties for violating these regulations can be severe. In several states, retailers who hire unlicensed collectors are responsible for clean-up costs of the illegal dumping. This penalty is no slap on the wrist; California estimates it has saved between \$6 and \$10 Million over the last ten years by requiring companies responsible for illegal tire dumping to foot the bill for clean-up costs. In other jurisdictions, a dealer could face civil fines of up to \$10,000 per day for each day it is in violation of the law.

For those dealers still unconvinced of the importance of complying with state regulations, there is Stephen Nicholson's story. In 2001, Nicholson became the first retail tire store owner or operator to be criminally convicted for hiring unlicensed haulers to remove waste tires. Nicholson suspected the hauler he hired was dumping illegally, but was not personally involved in the illegal disposal. Nevertheless, Nicholson was convicted of two counts of illegal dumping and faced ten years in jail and a \$50,000 fine. He was sentenced to a suspended sentence of five years, and required to complete three years of supervised probation.

To avoid these possible penalties, it is important that tire dealers be familiar with the regulations within their state. If a dealer is unsure of the regulations in his location,

contact information for the appropriate state agency in each state can be found on the EPA's website at http://www.epa.gov/epaoswer/osw/stateweb.htm#v_form.

Lastly, it is a good idea for all tire dealers – even absent state regulations – to maintain a copy of its tire collection or disposal service's state license and a record of each tire collection. Knowledge of the state regulations, using only licensed collectors and haulers and the maintenance of scrupulous records is the best way to avoid being the next tire dealer facing civil or criminal charges for illegally dumping tires.

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