

HOUSE GOVERNMENT, ELECTIONS AND INDIAN AFFAIRS
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 291

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

AN ACT

RELATING TO THE ENVIRONMENT; AMENDING THE RECYCLING AND ILLEGAL
DUMPING ACT TO PROMOTE THE STATE'S CIRCULAR ECONOMY; REQUIRING
THE ENVIRONMENTAL IMPROVEMENT BOARD TO ADOPT REQUIREMENTS AND
PROCEDURES FOR A PERSON TO SUBMIT RULES TO THE BOARD FOR
ADOPTION; REQUIRING THE BOARD TO DETERMINE WHETHER TO HOLD A
HEARING WITHIN SIXTY DAYS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 74-13-1 NMSA 1978 (being Laws 2005,
Chapter 171, Section 1) is amended to read:

"74-13-1. SHORT TITLE.--~~[Sections 1 through 20 of this
act]~~ Chapter 74, Article 13 NMSA 1978 may be cited as the
"Recycling, Circular Economy and Illegal Dumping Act"."

SECTION 2. Section 74-13-2 NMSA 1978 (being Laws 2005,
Chapter 171, Section 2) is amended to read:

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underscored material = new
[bracketed material] = delete

1 "74-13-2. LEGISLATIVE PURPOSES.--The purposes of the
2 Recycling, Circular Economy and Illegal Dumping Act are to:

3 A. protect the health and welfare of current and
4 future residents of New Mexico by providing for the prevention
5 and abatement of illegal dumpsites;

6 B. promote environmentally sound methods for reuse
7 and recycling and to foster a circular economy;

8 C. create a statewide recycling and circular
9 economy alliance involving the cooperation of cities, counties,
10 state agencies, tribal governments, land grant communities and
11 private business to encourage economic development, community
12 development and collaboration that foster sustainable use of
13 resources and increased recycling and that promote a circular
14 economy and a cleaner and healthier environment; and

15 D. enhance and coordinate existing highway litter
16 control and removal and recycling efforts that include the
17 recycling of tires, glass, plastic, metal, paper products,
18 electronic waste and construction and demolition materials."

19 SECTION 3. Section 74-13-3 NMSA 1978 (being Laws 2005,
20 Chapter 171, Section 3) is amended to read:

21 "74-13-3. DEFINITIONS.--As used in the Recycling,
22 Circular Economy and Illegal Dumping Act:

23 A. "abatement" means to reduce in amount, degree or
24 intensity or to eliminate;

25 B. "agricultural use" means the beneficial use of

1 scrap tires in conjunction with the operations of a farm or
2 ranch that includes construction projects and aids in the
3 storage of feed;

4 C. "alliance" means the recycling, circular economy
5 and illegal dumping alliance;

6 D. "board" means the environmental improvement
7 board;

8 E. "circular economy" means an economy that uses a
9 systems-focused approach and involves industrial processes and
10 economic activities that:

11 (1) are restorative or regenerative by design;

12 (2) enable resources used in such processes
13 and activities to maintain their highest values for as long as
14 possible; and

15 (3) aim for the elimination of waste through
16 the superior design of materials, products and systems,
17 including business models;

18 F. "civil engineering application" means the use of
19 scrap tires or other recycled material in conjunction with
20 other aggregate materials in engineering applications;

21 [~~F.~~] G. "composting" means the process by which
22 biological decomposition of organic material is carried out
23 under controlled conditions and the process stabilizes the
24 organic fraction into a material that can be easily and safely
25 stored, handled and used in an environmentally acceptable

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1 manner;

2 ~~[G.]~~ H. "cooperative association" means a refuse
3 disposal district created pursuant to the Refuse Disposal Act,
4 a sanitation district created pursuant to the Water and
5 Sanitation District Act, a special district created pursuant to
6 the Special District Procedures Act or other associations
7 created pursuant to the Joint Powers Agreements Act or the
8 Solid Waste Authority Act;

9 ~~[H.]~~ I. "department" means the department of
10 environment;

11 ~~[I.]~~ J. "dispose" means to deposit scrap tires or
12 solid waste into or on any land or water;

13 ~~[J.]~~ K. "household" means any single and multiple
14 residence, hotel or motel, bunkhouse, ranger station, crew
15 quarters, campground, picnic ground or day-use recreation area;

16 ~~[K.]~~ L. "illegal dumping" means disposal of trash,
17 scrap tires or any solid waste in a manner that violates the
18 Solid Waste Act or the Recycling, Circular Economy and Illegal
19 Dumping Act;

20 ~~[L.]~~ M. "illegal dumpsite" means a place where
21 illegal dumping has occurred except as stated in Subsection A
22 of Section ~~[4 of the Recycling and Illegal Dumping Act]~~ 74-13-4
23 NMSA 1978;

24 ~~[M.]~~ N. "market development" means activities to
25 expand or create markets for recyclable and reusable materials

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1 that foster a circular economy;

2 [N.] O. "motor vehicle" means a vehicle or device
3 that is propelled by an internal combustion engine or electric
4 motor power that is used or may be used on the public highways
5 for the purpose of transporting persons or property and
6 includes any connected trailer or semitrailer;

7 [O.] P. "processing" means techniques to change
8 physical, chemical or biological character or composition of
9 solid waste but does not include composting, transformation or
10 open burning;

11 [P.] Q. "recycling" means any process by which
12 recyclable materials are collected, separated or processed and
13 reused or returned to use in the form of raw materials or
14 products;

15 [Q.] R. "reuse" means the return of a commodity
16 into the economic stream without a change to its original
17 form;

18 [R.] S. "scrap tire" means a tire that is no longer
19 suitable for its originally intended purpose because of wear,
20 damage or defect;

21 [S.] T. "scrap tire baling" means the process by
22 which scrap tires are mechanically compressed and bound into
23 block form;

24 [T.] U. "scrap tire generator" means a person who
25 generates scrap tires, including retail tire dealers,

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1 retreaders, scrap tire processors, automobile dealers,
2 automobile salvage yards, private company vehicle maintenance
3 shops, garages, service stations and city, county and state
4 government, but does not include persons who generate scrap
5 tires in a household or in agricultural operations;

6 [~~U~~] V. "scrap tire hauler" means a person who
7 transports scrap tires for hire for the purpose of recycling,
8 disposal, transformation or use in a civil engineering
9 application;

10 [~~V~~] W. "secretary" means the secretary of
11 environment;

12 [~~W~~] X. "tire" means a continuous solid or
13 pneumatic rubber covering that encircles the wheel of a motor
14 vehicle;

15 [~~X~~] Y. "tire-derived fuel" means whole or chipped
16 tires that produce a low sulfur, high-heating-value fuel;

17 [~~Y~~] Z. "tire-derived product" means a usable
18 product produced from the processing of a scrap tire but does
19 not include baled tires;

20 [~~Z~~] AA. "tire recycling" means a process in which
21 scrap tires are collected, stored, separated or reprocessed for
22 reuse as a different product or shredded into a form suitable
23 for use in rubberized asphalt or as raw material for the
24 manufacture of other products; and

25 [~~AA~~] BB. "tire recycling facility" means a place

1 operated or maintained for tire recycling but does not
2 include:

3 (1) retail business premises where tires are
4 sold, if no more than five hundred loose scrap tires or two
5 thousand scrap tires, if left in a closed conveyance or
6 enclosure, are kept on the premises at one time;

7 (2) the premises of a tire retreading
8 business, if no more than three thousand scrap tires are kept
9 on the premises at one time;

10 (3) premises where tires are removed from
11 motor vehicles in the ordinary course of business, if no more
12 than five hundred scrap tires are kept on the premises at one
13 time;

14 (4) a solid waste facility having a valid
15 permit or registration issued pursuant to the provisions of the
16 Solid Waste Act or regulations adopted pursuant to that act or
17 registration issued pursuant to the Environmental Improvement
18 Act; or

19 (5) a site where tires are stored or used for
20 agricultural uses."

21 SECTION 4. Section 74-13-6 NMSA 1978 (being Laws 2005,
22 Chapter 171, Section 6) is amended to read:

23 "74-13-6. ADMINISTRATION OF ACT--RECYCLING AND WASTE
24 REDUCTION COORDINATOR--CIRCULAR ECONOMY COORDINATOR.--

25 A. The department is responsible for the

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1 administration and enforcement of the provisions of the
2 Recycling, Circular Economy and Illegal Dumping Act and of all
3 rules adopted by the board pursuant to the provisions of that
4 act. The department is delegated all authority necessary and
5 appropriate to carry out its responsibilities.

6 B. The positions of "recycling and waste reduction
7 coordinator" and "circular economy coordinator" are created in
8 the department and shall be funded from the recycling and
9 illegal dumping fund."

10 SECTION 5. Section 74-13-7 NMSA 1978 (being Laws 2005,
11 Chapter 171, Section 7) is amended to read:

12 "74-13-7. RECYCLING, CIRCULAR ECONOMY AND ILLEGAL DUMPING
13 ALLIANCE.--

14 A. The "recycling, circular economy and illegal
15 dumping alliance" is created and is [~~comprised~~] composed of one
16 member from each of the following:

- 17 (1) state government;
- 18 (2) local government;
- 19 (3) a solid waste authority;
- 20 (4) an industry waste generator;
- 21 (5) a tribal government;
- 22 (6) a nonprofit organization;
- 23 (7) a recycling company;
- 24 (8) a retailer;
- 25 (9) an agricultural producer;

1 (10) a soil and water conservation district;

2 (11) a waste management company; and

3 (12) the public at large.

4 B. The secretary shall appoint members of the
5 alliance to serve two-year terms as volunteers with no
6 compensation from the state.

7 C. The alliance shall:

8 (1) develop strategies to increase recycling,
9 foster the circular economy and decrease illegal dumping in New
10 Mexico;

11 (2) create a state [~~recycling~~] circular
12 economy plan, as a component of the New Mexico solid waste
13 management plan, to establish programs and goals and update the
14 [~~plan~~] plans every three years to measure progress and modify
15 strategies; and

16 (3) review and make recommendations for
17 funding grant applications from the recycling and illegal
18 dumping fund."

19 SECTION 6. Section 74-13-8 NMSA 1978 (being Laws 2005,
20 Chapter 171, Section 8) is amended to read:

21 "74-13-8. RULES--AUTHORITY AND CONTENT.--The board shall
22 adopt rules to implement the provisions of the Recycling,
23 Circular Economy and Illegal Dumping Act. The rules shall be
24 adopted pursuant to the provisions of the Environmental
25 Improvement Act and shall include:

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1 A. requirements and procedures for the issuance of
2 permits and registrations to tire recycling facilities, civil
3 engineering applications, scrap tire generators and scrap tire
4 haulers;

5 B. standards and requirements for tire recycling
6 and scrap tire storage and processing;

7 C. record-keeping requirements for tire recycling
8 facilities, scrap tire haulers and scrap tire generators;

9 D. financial assurance criteria for tire recycling
10 facilities;

11 E. fire rules for storage of scrap tires and
12 tire-derived products that are consistent with the rules or
13 recommendations adopted by the state fire marshal;

14 F. criteria and procedures for making disbursements
15 pursuant to grant and loan programs authorized from the
16 recycling and illegal dumping fund;

17 G. requirements and procedures for contracting with
18 counties, municipalities, Indian nations, pueblos and tribes,
19 land grant communities and cooperative associations for the
20 abatement of illegal dumpsites and recycling;

21 H. requirements and procedures for a scrap tire
22 manifest system;

23 I. a fee schedule applicable to scrap tire haulers
24 and tire recycling facilities not exceeding the estimated cost
25 of investigating and issuing permits and registrations and

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1 conducting regulatory oversight of permitted and registered
2 activities; [~~and~~]

3 J. a fee schedule applicable to scrap tire
4 generators not exceeding the estimated cost of conducting
5 regulatory oversight of scrap tire generators; and

6 K. requirements and procedures for a person to
7 submit proposed rules to the board for adoption. The board
8 shall determine whether to hold a hearing within sixty days of
9 submission of a proposed rule."

10 SECTION 7. Section 74-13-10 NMSA 1978 (being Laws 2005,
11 Chapter 171, Section 10) is amended to read:

12 "74-13-10. SOLID WASTE PERMIT EXEMPTION.--A person
13 operating a tire recycling facility under a permit issued
14 pursuant to the Recycling, Circular Economy and Illegal Dumping
15 Act shall not be required to obtain a permit for that facility
16 pursuant to the Solid Waste Act."

17 SECTION 8. Section 74-13-11 NMSA 1978 (being Laws 2005,
18 Chapter 171, Section 11) is amended to read:

19 "74-13-11. ABATEMENT OF ILLEGAL DUMPSITE.--

20 A. The department may bring an abatement action
21 pursuant to the provisions of Section 30-8-8 NMSA 1978 to
22 eliminate an illegal dumpsite.

23 B. The secretary may act administratively to
24 eliminate illegal dumpsites pursuant to the provisions of the
25 Recycling, Circular Economy and Illegal Dumping Act.

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1 C. Nothing in this section shall prohibit a
2 municipality, county, Indian nation, pueblo or tribe, land
3 grant community or cooperative association from contracting for
4 services to complete an abatement action."

5 SECTION 9. Section 74-13-13 NMSA 1978 (being Laws 2005,
6 Chapter 171, Section 13) is amended to read:

7 "74-13-13. ENFORCEMENT--COMPLIANCE ORDERS.--

8 A. Whenever the secretary determines that a person
9 has violated or is violating any requirement or prohibition of
10 the Recycling, Circular Economy and Illegal Dumping Act, a rule
11 adopted pursuant to that act or a condition of a permit issued
12 pursuant to that act, the secretary may:

13 (1) issue a compliance order stating with
14 reasonable specificity the nature of the violation and
15 requiring compliance immediately or within a specified time
16 period or assessing a civil penalty for any past or current
17 violation or both; and

18 (2) commence a civil action in district court
19 for appropriate relief, including a temporary or permanent
20 injunction.

21 B. A compliance order issued pursuant to this
22 section may include a suspension or revocation of a permit or
23 portion of the permit issued by the secretary. A penalty
24 assessed in the compliance order shall not exceed five thousand
25 dollars (\$5,000) per day of noncompliance for each violation.

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1 C. A compliance order issued pursuant to this
2 section shall state with reasonable specificity the nature of
3 the required corrective action or other response measure and
4 shall specify a time for compliance.

5 D. A compliance order issued pursuant to this
6 section shall become final unless, no later than thirty days
7 after the order is served, the person named in the order
8 submits a written request to the secretary for a public
9 hearing. Upon a request, the secretary promptly shall conduct
10 a public hearing. The secretary shall appoint an independent
11 hearing officer to preside over the public hearing. The
12 hearing officer shall make and preserve a complete record of
13 the proceedings and forward a recommendation to the secretary,
14 who shall make the final decision.

15 E. The secretary may seek enforcement of the order
16 by filing an action for enforcement in the district court.

17 F. Upon request of a party, the secretary may issue
18 subpoenas for the attendance and testimony of witnesses at the
19 hearing and for the production of relevant documents. The
20 secretary shall adopt procedural rules for the conduct of the
21 hearing, including provisions for discovery.

22 G. In determining the amount of a penalty
23 authorized to be assessed pursuant to this section, the
24 secretary shall take into account the seriousness of the
25 violation, good-faith efforts of the violator to comply with

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1 applicable requirements of the Recycling, Circular Economy and
2 Illegal Dumping Act or rules issued pursuant to its provisions
3 and other relevant factors."

4 SECTION 10. Section 74-13-14 NMSA 1978 (being Laws 2005,
5 Chapter 171, Section 14) is amended to read:

6 "74-13-14. ENFORCEMENT--FIELD CITATIONS.--

7 A. The board shall implement a field citation
8 program by adopting rules establishing appropriate minor
9 violations for which field citations assessing civil penalties
10 not to exceed one thousand dollars (\$1,000) per day of
11 violation may be issued by local government authorities or
12 employees of the department as designated by the secretary.

13 B. A field citation issued pursuant to this section
14 shall be final unless the person named in the citation files a
15 written request for a public hearing with the secretary no
16 later than fifteen days after the date on which the field
17 citation is served on the person, in which case the enforcement
18 of the field citation shall be suspended pending the issuance
19 of a final order of the secretary after a public hearing. The
20 procedures for scheduling and conducting a hearing on and for
21 final disposition of a field citation shall be the same as
22 those provided for a compliance order pursuant to the
23 Recycling, Circular Economy and Illegal Dumping Act.

24 C. Payment of a civil penalty required by a field
25 citation issued pursuant to this section shall not be a defense

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1 to further enforcement by the department to correct a
2 continuing violation or to assess the maximum statutory penalty
3 pursuant to the provisions of the Recycling, Circular Economy
4 and Illegal Dumping Act if the violation continues.

5 D. In determining the amount of a penalty to be
6 assessed pursuant to this section, the secretary or the person
7 issuing a field citation shall take into account the
8 seriousness of the violation, good-faith efforts of the
9 violator to comply with the applicable requirements of the
10 Recycling, Circular Economy and Illegal Dumping Act or rules
11 issued pursuant to its provisions and other relevant
12 factors.

13 E. In connection with a proceeding pursuant to this
14 section, the secretary may issue subpoenas for the attendance
15 and testimony of witnesses and the production of relevant
16 papers, books and documents and may adopt rules for discovery."

17 **SECTION 11.** Section 74-13-15 NMSA 1978 (being Laws 2005,
18 Chapter 171, Section 15) is amended to read:

19 "74-13-15. JUDICIAL REVIEW OF ADMINISTRATIVE ACTIONS.--A
20 person adversely affected by an administrative action taken by
21 the secretary pursuant to the provisions of the Recycling,
22 Circular Economy and Illegal Dumping Act may appeal the action
23 pursuant to Section 39-3-1.1 NMSA 1978."

24 **SECTION 12.** Section 74-13-16 NMSA 1978 (being Laws 2005,
25 Chapter 171, Section 16) is amended to read:

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1 "74-13-16. PENALTY--CRIMINAL.--

2 A. A person who knowingly violates Section [4 of
3 ~~the Recycling and Illegal Dumping Act~~] 74-13-4 NMSA 1978:

4 (1) is guilty of a misdemeanor if the
5 violation involves a quantity of scrap tires or tire-derived
6 products that is less than five thousand pounds and shall be
7 sentenced pursuant to the provisions of Section 31-19-1 NMSA
8 1978; or

9 (2) is guilty of a fourth degree felony if the
10 violation involves a quantity of scrap tires or tire-derived
11 products that is five thousand pounds or greater and shall be
12 sentenced pursuant to the provisions of Section 31-18-15 NMSA
13 1978.

14 B. A person who knowingly omits any substantive
15 information or knowingly makes a false substantive statement or
16 representation required pursuant to the Recycling, Circular
17 Economy and Illegal Dumping Act or rule adopted pursuant to the
18 provisions of that act is guilty of a fourth degree felony and
19 shall be sentenced in accordance with the provisions of Section
20 31-18-15 NMSA 1978."

21 SECTION 13. Section 74-13-17 NMSA 1978 (being Laws 2005,
22 Chapter 171, Section 17) is amended to read:

23 "74-13-17. GRANTS--ELIGIBILITY--APPLICATIONS.--

24 A. A municipality, county, Indian nation, pueblo or
25 tribe, land grant community, cooperative association or solid

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1 waste authority that meets eligibility requirements established
 2 by the board may apply for a grant for providing funds to
 3 public landfills to offset the cost of collecting or recycling
 4 of tires, ~~[or submit a competitive bid for a loan or contract~~
 5 ~~for development costs or operating costs to establish a~~
 6 ~~recycling facility]~~ purchase equipment, perform marketing,
 7 purchase products produced by a recycling facility, provide
 8 educational outreach, develop recycling infrastructure, abate
 9 illegal dumpsites or contract with vendors to promote recycling
 10 and to abate illegal dumpsites consistent with provisions of
 11 the Recycling, Circular Economy and Illegal Dumping Act. ~~[The~~
 12 ~~first priority for funding shall be abatement of illegal scrap~~
 13 ~~tire dumpsites and the recycling of scrap tires.~~

14 ~~B. A grant, loan or contract for processing shall~~
 15 ~~not be awarded pursuant to the Recycling and Illegal Dumping~~
 16 ~~Act to a person who receives less than ninety-five percent of~~
 17 ~~recyclable materials from sources in New Mexico.~~

18 ~~G.]~~ B. Nothing in this section prohibits a
 19 municipality, county, Indian nation, pueblo or tribe, land
 20 grant community or cooperative association from contracting for
 21 services to complete an abatement action.

22 ~~[D. At least two-thirds of budgeted grant money in~~
 23 ~~each fiscal year shall be allocated to tire abatement and~~
 24 ~~recycling programs, and one-third of budgeted grant money in~~
 25 ~~each fiscal year shall be allocated to abatement of illegal~~

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1 ~~dumping and recycling of other solid wastes.]"~~

2 SECTION 14. Section 74-13-19 NMSA 1978 (being Laws 2005,
3 Chapter 171, Section 19) is amended to read:

4 "74-13-19. RECYCLING AND ILLEGAL DUMPING FUND CREATED.--
5 The "recycling and illegal dumping fund" is created in the
6 state treasury. Fees and penalties collected pursuant to the
7 Recycling, Circular Economy and Illegal Dumping Act shall be
8 deposited into the fund. Money in the fund is appropriated to
9 the department for [~~abatement of illegal dumpsites; for~~
10 ~~processing, transportation or recycling of all recyclable~~
11 ~~materials and scrap tires; for providing funds to public~~
12 ~~landfills in New Mexico to offset the cost of collecting or~~
13 ~~recycling of tires; and for]~~ carrying out the provisions of the
14 Recycling, Circular Economy and Illegal Dumping Act. Any
15 unexpended or unencumbered balance or income earned from the
16 money in the recycling and illegal dumping fund remaining at
17 the end of a fiscal year shall not revert to the general fund.
18 Disbursements from the fund shall be by warrant drawn by the
19 secretary of finance and administration pursuant to vouchers
20 signed by the secretary of environment or the secretary's
21 designee."