

2013-2014 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 9, 2013

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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

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.  
21     1. Service establishments. a. Every service establishment, and every  
22 other person, industrial operation, airport, trucking terminal, state or

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

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

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

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

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

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

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

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

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

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

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

(2) Every retail establishment that contracts with another retail establishment or service establishment, shall post a conspicuous sign, open to the public view stating: "USED OIL AND USED OIL FILTER(S) FOR RECYCLING WILL BE ACCEPTED BY (name of contracted establishment) AT (Address of contracted establishment) AT NO CHARGE". Such establishment may additionally state, on the same sign or an additional sign, that used oil [is] AND USED OIL FILTER(S) ARE accepted only during normal business hours of the contracted establishment, 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 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 FILTER(S) to a duly permitted waste transporter or dispose of the used oil AND USED OIL FILTER(S) as otherwise authorized or permitted by the commissioner, such service OR RETAIL 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 4. 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.

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

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

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

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