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

(PREFILED)

January 9, 2013

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:

Section 1. Section 23-2301 of the environmental conservation law is amended by adding a new subdivision 12 to read as follows:

12. THE TERM "USED OIL FILTER" MEANS ANY DEVICE OR COMPONENT OF A DEVICE, NO LONGER WANTED BY ITS OWNER, 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 STATE REGULATIONS.

S 2. 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 AND OIL FILTER collectors and rerefiners, in conformance with article twenty-seven of this chapter, to carry out the requirements of this title.

S 3. Section 23-2307 of the environmental conservation law, as amended by chapter 294 of the laws of 1991, paragraphs b and c of subdivision 1 and paragraphs b and d of subdivision 2 as amended by chapter 152 of the laws of 1995, is amended to read as follows:

S 23-2307. Used oil retention facilities required; installation and maintenance; posting of notice.

1. Service establishments. a. Every service establishment, and every 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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local government facility generating at least five hundred gallons of used oil annually, shall, no later than September first, nineteen hundred seventy-nine, provide and maintain used oil retention facilities, properly sheltered and protected to prevent spillage, seepage or discharge of used oil AND DISCHARGES FROM USED OIL FILTERS into storm or sanitary sewers or into or on any lands or waters of the state including groundwaters thereof. The used oil AND USED OIL FILTERS shall be periodically removed from the retention facility by a waste transporter duly permitted by the department under the provisions of title three of article twenty-seven of this chapter. Waste transporters may dispose of used oil only by delivery to a rerefiner except where otherwise permitted by the commissioner. Rules and regulations defining proper design and maintenance of a retention facility may be promulgated by the commissioner.

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

c. Every service establishment 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. Retail establishments. a. Unless exempted, every retail establishment shall provide and maintain used oil retention facilities, properly sheltered and protected to prevent spillage, seepage or discharge of used oil AND DISCHARGES FROM USED OIL FILTERS into storm or sanitary sewers or into or on any lands or waters of the state including groundwater thereof. The used oil AND USED OIL FILTER(S) shall be periodically removed from the retention facility by a waste transporter duly permitted by the department under the provisions of title three of article twenty-seven of this chapter. Waste transporters may dispose of used oil only by delivery to a rerefiner except where otherwise permitted by the commissioner. Rules and regulations defining proper design and maintenance of a retention facility may be promulgated by the commissioner.

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

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. RETAIL AND SERVICE ESTABLISHMENTS AND ON-PREMISES OIL-CHANGING OPERATIONS SHALL ONLY DEPOSIT USED OIL FILTERS IN SOURCE-SEPARATED, USED OIL FILTER RETENTION FACILITIES.

S 5. 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 6. This act shall take effect on the first of January next succeeding the date on which it shall have become a law; provided, however, section four of this act shall take effect three years after it shall have become a law; provided further 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.