

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

2541--A

2011-2012 Regular Sessions

I N A S S E M B L Y

January 19, 2011

Introduced by M. of A. PRETLOW, 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 -- recommitted to the Committee on Environmental Conservation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

1 Section 1. Section 23-2301 of the environmental conservation law is
2 amended by adding a new subdivision 12 to read as follows:
3 12. THE TERM "USED OIL FILTER" MEANS ANY DEVICE OR COMPONENT OF A
4 DEVICE, NO LONGER WANTED BY ITS OWNER, THE PRIMARY PURPOSE OF WHICH IS
5 TO REMOVE CONTAMINANTS FROM OIL, WHICH CONTAINS A RESIDUE OF USED OIL AS
6 DEFINED IN THIS SECTION, AND IS NOT CONSIDERED HAZARDOUS UNDER STATE
7 REGULATIONS.
8 S 2. Section 23-2305 of the environmental conservation law, as added
9 by chapter 740 of the laws of 1978, is amended to read as follows:
10 S 23-2305. Regulations of the commissioner.
11 The commissioner shall, after holding a public hearing with due
12 notice, promulgate rules and regulations governing used oil AND OIL
13 FILTER collectors and rerefiners, in conformance with article twenty-
14 seven of this chapter, to carry out the requirements of this title.
15 S 3. Section 23-2307 of the environmental conservation law, as amended
16 by chapter 294 of the laws of 1991, paragraphs b and c of subdivision 1
17 and paragraphs b and d of subdivision 2 as amended by chapter 152 of the
18 laws of 1995, is amended to read as follows:
19 S 23-2307. Used oil retention facilities required; installation and
20 maintenance; posting of notice.

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

LBD03057-02-2

1 1. Service establishments. a. Every service establishment, and every
2 other person, industrial operation, airport, trucking terminal, state or
3 local government facility generating at least five hundred gallons of
4 used oil annually, shall, no later than September first, nineteen
5 hundred seventy-nine, provide and maintain used oil retention facili-
6 ties, properly sheltered and protected to prevent spillage, seepage or
7 discharge of used oil AND DISCHARGES FROM USED OIL FILTERS into storm or
8 sanitary sewers or into or on any lands or waters of the state including
9 groundwaters thereof. The used oil AND USED OIL FILTERS shall be peri-
10 odically removed from the retention facility by a waste transporter duly
11 permitted by the department under the provisions of title three of arti-
12 cle twenty-seven of this chapter. Waste transporters may dispose of
13 used oil only by delivery to a rerefiner except where otherwise permit-
14 ted by the commissioner. Rules and regulations defining proper design
15 and maintenance of a retention facility may be promulgated by the
16 commissioner.

17 b. An owner or an employee of every service establishment who is pres-
18 ent on the premises shall be required to accept during the normal busi-
19 ness hours of the establishment and at no charge, used oil in quantities
20 not exceeding five gallons per day from any individual AND USED OIL
21 FILTER(S); provided, however, this requirement to accept does not apply
22 if the petroleum-based lubricating oil brought to the establishment is
23 determined to have been contaminated through other than ordinary and
24 normal use, and does not apply if the used oil retention facility is
25 temporarily filled to capacity; and provided further that such estab-
26 lishment need only accept used oil AND USED OIL FILTER(S) in screw-top,
27 rigid, closed containers. No such establishment shall impose upon a
28 customer a separate charge or fee for accepting or disposing of used oil
29 AND USED OIL FILTER(S); nor shall such establishment impose any charge
30 upon any individual who is not a customer for such service.

31 c. Every service establishment shall post a conspicuous sign, open to
32 public view, stating: "WE ACCEPT USED OIL AND USED OIL FILTER(S) FOR
33 RECYCLING AT NO CHARGE". Such establishment may additionally state, on
34 the same sign or an additional sign, that used oil [is] AND USED OIL
35 FILTER(S) ARE accepted only during normal business hours and may state
36 such hours.

37 2. Retail establishments. a. Unless exempted, every retail establish-
38 ment shall provide and maintain used oil retention facilities, properly
39 sheltered and protected to prevent spillage, seepage or discharge of
40 used oil AND DISCHARGES FROM USED OIL FILTERS into storm or sanitary
41 sewers or into or on any lands or waters of the state including ground-
42 water thereof. The used oil AND USED OIL FILTER(S) shall be periodically
43 removed from the retention facility by a waste transporter duly permit-
44 ted by the department under the provisions of title three of article
45 twenty-seven of this chapter. Waste transporters may dispose of used oil
46 only by delivery to a rerefiner except where otherwise permitted by the
47 commissioner. Rules and regulations defining proper design and mainte-
48 nance of a retention facility may be promulgated by the commissioner.

49 b. Every retail establishment shall be required to accept at no
50 charge, used oil in quantities not exceeding five gallons per day from
51 any individual during normal business hours of the establishment AND
52 USED OIL FILTER(S); provided, however, this requirement to accept does
53 not apply if the petroleum-based lubricating oil brought to the estab-
54 lishment is determined to have been contaminated through other than
55 ordinary and normal use; and provided further, that such establishment

1 need only accept used oil AND USED OIL FILTER(S) in screw-top, rigid,
2 closed containers.

3 c. Exemptions. Pursuant to rules and regulations promulgated by the
4 department for the implementation of this section, a retail establish-
5 ment shall not be required to accept used oil AND USED OIL FILTER(S) if:

6 (1) the used oil retention facility is temporarily filled to capacity;
7 or

8 (2) the retail establishment has a current contract with another
9 retail establishment, municipality or service establishment with an
10 on-premises used oil retention facility, for the collection of the
11 contracting retail establishment's used lubricating oil AND USED OIL
12 FILTER(S). In counties or cities with a population of one million or
13 more the distance between such contracting retail establishment and the
14 contractor shall not exceed eight miles. In all other areas of the state
15 the contracting retail establishment and the contractor shall be within
16 the same or adjacent towns or cities; or

17 (3) the retail establishment has been granted a hardship waiver by the
18 commissioner for the inability to comply with this section.

19 d. Signs required. (1) Every retail establishment with an on-premises
20 used oil retention facility shall post a conspicuous sign, open to
21 public view, stating "WE ACCEPT USED OIL AND USED OIL FILTER(S) FOR
22 RECYCLING AT NO CHARGE". Such establishment may additionally state, on
23 the same sign or an additional sign, that used oil [is] AND USED OIL
24 FILTER(S) ARE accepted only during normal business hours, and may state
25 such hours.

26 (2) Every retail establishment that contracts with another retail
27 establishment or service establishment, shall post a conspicuous sign,
28 open to the public view stating: "USED OIL AND USED OIL FILTER(S) FOR
29 RECYCLING WILL BE ACCEPTED BY (name of contracted establishment) AT
30 (Address of contracted establishment) AT NO CHARGE". Such establishment
31 may additionally state, on the same sign or an additional sign, that
32 used oil [is] AND USED OIL FILTER(S) ARE accepted only during normal
33 business hours of the contracted establishment, and may state such
34 hours.

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

45 S 4. Section 23-2308 of the environmental conservation law, as amended
46 by chapter 118 of the laws of 1993, is amended to read as follows:

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

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

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

53 2. No person shall sell or offer for sale a used oil disposal kit or
54 product which is comprised of absorbent material into which the lubri-
55 cating oil from a vehicle is drained when performing an oil change and

1 which is intended for disposal into the solid waste stream rather than
2 for reuse or recycling.

3 3. NO PERSON SHALL KNOWINGLY DISPOSE OF USED OIL FILTERS IN A LAND-
4 FILL, AS DEFINED IN TITLE FIVE OF ARTICLE FIFTY-FOUR OF THIS CHAPTER.
5 RETAIL AND SERVICE ESTABLISHMENTS AND ON-PREMISES OIL-CHANGING OPER-
6 ATIONS SHALL ONLY DEPOSIT USED OIL FILTERS IN SOURCE-SEPARATED, USED OIL
7 FILTER RETENTION FACILITIES.

8 S 5. Subdivision 7 of section 27-0305 of the environmental conserva-
9 tion law, as amended by chapter 206 of the laws of 1992, is amended to
10 read as follows:

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

19 S 6. This act shall take effect on the first of January next succeed-
20 ing the date on which it shall have become a law; provided, however,
21 section four of this act shall take effect three years after it shall
22 have become a law; provided further that effective immediately the
23 commissioner of environmental conservation is authorized to promulgate
24 any and all rules and regulations and take any other measures necessary
25 to implement this act on its effective date on or before such date.