S T A T E O F N E W Y O R K

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I N A S S E M B L Y

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Introduced by M. of A. PRETLOW, BRODSKY, JOHN, ENGLEBRIGHT -- Multi-Sponsored by -- M. of A. COLTON, DINOWITZ, GALEF, GLICK, MARKEY, MILLMAN, MORELLE, SWEENEY, WEINSTEIN -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to used oil filters

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative intent. The legislature finds and declares that the proper management of used oil is of paramount environmental concern, particularly in protecting the state's waterways and groundwater supplies from such pollution. The legislature further finds that current laws and regulations governing the prohibited disposal of used oil, and establishing requirements for its safe collection and management by service establishments and other on-premises oil-changing operations, are not adequate to protect the environment from the estimated seven hundred thousand gallons of waste oil which remains in the eighteen million used oil filters generated in the state each year. Accordingly, landfill disposal should be prohibited for this product, and each used oil filter, which contains approximately five ounces of used oil as well as significant amounts of steel, should be separated from the waste stream by service establishments and other large generators and held for recycling.

S 2. Section 23-2301 of the environmental conservation law is amended by adding four new subdivisions 12, 13, 14 and 15 to read as follows:

12. THE TERM "USED OIL FILTER" MEANS ANY DEVICE OR COMPONENT OF A DEVICE, THE PRIMARY PURPOSE OF WHICH IS TO REMOVE CONTAMINANTS FROM OIL, WHICH CONTAINS A RESIDUE OF USED OIL AS DEFINED IN THIS SECTION, AND IS NOT CONSIDERED HAZARDOUS UNDER FEDERAL REGULATIONS.

13. THE TERM "USED OIL FILTER TRANSPORTER" SHALL MEAN ANY PERSON WHO IS PERMITTED BY THE DEPARTMENT TO TRANSPORT SOURCE-SEPARATED USED OIL

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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FILTERS FROM SERVICE ESTABLISHMENTS OR OTHER ON-PREMISES OIL CHANGING OPERATIONS.

14. THE TERM "USED OIL FILTER PROCESSOR" SHALL MEAN ANY PERSON WHO ACCEPTS USED OIL FILTERS FROM A USED OIL FILTER TRANSPORTER FOR PURPOSES OF RECYCLING OR RECOVERING COMPONENTS OF THE USED OIL FILTER, INCLUDING BUT NOT LIMITED TO USED OIL AND SCRAP METAL.

15. THE TERM "SOURCE-SEPARATED" SHALL MEAN RECYCLABLE MATERIALS OR PRODUCTS SEGREGATED FROM THE SOLID WASTE STREAM AT THE POINT OF GENERATION AND HELD FOR SEPARATE COLLECTION.

S 3. Section 23-2305 of the environmental conservation law, as added by chapter 740 of the laws of 1978, is amended to read as follows:

S 23-2305. Regulations of the commissioner.

The commissioner shall, after holding a public hearing with due notice, promulgate rules and regulations governing used oil collectors and rerefiners, AND USED OIL FILTER GENERATORS, TRANSPORTERS, AND PROCESSORS, in conformance with article twenty-seven of this chapter, to carry out the requirements of this title.

S 4. Subdivision 1 of section 23-2307 of the environmental conservation law is amended by adding three new paragraphs d, e and f and subdivision 3, as amended by chapter 294 of the laws of 1991, is amended to read as follows:

D. EVERY SERVICE ESTABLISHMENT OR OTHER ON-PREMISES OIL-CHANGING OPERATION SHALL, NO LATER THAN THE FIRST OF JANUARY AFTER THE EFFECTIVE DATE OF THIS SECTION, PROVIDE, USE, AND MAINTAIN FACILITIES FOR SOURCE-SEPARATED, USED OIL FILTERS. SUCH FACILITIES OR CONTAINERS MUST BE CLEARLY LABELED "USED OIL FILTERS" AND MUST BE SEALED OR OTHERWISE SHELTERED FROM WEATHER AND PROTECTED TO PREVENT SPILLAGE OR DISCHARGE OF USED OIL ONTO ANY LANDS OR WATERS OF THE STATE. THE SOURCE-SEPARATED, USED OIL FILTERS SHALL BE PERIODICALLY REMOVED BY A WASTE TRANSPORTER DULY PERMITTED BY THE DEPARTMENT UNDER THE PROVISIONS OF TITLE THREE OF ARTICLE TWENTY-SEVEN OF THIS CHAPTER. TRANSPORTERS SHALL DELIVER USED OIL FILTERS TO A USED OIL FILTER PROCESSOR, EXCEPT WHERE OTHERWISE PERMITTED BY THE COMMISSIONER.

E. AN OWNER OR EMPLOYEE OF EVERY SERVICE ESTABLISHMENT OR OTHER ON-PREMISES OIL-CHANGING OPERATION SHALL BE REQUIRED TO ACCEPT, AT NO CHARGE, USED OIL FILTERS FROM ANY INDIVIDUAL DURING NORMAL BUSINESS HOURS OF THE ESTABLISHMENT.

F. EVERY SERVICE ESTABLISHMENT SHALL POST A CONSPICUOUS SIGN, OPEN TO PUBLIC VIEW, STATING: "WE ACCEPT USED OIL FILTERS FOR RECYCLING AT NO CHARGE." SUCH ESTABLISHMENTS MAY ADDITIONALLY STATE, ON THE SAME SIGN OR AN ADDITIONAL SIGN, THAT USED OIL FILTERS ARE ACCEPTED ONLY DURING NORMAL BUSINESS HOURS, AND MAY STATE SUCH HOURS.

3. For the purposes of this section, so long as a service or retail establishment OR ON-PREMISES OIL-CHANGING OPERATION shall maintain its used oil AND USED OIL FILTER retention facilities in compliance with the provisions of this section and any rules and regulations promulgated hereunder and shall deliver collected quantities of used oil AND USED OIL FILTERS to a duly permitted waste transporter or dispose of the used oil as otherwise authorized or permitted by the commissioner, such service establishment OR ON-PREMISES OIL-CHANGING OPERATION shall be exempt from the provisions of titles seven and nine of article twenty-seven and article seventy-two of this chapter.

S 5. Section 23-2308 of the environmental conservation law, as amended by chapter 118 of the laws of 1993, is amended to read as follows:

S 23-2308. Prohibited disposal of used oil AND USED OIL FILTERS.

1. No person shall engage in the improper disposal of used oil. Used oil shall only be deposited in an available used oil retention facility or disposed of as otherwise authorized or permitted by the commissioner.

The provisions of this section shall not apply to the use of used oil for maintenance or lubrication of agricultural equipment.

2. No person shall sell or offer for sale a used oil disposal kit or product which is comprised of absorbent material into which the lubricating oil from a vehicle is drained when performing an oil change and which is intended for disposal into the solid waste stream rather than for reuse or recycling.

3. NO PERSON SHALL KNOWINGLY DISPOSE OF USED OIL FILTERS IN A LANDFILL, AS DEFINED IN TITLE FIVE OF ARTICLE FIFTY-FOUR OF THIS CHAPTER. SERVICE ESTABLISHMENTS AND ON-PREMISES OIL-CHANGING OPERATIONS SHALL ONLY DEPOSIT USED OIL FILTERS IN SOURCE-SEPARATED, USED OIL FILTER RETENTION FACILITIES.

S 6. Section 23-2309 of the environmental conservation law, as added by chapter 740 of the laws of 1978, is amended to read as follows:

S 23-2309. Records.

Every used oil collector and rerefiner, EVERY USED OIL FILTER TRANSPORTER AND PROCESSORS shall maintain complete records, in conformance with article twenty-seven of this chapter.

S 7. The environmental conservation law is amended by adding a new section 23-2312 to read as follows:

S 23-2312. REGISTRATION OF USED OIL FILTER PROCESSORS.

USED OIL FILTER PROCESSORS SHALL BE REGISTERED WITH THE DEPARTMENT, PURSUANT TO REGULATIONS PROMULGATED IN CONFORMANCE WITH SECTION 23-2305 OF THIS TITLE, AND SHALL MAINTAIN RECORDS, INCLUDING BUT NOT LIMITED TO DELIVERY RECEIPTS FROM USED OIL FILTER TRANSPORTERS, AMOUNTS OF OIL FILTERS RECEIVED AND PROCESSED ANNUALLY, AND DESTINATION OF MATERIALS RECOVERED FROM PROCESSED USED OIL FILTERS.

S 8. Subdivision 4 of section 27-0303 of the environmental conservation law, as amended by chapter 226 of the laws of 1990, is amended and a new subdivision 13 is added to read as follows:

4. "Regulated waste" means any one of the following types of waste: raw sewage, septage, sludge from a sewage or water supply treatment plant, industrial-commercial waste, low-level radioactive waste as defined in subdivision nine of this section, waste tires [or], waste oil, OR USED OIL FILTERS.

13. "USED OIL FILTERS" MEANS ANY DEVICE OR COMPONENT OF A DEVICE, THE PRIMARY PURPOSE OF WHICH IS TO REMOVE CONTAMINANTS FROM OIL, WHICH CONTAINS A RESIDUE OF USED OR WASTE OIL AS DEFINED IN THIS SECTION, AND IS NOT CONSIDERED HAZARDOUS UNDER FEDERAL REGULATIONS.

S 9. Subdivision 7 of section 27-0305 of the environmental conservation law, as amended by chapter 206 of the laws of 1992, is amended to read as follows:

7. As a condition for the permit or the exemption therefrom the department shall require the transporter, except transporters of hazardous waste subject to manifesting under section 27-0905 of this article, to make an annual report to the department, indicating the number and type of installations SERVICED, emptied or cleaned, the volume and nature of waste products RECYCLED OR disposed of, and the place and manner in which such waste products were finally RECYCLED OR disposed, and such other information as the department may require.

S 10. Subdivision 4 of section 71-2201 of the environmental conservation law, as added by chapter 294 of the laws of 1991, is amended to read as follows:

4. Notwithstanding any other provision of law, any person who shall violate the provisions of paragraph [(c)] C OR F of subdivision one of section 23-2307 or paragraph [(d)] D of subdivision two of section 23-2307 of this chapter shall be liable for a civil penalty of not more than five hundred dollars, and an additional civil penalty of not more than five hundred dollars for each day during which such violation continues, not to exceed ten thousand dollars.

S 11. This act shall take effect on the first of January next succeeding the date on which it shall have become a law; provided, however, that effective immediately the commissioner of environmental conservation is authorized to promulgate any and all rules and regulations and take any other measures necessary to implement this act on its effective date on or before such date.