

HOUSE No. 828

By Mr. Petersen of Marblehead, petition of Douglas W. Petersen and others relative to the abatement of scrap tire stockpiles and the proper management of scrap tire generation. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

PETITION OF:

Douglas W. Petersen	Peter V. Kocot
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In the Year Two Thousand and Seven.

AN ACT RELATIVE TO THE ABATEMENT OF SCRAP TIRE STOCKPILES AND THE PROPER MANAGEMENT OF SCRAP TIRE GENERATION.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 SECTION 1. *Whereas*, Disposal of scrap tires is a national and a
- 2 state problem; and
- 3 *Whereas*, In the Commonwealth of Massachusetts it is estimated
- 4 that there may be as many as 10 million scrap tires stockpiled
- 5 throughout the Commonwealth; and
- 6 *Whereas*, It is estimated that there are six million scrap tires gen-
- 7 erated in the Commonwealth each year; and
- 8 *Whereas*, The scrap tire problem is exacerbated by the fact that
- 9 tires do not decompose; and
- 10 *Whereas*, Whole scrap tires are already prohibited from being
- 11 placed in landfills;
- 12 *Whereas*, Scrap tire stockpiles improperly managed pose a risk to
- 13 public health and safety and constitute a perfect breeding ground for
- 14 disease-carrying vectors, including encephalitis- carrying mosqui-
- 15 toes; and
- 16 *Whereas*, Improperly managed scrap tire stockpiles present fire
- 17 hazards, and while tires are themselves not hazardous, when they

18 burn they release hazardous substances, including known carcino-
19 gens such as bezo(a)pyrene and benzene, and oil that may contain
20 heavy metals, including arsenic, cadmium, chromium, and lead; and

21 *Whereas*, The illegal stockpiling of scrap tires has resulted in
22 criminal prosecutions brought by the Attorney General's office and,
23 due to the potential for the release of hazardous materials during
24 fires at such stockpiles, abatement of such stockpiles has occurred
25 through the use of funds normally intended for cleanup of hazardous
26 waste under the state's oil and hazardous materials release law, using
27 funds normally intended for the cleanup of hazardous waste to abate
28 tire dump sites; and

29 *Whereas*, The estimated cost of fighting fires at tire stock piles is
30 significant, at one fire alone costs borne by the Commonwealth
31 exceeded \$300,000 and consumed 1,200 hours of supervision; and

32 *Whereas*, Estimated ratio of costs of firefighting and post-fire-
33 fighting activities at tire stockpiles compared to normal stockpile
34 abatement activities is 10 to one; and

35 *Whereas*, There are many existing and potential markets for
36 whole and processed scrap tires including production of rubber-mod-
37 ified asphalt, rubber and plastic products, and use of tires for tire-
38 derived fuel in power plants, cement kilns, pulp and paper plants,

39 *It is hereby resolved*, That in order to ensure the identification and
40 efficient cleanup of the existing scrap tire stockpiles in the Common-
41 wealth and to assure that the annual generation of scrap tires in the
42 Commonwealth is collected, transported, stored, disposed,
43 processed, and managed in a proper manner so as to prevent the
44 health and safety problems described above, the General Court
45 hereby establishes the Scrap Tire Abatement and Management Pro-
46 gram.

1 SECTION 2. Definitions.

2 Section 2 of Chapter 21H of the General Laws, as appearing in
3 the 2002 Official Edition, is hereby amended as follows:—

4 By inserting, in line 9, the words “a scrap tire stockpile abatement
5 project or” after the words: —

6 Clean up; and by adding, in line 15, following the word “facility,”
7 the words “or for the closure or abatement of a scrap tire stockpile or
8 for the closure of a site or location owned or operated by a scrap tire
9 collector”.

10 Section 2 of said Chapter 21H is further amended by inserting,
11 after line 35, the following:—

12 “Energy recovery” means using the heat content or other forms of
13 energy from the burning or pyrolysis of scrap tires.

14 “End use market” means any person that receives whole or
15 shredded tire materials and utilizes the materials as a finished
16 product or as a raw material for a manufacturing, retreading, or
17 energy recovery process. The activity of processing, itself, is not an
18 end market.

19 Section 2 of Chapter 21H is further amended by inserting, in line
20 39, as part of the definition for “facility,” the words “scrap tire stock-
21 pile” after the words “composting plant.”

22 Section 2 of said Chapter 21H is further amended by inserting,
23 after line 42, the following:—

24 “New tire” means a tire that has never been placed on a motor
25 vehicle wheel rim. The term does not include retreaded tires.

26 Section 2 of said Chapter 21H is further amended by inserting, in
27 line 52, after the word “property,” the words “, and any stockpiling
28 of scrap tires or shredded tire material.”

29 Section 2 of said Chapter 21H is further amended by inserting,
30 after line 56, the following:—

31 “Recycling” means to recover materials or byproducts which are:
32 (a) a reused; of (b) used as an ingredient or a feedstock in an indus-
33 trial or manufacturing process to make a marketable product or (c)
34 used in a particular function or application as an effective substitute
35 for a commercial product or commodity. Recycle does not mean to
36 recover energy from the combustion of a material.

37 “Retreaded tire” means a tire that has had its original tread and/or
38 shoulder removed from the casing and replaced with a new tread
39 and/or shoulder to extend its serviceable life. Once the serviceable
40 life of the retreaded tire has been exhausted, the tire becomes a scrap
41 tire.

42 “Scrap tire” means any whole tire or part of a tire that is no longer
43 being used on a motor vehicle because of wear, damage or defect,
44 whether or not the tire can be retreaded. This term includes retreaded
45 tires that have exhausted their serviceable life.

46 “Scrap tire collector” means a person who possesses some quan-
47 tity of scrap tires or shredded tire material, and includes scrap tire
48 generators, transporters, processors, end use markets, and solid

49 waste disposal facilities. This term does not include a person who
50 has collected or stored at his or her place of residence five scrap tires
51 or less nor does it include any person exempted by Department regu-
52 lations under this Chapter.

53 “Scrap tire generator” means a person that removes a tire from a
54 vehicle without reinstalling it on that or any other vehicle. This term
55 includes persons who sell new tires at retail and persons who retread
56 tires insofar as the person who retreads tires has on the premises or
57 under his/her control any quantity of retreaded tires that have
58 exhausted their serviceable life as a retreaded tire, or who have on
59 their premises or under his/her control any quantity of other scrap
60 tires. This term does not include to a person who has collected or
61 stored at his or her place of residence five scrap tires or less.

62 “Scrap tire processor” means a person who alters, converts, or
63 size-reduces scrap tires for recycling or energy recovery. This term
64 does not include a person that retreads tires.

65 “Scrap tire stockpile” means any site or location that is used for
66 the storage, collection, deposit, or disposal of scrap tires or shredded
67 tire material not in conformity with the provisions of this Act or reg-
68 ulations promulgated under this Act. This term does not include tires
69 located at a residential household as long as there are not more than
70 five tires at that site.

71 “Scrap tire stockpile abatement” means preventive or corrective
72 measures including, but not limited to, fire prevention or mosquito
73 control measures, and/or removal, cleanup, or closure of scrap tire
74 stockpiles and/or shredded tire materials not properly stored or man-
75 aged for proper processing and/or disposal.

76 “Scrap tire transporter” means a person who transports scrap tires
77 or shredded tire material for the purpose of storage, processing, dis-
78 posal, or end use. This term does not include a person who trans-
79 ports from his or her place of residence not more than ten scrap tires
80 to a registered transporter, registered processor, or to a location
81 established by a town or municipality as part of a “scrap tire amnesty
82 day” in accordance with paragraph (d) of Section 4D.

83 “Shredded tire material” means pieces of scrap tire resulting from
84 the processing, cutting, or other size-reduction of scrap tires.

1 SECTION 3. Chapter 21H of the General Laws, as appearing in
2 the 2002 Official Edition, is hereby amended by adding the
3 following sections between Sections 4 and 5:—

4 Section 4A. Scrap Tire Management Program.

5 To bring about the abatement of scrap tire stockpiles and the
6 proper management of scrap tire generation, the Bureau of Waste
7 Prevention of the Department shall create a Scrap Tire Management
8 Program, to be controlled by the Division of Solid Waste. The
9 Department shall adopt rules, regulations, procedures and standards
10 as may be necessary for the implementation of this program.

11 In creating and implementing the Scrap Tire Management Pro-
12 gram, the Department shall consider whether scrap tires and
13 shredded tire material may be used in energy recovery facilities
14 within the Commonwealth in a manner protective of public health,
15 safety, and the environment and, if so, shall adopt rules, regulations,
16 procedures and standards regarding such use.

17 Section 4B. Identification of Scrap Tire Stockpiles.

18 Within twelve months of the enactment of this Act, the Depart-
19 ment will conduct a study and prepare a list based upon the study
20 identifying existing scrap tire stockpiles in the Commonwealth. The
21 Department must include in its list the location of the stockpiles;
22 name(s), addresses, telephone numbers of owner/operators of stock-
23 piles; estimated number of scrap tires in each stockpile; and general
24 condition of the stockpiles.

25 The Department must make the list available to the public upon
26 request. The Department must also rank each identified scrap tire
27 stockpile in terms of the priority it should receive in carrying out
28 enforcement activities under this Act and other applicable laws of
29 the Commonwealth. The following criteria, at a minimum, will be
30 used in determining rank and priority status for scrap tire stockpiles:
31 number of tires in stockpile; threat posed by potential fires; health
32 risks posed by stockpile; complaints brought to the attention of the
33 Department concerning a stockpile; enforcement actions brought
34 against or to be brought against operator/owner of stockpile; willing-
35 ness of owner/operator of stockpile and/or local authorities to expe-
36 dite abatement activities at stockpile; and proximity of stockpile to
37 populated areas and density of populations.

38 Section 4C. Scrap Tire Management Fee.

39 (a) Beginning six months after the effective date of this Chapter,
40 for any new tire sold at retail, the retailer shall pay the following
41 fee:—

42 (1) any new tire having a rim diameter of 20 inches or greater, a
43 fee of \$3.00 must be paid,

44 (2) for any new tire having a rim diameter less than 20 inches, a
45 fee of \$1.50 must be paid.

46 (b) All fees to be paid in accordance with subsection (a) of this
47 section, shall be submitted in accordance with Section sixteen of
48 Chapter sixty-two C of the General Laws, as appearing in the 1998
49 Official Edition, such fees to be accounted for separately from sales
50 tax proceeds. Fees paid in accordance with this section shall be paid
51 into the Scrap Tire Management Fund established under Section 4D
52 of this Chapter. The fees shall be collected in accordance with regu-
53 lations developed under this Chapter.

54 (c) Each person who sells new tires at retail and who must pay
55 fees in accordance with this section must maintain in his or her
56 books and records evidence that the appropriate fee was paid for
57 each new tire sold. All records, invoices, and other documents
58 showing the number of new tires sold by such person and payment
59 of the required fee must be made available for inspection by the
60 Department of Environmental Protection and the Department of
61 Revenue.

62 (d) The requirement that this fee be paid will terminate ten years
63 from the enactment of this Act, unless legislation is passed
64 extending the fee payment period.

65 Section 4D. Scrap Tire Management Fund.

66 The Scrap Tire Management Fund shall be used for the following
67 purposes:—

68 (a) scrap tire stockpile abatement performed or authorized by the
69 Department (no less than 60% of the amounts credited to the Fund
70 must be used for scrap tire stockpile abatement, provided that when
71 and if 50% of the stockpiles are abated, only 30% of the amounts
72 credited to the fund must be used for scrap tire stockpile abatement);

73 (b) low interest loans and grants to support business endeavors,
74 including but not limited to, research and development projects
75 regarding the generation, reuse, recycling or disposal of scrap tires,
76 provided that no low interest loans or grants may be provided for

77 any business endeavors involving combustion of scrap tires for
78 energy recovery;

79 (c) development and distribution of educational materials on the
80 scrap tire problem in the Commonwealth, the importance of reuse
81 and recycling of scrap tires, and the purpose and structure of the
82 scrap tire management program;

83 (d) preparation of guidance and information for towns and munic-
84 ipalities in the Commonwealth concerning the establishment of
85 “scrap tire amnesty days” whereby residents may bring up to five
86 scrap tires per person to a designated location within the town or
87 municipality to be picked up by a registered scrap tire transporter for
88 delivery to a registered processor in accordance with this Chapter;

89 (e) additional Department personnel needed to implement,
90 enforce and operate the scrap tire management program, including
91 conducting of a study of the effectiveness and details concerning the
92 program;

93 (f) establishment of a grant program to be administered by the
94 state fire marshal to provide funds to local fire departments for the
95 purchase of firefighting suppression equipment and supplies to miti-
96 gate fires at tire stockpiles (this amount will not exceed \$50,000 per
97 year) and to the department of fire services to develop and admin-
98 ister fire training programs for participation by local fire depart-
99 ments specific to tire stockpile fires (not to exceed \$25,000 per
100 year); and

101 (g) an audit performed once every two years by an independent
102 accounting firm to ensure that the allocation decisions and the uses
103 of Fund monies by recipients are consistent with the purposes of this
104 Chapter.

105 Section 4E. Scrap Tire Generators.

106 Each person who sells or offers for sale new tires at retail or
107 retreaded tires at retail must accept from each customer at least one
108 scrap tire for each one sold by such person to the customer.

109 Section 4F. Scrap Tire Management Tracking Form.

110 The Department must develop a Scrap Tire Management Tracking
111 Form (“tracking form”). The tracking form must include space to
112 record at least the following information:—

113 (i) name, address, telephone number, and signature of the scrap
114 tire generator;

115 (ii) name, address, telephone number, and signature of the scrap
116 tire transporter;

117 (iii) name, address, telephone number, and signature of the scrap
118 tire processor, end use market, or permitted disposal facility; and

119 (iv) the number or total weight of scrap tires being transferred for
120 collection, storage, transportation, processing, or disposal.

121 Section 4G. Scrap Tire Transporter.

122 (a) Registration.

123 Within twelve months of the effective date of this Act, each scrap
124 tire transporter must register with the Department on a registration
125 form to be developed and made available to transporters by the
126 Department. The registration form shall include information on
127 transporter and transporter vehicles. The Department shall require a
128 registration fee to cover the costs of administering and determining
129 compliance with this section. The transporter must also secure and
130 maintain liability coverage pertaining to scrap tire and shredded
131 scrap tire transportation. Such registration shall be subject to suspen-
132 sion and revocation for failure to comply with any provision of this
133 Chapter.

134 (b) Scrap Tire Management Tracking Form.

135 A scrap tire transporter that accepts scrap tires from a scrap tire
136 generator or shredded tire material from a scrap tire processor must
137 provide said generator/processor with a copy of the tracking form
138 required under Section 4F. The fees collected under this Section
139 shall be paid into the Scrap Tire Management Fund established
140 under Section 4D of this Chapter. The tracking form must be signed
141 and completed by both the transporter and the generator/ processor.
142 The tracking form must be signed and completed before the scrap
143 tires or shredded tire materials are removed. Within 30 business days
144 of delivery to the transporter of the scrap tires or shredded tire mate-
145 rials, the transporter must provide a copy of the tracking form,
146 signed and completed by such processor, end use market, or solid
147 waste management facility to all signatories of said form. All signa-
148 tories must maintain a copy of the tracking form for a period of six
149 years from the date of completion and make them available to the
150 Department of Environment and the Department of Revenue upon
151 request.

152 Section 4H. Scrap Tire Processors.

153 (a) Notwithstanding any other permits or licenses required under
154 this Act or other laws of the Commonwealth, within twelve months
155 of the effective date of this Act, each scrap tire processor in the
156 Commonwealth must register with the Department. The Department
157 shall charge a fee for such registration to cover the cost of registra-
158 tion review and determination of compliance with this Act. The fees
159 collected under this Section shall be paid into the Scrap Tire Man-
160 agement Fund established under Section 4D of this Chapter.

161 The registration must contain, at a minimum, the following: the
162 name and address of the owner and/or operator of the business; the
163 name and address of the business; a description of the type of scrap
164 tire processing business being operated or to be operated at the
165 described location; and the number of scrap tires processed or likely
166 to be processed annually, including the number of scrap tires gener-
167 ated in the Commonwealth and the number of scrap tires that will be
168 accepted from outside of the Commonwealth, if any. Such registra-
169 tion shall be subject to suspension and revocation for failure to
170 comply with any provision of this Chapter.

171 (b) The Department shall also promulgate regulations concerning
172 recordkeeping that would enable a processor who so chooses to
173 qualify as eligible for the mandatory procurement specifications
174 described in paragraph (f) of Section 4L. Such recordkeeping
175 requirements must, if complied with, enable a processor to demon-
176 strate to the Department that at least 10 percent of the scrap tires
177 processed on an annual basis by the processor are derived from scrap
178 tire stockpiles identified under Section 4B of this Chapter. The
179 recordkeeping provisions developed under this section must require,
180 at a minimum, that information on the number of tires derived from
181 a stockpile or stockpiles be recorded, specifically identifying the
182 stockpile(s) and date(s) on which the scrap tires from such stock-
183 pile(s) were derived, and the number of scrap tires derived from
184 sources other than scrap tire stockpiles.

185 (c) A scrap tire processor must sign and maintain a properly com-
186 pleted copy of the scrap tire management tracking form,
187 as required by Section 4F of this Act, for each shipment or
188 delivery of scrap tires by a scrap tire transporter. A processor must
189 make each scrap tire management form available to the Department
190 for inspection upon request.

191 (d) The Department, by regulation, shall require a scrap tire
192 processor, as a condition of registration, to accept up to 10 scrap
193 tires from a person who is a resident of the Commonwealth and who
194 has collected or stored at his or her place of residence 10 tires or less
195 and who delivers or causes to be delivered such scrap tires to such
196 registered processor or to a registered transporter transporting scrap
197 tires for a registered processor in accordance with a “scrap tire
198 amnesty day” established by a city or town in the Commonwealth
199 pursuant to paragraph (e) of Section 4D of this Chapter. Such scrap
200 tire processors must maintain a log, with name, signature, address of
201 resident delivering scrap tires, and the number of scrap tires and date
202 of delivery of such scrap tires to such processor. Said log of residen-
203 tial scrap tires delivered to scrap tire processor must be maintained
204 by scrap tire processor for a period of six years from date of delivery
205 of scrap tires and must be made available to the Department for
206 inspection upon request.

207 Section 4I. Storage, Management, and Disposal of Scrap Tires.

208 Within twelve months of the effective date of this Act, the Depart-
209 ment shall promulgate regulations prescribing the standards for the
210 storage, management, and disposal of scrap tires. Regulations per-
211 taining to storage, management, and disposal of scrap tires by scrap
212 tire collectors must include, at minimum, the following:—

213 (a) criteria for minimizing the danger of fires, including dimen-
214 sions for piling tires and minimum aisle spacing;

215 (b) vector and nuisance control plan;

216 (c) recordkeeping and reporting;

217 (d) security of disposal facility;

218 (e) indoor and outdoor scrap tire storage requirements;

219 (f) financial assurance criteria, as required by Section 4K of this
220 Act; and

221 (g) closure plans, as required by Section 4K of this Act.

222 In order to ensure that regulations developed under this section
223 minimize the danger of fires, the Department shall consult with and
224 obtain the approval of the state fire marshal.

225 Section 4J. Collection, transportation, storage, etc., of scrap tires;
226 prohibited acts.

227 No person shall sell, collect, transport, store, process, or dispose
228 of scrap tires in a manner inconsistent with any provision of this

229 chapter, or of any rule, regulation, standard, license, permit, order, or
230 approval issued or adopted hereunder.

231 No scrap tire collector or person who otherwise comes into pos-
232 session of scrap tires shall transfer custody or possession of such
233 tires to any other person without signing a Scrap Tire Management
234 Tracking Form in accordance with Section 4F; provided, however,
235 that the Department, by regulation, may exempt from this prohibi-
236 tion the transfer of up to five scrap tires by a person who is a resi-
237 dent of the Commonwealth and who transfers custody of such scrap
238 tires to a scrap tire transporter, registered in accordance with Section
239 4G of this chapter, as part of a “scrap tire amnesty day” established
240 by a town or city in the Commonwealth pursuant to paragraph (d) of
241 Section 4D of this Chapter.

242 No scrap tire collector or person who otherwise comes into pos-
243 session of scrap tires or shredded tire material shall transfer custody
244 or possession of such scrap tires or shredded tire materials to any
245 scrap tire transporter or scrap tire processor who does not have a
246 valid registration issued pursuant to this Chapter.

247 No scrap tire transporter shall transport scrap tires or shredded tire
248 material to any person other than a scrap tire processor, end use
249 market, solid waste disposal facility that is operating in accordance
250 with Section 4I of this chapter, or to a location designated for the
251 purpose of a “scrap tire amnesty day” in accordance with paragraph
252 (d), Section 4D, and regulations issued or adopted hereunder.

253 No scrap tire processor shall accept scrap tires or shredded tire
254 material from any person other than a scrap tire transporter regis-
255 tered in accordance with Section 4G of this Chapter.

256 No person shall act in the capacity of, or advertise as, or assume
257 to act as a scrap tire transporter or processor unless such person is in
258 possession of a valid scrap tire transporter or processor registration
259 issued pursuant to this chapter.

260 Section 4K. Financial Assurance and Closure.

261 (a) Within 12 months of the effective date of this Act, the Depart-
262 ment shall promulgate regulations requiring that scrap tire collectors
263 and the owners and/or operators of scrap tire stockpiles, except as
264 may be specifically exempted by the Department in such regulations,
265 submit plans to be followed in the event of any necessary closure of
266 scrap tire stockpiles or any sites or locations where scrap tires are
267 located. Regulations shall address the requirements of closure and

268 post-closure plans. Such plans must be submitted by subject scrap
269 tire collectors and be approved by the Department. Such plans must
270 be developed and submitted to the Department by scrap tire collec-
271 tors as well as by owners and/or operators of scrap tire stockpiles.

272 (b) Within 12 months of the effective date of this Act, the Depart-
273 ment shall promulgate regulations requiring a scrap tire collector to
274 establish or obtain, and continuously maintain, financial assurance
275 that is adequate to assure the Department that the scrap tire collector
276 is at all times financially capable of complying with this Act and the
277 regulations promulgated under it. The financial assurance required
278 under this Act shall be no less than the estimated cost of closure and
279 post-closure activities with respect to the scrap tires under the con-
280 trol or in the possession of the scrap tire collector.

281 Section 4L. Encouraging the Reuse, Processing, Recycling,
282 and Retreading of Scrap Tires, and the Purchase of Retreaded
283 Scrap Tires and/or Products Made From Whole or Processed Scrap
284 Tires.

285 Within twelve months of the effective date of this Act, the Depart-
286 ment, as part of the Scrap Tire Management Program, will establish
287 a program to encourage the processing and reuse of scrap tires, the
288 retreading of tires, development of end use markets for scrap tires in
289 the Commonwealth and the purchase by the Commonwealth and its
290 political subdivisions of products made from recycled and/or whole
291 scrap tires and retreaded tires. The program must include at a min-
292 imum:

293 (a) a list of scrap tire processors in the Commonwealth;

294 (b) developing, updating, and making available upon request to
295 government agencies and the public, a list of tire retreaders and sup-
296 pliers of products made from whole and processed scrap tires,
297 including information on the types of products made by such sup-
298 pliers and the addresses and telephone numbers of such retreaders
299 and suppliers;

300 (c) a program to provide low interest loans and grants to support
301 business endeavors involving reuse and/or processing of scrap tires
302 or the manufacturing of products made with scrap tire content;

303 (d) updating the “Recycling Services Directory and Market
304 Guides for Massachusetts” and other pertinent documents and publi-
305 cations concerning recycling to include scrap tire recycling and
306 scrap tire services in the Commonwealth;

307 (e) the establishment by the Commonwealth of a preventive main-
308 tenance program for state vehicles to extend the life of tires, the pro-
309 gram shall include training materials related to extending tire life
310 and methods for proper tire repair; and

311 (f) coordinating with other departments and agencies of the Com-
312 monwealth, providing specific guidance to the Massachusetts
313 Highway Department, concerning the development of procurement
314 specifications encouraging the use of whole and/or processed scrap
315 tires, retreaded tires, and products made from whole or processed
316 scrap tires. The procurement specifications shall include a prefer-
317 ence for the use of whole and/or processed scrap tires, retreaded
318 tires, and products made from whole or processed scrap tires where
319 such scrap tires, retreaded tires, or products cost no more than 10
320 percent above the cost of alternatives to the use of scrap tires,
321 retreaded tires, or products not made from whole or processed scrap
322 tires, provided that five years after the enactment date of this
323 Chapter, in order for the preference to apply, the cost differential
324 may not be more than five percent. Additionally, for agencies and
325 departments of the Commonwealth, but not for cities and/or towns in
326 the Commonwealth, the procurement specifications shall mandate —
327 rather than create a preference for:— the use of processed scrap tires
328 and/or products made from whole or processed scrap tires, where the
329 processor can demonstrate through recordkeeping in accordance
330 with regulations to be developed by the Department under paragraph
331 (b) of Section 4H that at least 10% of the scrap tires recycled or
332 processed by the processor have been obtained from stockpiles iden-
333 tified and listed by the Department under 4B, provided that such
334 products cost no more than 10% above the cost of comparable prod-
335 ucts made without the use of recycled or processed scrap tires. This
336 paragraph of Section 4L shall apply notwithstanding any contrary
337 provisions of the GL Chapter 30B and any other law governing pro-
338 curement.