



**STATEMENT OF
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INSTITUTE OF SCRAP RECYCLING INDUSTRIES**

**BEFORE THE
MARYLAND HOUSE JUDICIARY COMMITTEE
MARCH 8, 2017
ANNAPOLIS, MARYLAND**

Members of the Committee, I respectfully submit this testimony on behalf of the Institute of Scrap Recycling Industries (ISRI) Tire & Rubber Division and its member companies. ISRI is the trade association that represents more than 1,300 for-profit companies that process, broker and industrially consume recyclable commodities including metals, paper, plastics, glass, textiles, rubber and electronics. My company, Emanuel Tire, LLC is an ISRI member company based in Baltimore, Maryland and employs more than 200 individuals. There are 63 ISRI member companies across the nation who handle tires for recycling. In the state of Maryland, the tire recycling industry is responsible for providing more than \$4.3 million in total wages and benefits to its employees.

Statement Summary

Thank you for the opportunity to submit testimony in opposition to H.B. 1353, an Act concerning the local government and Maryland Tort Claims Acts pertaining to artificial or synthetic turf playing fields. ISRI believes this legislation will impair the environmental and economic benefits of tire recycling in the state of Maryland and businesses like mine which employ hundreds of individuals and support our local communities. The legislation would permanently harm the tire recycling industry in Maryland by hampering sales and installation of artificial turf playing surfaces simply out of fear of being drawn into a tortious lawsuit. There is simply no logical explanation for exposing the state of Maryland and local governments to frivolous lawsuits based on nothing more than unsubstantiated claims which are not supported by the overwhelming amount of peer-reviewed scientific data.

Emanuel Tires and the Tire Recycling Industry

Emanuel Tire Family of Companies, under the leadership of Norman Emanuel, has been in the scrap tire business for 60 years. We have received national recognition for our efforts to establish standards in the scrap tire industry and for deriving new uses for shredded tires. Emanuel Tire was a founding member of the National Association of Scrap Tire Processors (NASTP) – which is now the Tire & Rubber Division of the Institute of Scrap Recycling Industries (ISRI). Emanuel Tire sits on the ISRI Board of Directors and is innately familiar with the development of state and national scrap tire recycling programs.

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30th
Anniversary
1987-2017

The Emanuel Tire Family of Companies processes over 17 million tires per year, typically received from one of three sources: tires delivered to our plant by individuals or companies; trailers or pick-up services at locations where customers have large volume of tires; and the clean-up of private or government owned stockpiles.

Emanuel Tire does not landfill any of our shredded products, all of the tires we shred are used in one of a number existing and promising markets, including:

- Tire Chips shredded to customer specification and used in civil engineering projects;
- Safe-T-Play and Safe-T-Footing 100% wire free playground and horse arena material;
- Recycled Reclaim Industry Material (RRIM), used by industry processors who fine grind our material then mold them for cattle mats, athletic surfacing and flooring tiles;
- Tire Derived Fuel (TDF) a fuel source in many kilns and energy plants;
- Septic System Material (SSM) used in commercial and residential drainage fields;
- Sound Wall Material rubber chips used to make highway noise reduction walls; and
- Forever Mulch, a colorized chip used in landscaping and architectural enhancement.

Emanuel Tire is committed to the environmentally safe use of tire products. We are licensed and recognized by the Maryland Department of the Environment, Pennsylvania Department of Environment and the Virginia Department of Environmental Quality as a Scrap Tire Hauler, Scrap Tire Collection Facility and a Scrap Tire Recycler. Additionally, Emanuel Tire employs an OSHA approved Environmental, Health and Safety program at all of our facilities.

Environmentally Responsible Solutions

Each year, approximately 110 million tires are processed in the United States by the recycling industry – or one tire for every three people in the U.S. In the past, scrap tires — generated when an old, worn tire is replaced with a new tire — were often dumped illegally in lakes, abandoned lots, along the side of the road and in sensitive habitats. Today, scrap tires are playing a much different role as an important part of the manufacturing process as well as providing environmentally responsible solutions to age-old problems.

Over the past few decades, tire recyclers have invested millions of dollars in technologies and equipment to recycle tires, allowing scrap tires to play an important role in strengthening our economy and protecting our environment. Thanks to these innovations in manufacturing, recycled rubber is now a common alternative used, for example, to facilitate softer playground surfaces, reduce the chance of injuries for athletes, and provide softer lower-impact surfaces for those on their feet hard at work and play.

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Scrap tire rubber is a highly sought material in the manufacturing industry. In 2015, scrap processors produced more than 1.2 billion pounds of crumb rubber that was used in the creation of new products ranging from landscaping tools, playground covering, and infill for athletic playing surfaces used by pro-athletes, colleges/universities, high schools, and communities, as well as long-term, high-traffic items such as roadways, sidewalks and horse tracks. Applications for scrap tire rubber — such as rubberized asphalt and crumb rubber — have become recognized for their preferable properties and is gaining in prominence and widespread use.

Unsubstantiated Claims Should Not be the Basis of Exposing Government to Liability

There is no justifiable basis for subjecting state and local government to excessive liability under the circumstances outlined in H.B. 1353. ISRI can only surmise that the underlying rationale for this legislation is based on unsubstantiated assertions circulated by the media that playing on synthetic turf fields with recycled rubber infill is connected to long-term health risks. If that is the case, however, then the proper course of action is to address the underlying matter of concern, not expose state and local government to unreasonable tort liability.

As for the underlying concerns that may be the basis for this illogical legislation, ISRI joins with the overwhelming number of scientific experts, communities, athletic clubs and others who are avid supporters of artificial turf playing fields. There are more than 12,000 artificial turf playing fields that are made from crumb rubber infill generated by recycled tires in the United States. Athletics programs are increasingly improving with athlete safety in mind, and as such it is more and more common for owners of playing fields to consider the benefits of artificial turf surfaces. In fact, when considering replacing an old field with a new one, or embarking on a brand new project, to ask the question of whether to use synthetic turf or natural turf comes up early and often. The benefits of synthetic turf are enormous as evidenced by its growing popularity.

Sound Science Supports Artificial Turf

Decisions on whether to install artificial and synthetic turf fields are based on numerous factors, not the least of which is safety. State and local governments around the nation that are responsible for installation and maintenance of athletic fields have chosen artificial turf based on long-established scientific data indicating it is safe. To date, there have been dozens of scientific studies, including peer-reviewed academic analyses and federal and state government reports that have thus far found no significant health risk associated with artificial turf.

ISRI finds little logic in H.B.1353 particularly since studies as recent as this year continue to attest to the safe nature of this popular playing surface. ISRI would be happy to direct members of this committee to the more than 90 independent scientific studies which support this fact. These

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studies have examined a number of variables through exposure pathways such as inhalation, ingestion, and dermal contact. They are comprehensive studies with independent analysis.

For example, most recently the Washington State Department of Health completed an investigation of reported cancer among soccer players in the state, stating that "our investigation did not show increased rates of cancer among reported soccer players, and the available research does not suggest that playing soccer on artificial turf causes cancer" and recommending "that people who enjoy soccer continue to play regardless of the type of field surface." (www.doh.wa.gov/CommunityandEnvironment/Schools/EnvironmentalHealth/SyntheticTurf)

While some news reports have focused on the fact that chemicals are found in recycled rubber, the mere presence of a chemical does not mean it poses potential health risks. The most common four chemicals found in recycled rubber that have been brought up as points of concern are arsenic, benzene, cadmium, and nickel. By themselves this may sound an alarm, but it is important to take this in context and in relation to how often we come into contact with each as part of everyday life. For instance:

- Rubber in turf has less arsenic than rice; less cadmium than in lobster; less nickel than in chocolate; and less benzene than in a can of soda.
- The International Agency of Cancer Research has stated these chemicals are all safe in low amounts and are simply part of the world we live in and the food we don't think twice about.
- Given this, regulatory reports have found that chemical exposures from synthetic turf present a very low risk.

Tort Law Scare Tactics are Not Good for Business or Public Policy

H.B. 1353 is neither good for business nor for the state of Maryland. Not only could the vibrant tire recycling industry in Maryland be permanently harmed, but state and local government will be exposed to frivolous lawsuits and all the costs associated with them. H.B. 1353 could chill the market for artificial turf playing fields by virtue of placing a de-facto seal of approval on competing products that would not expose government to excessive potential liability. Furthermore, the legislation could hurt Maryland's efforts to attract economic investments and jobs by inadvertently opening a Pandora's box for potential excessive tort liability in the future.

Exposing state and local governments acting on behalf of their citizens to excessive potential tort liability is simply not sound public policy. The Maryland and Local Government Tort Claims Acts are designed to limit the monetary amount of damages that may be recovered from judgments against the state and local governments in tort actions. In this sense, Maryland has recognized that government should be allowed to make smart business decisions and choices concerning

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the services they provide citizens without fear of being sued for excessive damages. Yet, this is essentially what H.B. 1353 allows when it eliminates the existing limits on liability governments have simply because they own or operate a playing field made of artificial turf. There is absolutely no basis for eliminating the liability limits established under sovereign immunity in these instances, and there are no other products singled-out in existing law in such an egregious manner.

It is an almost certain reality that H.B. 1353 will open the door to a deluge of frivolous lawsuits. While the overwhelming science clearly agrees that utilizing crumb rubber infill on artificial turf playing fields poses no additional health risks, there are an untold number of examples in which facts and sound science are no obstacle for those desiring to file a lawsuit for personal or other gain. Many would argue that too many of these disputes are prematurely settled out of consideration of the costs of defending against such suits. The limits on liability established in the Tort Claims Acts potentially protect the government from these costs by discouraging frivolous lawsuits. The very fact that H.B. 1353 creates the *possibility* of an excessive damage award will open the flood gates for unsubstantiated lawsuits.

Moreover, H.B. 1353 chills governments' ability to serve the will and interests of its citizens by using tort law as a means to scare government into submission. It is a common and unfortunate truth in today's litigious society that one of the most effective scare tactics in modern day is the threat of a tortious lawsuit. As governments face very real threats of litigation at almost every turn, even if the overwhelming majority of citizens want to enjoy the benefits of artificial turf in their communities, they will be denied the opportunity simply because of the exposure to excessive liability that H.B. 1353 would put on the government.

Conclusion

Maryland HB 1353 is an illogical and irrational response to a problem that simply does not exist. Dozens of scientific studies, including the most recent Washington State investigation, have all concluded that there is no significant health risk associated with artificial turf made from recyclable rubber infill. H.B. 1353 would expose state and local governmental bodies to the risk of frivolous lawsuits, cool the market for recycled rubber products in Maryland, and place a de-facto seal of approval on competing products if for no other reason than avoiding the possibility of a lawsuit. It is an unnecessary and ultimately unfounded piece of legislation that would distort Maryland's tort law by singling out a product for liability without scientific basis or explanation.

Because of this, and on behalf of all tire recyclers working to improve our environment and economy by keeping valuable recyclable materials out of landfills, I urge this distinguished committee to oppose this legislation.

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