

STATE OF NEW YORK

3447

2019-2020 Regular Sessions

IN ASSEMBLY

January 29, 2019

Introduced by M. of A. ENGLEBRIGHT, GALEF, OTIS, GLICK, GOTTFRIED --
Multi-Sponsored by -- M. of A. EPSTEIN, THIELE -- read once and
referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to
prohibiting the sale of used oil and to establishing civil and criminal
penalties

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 23-2308 of the environmental conservation law, as
2 amended by chapter 118 of the laws of 1993, is amended to read as
3 follows:

4 § 23-2308. Prohibited disposal or sale of used oil.

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

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

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

15 3. No person shall sell or offer for sale used oil, other than to oil
16 rerefining facilities.

17 4. No used oil collector shall transfer used oil, other than to rere-
18 fining facilities or a facility permitted to dispose of used oil by the
19 commissioner.

20 § 2. Section 71-2201 of the environmental conservation law, as added
21 by chapter 740 of the laws of 1978, the opening paragraph and subdivi-
22 sion 1 as amended and subdivision 3 as added by chapter 901 of the laws

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

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1 of 1983 and subdivision 4 as added by chapter 294 of the laws of 1991,
2 is amended and a new section 71-2203 is added to read as follows:
3 § 71-2201. Enforcement of title 23 of article 23 of this chapter.

4 ~~[Administrative and civil sanctions.]~~ Violations, civil liability. 1.
5 Any person who violates any of the provisions of, or who fails to
6 perform any duty imposed by title 23 of article 23 except the duty to
7 accept used oil pursuant to section 23-2307 ~~[or any person subject to~~
8 ~~section 23-2308 or any rule or regulation promulgated pursuant thereto]~~,
9 or any term or condition of any certificate or permit issued pursuant
10 thereto, or any final determination or order of the commissioner made
11 pursuant to this section shall be liable for a civil penalty not to
12 exceed one thousand dollars for each such violation and an additional
13 penalty of not more than five hundred dollars for each day during which
14 such violation continues, to be assessed by the commissioner after a
15 hearing or opportunity to be heard pursuant to the provisions of section
16 71-1709 of this chapter, and, in addition thereto, such person may by
17 similar process be enjoined from continuing such violation and any
18 permit or certificate issued to such person may be revoked or suspended
19 or a pending renewal application denied.

20 2. Any person who refuses to accept used oil as required pursuant to
21 subdivision two of section 23-2307 shall be liable for a civil penalty
22 not to exceed one hundred dollars.

23 3. Any person who ~~[violates any provision of]~~ improperly disposes of
24 used oil in violation of section 23-2308 of this chapter shall be
25 subject to a civil penalty not to exceed two hundred fifty dollars for
26 each violation.

27 3-a. Any person who knowingly engages in the sale of used oil, shall
28 be liable for a civil penalty not to exceed one thousand dollars for
29 each violation.

30 4. Notwithstanding any other provision of law, any person who shall
31 violate the provisions of paragraph ~~[(e)]~~ c of subdivision one of
32 section 23-2307 or paragraph ~~[(d)]~~ d of subdivision two of section
33 23-2307 of this chapter shall be liable for a civil penalty of not more
34 than five hundred dollars, and an additional civil penalty of not more
35 than five hundred dollars for each day during which such violation
36 continues, not to exceed ten thousand dollars.

37 § 71-2203. Criminal liability for violations.

38 1. Any person who shall knowingly engage in the sale of used oil in
39 violation of section 23-2308 of this chapter, shall be guilty of a
40 misdemeanor, and, upon conviction thereof, shall be punished by a fine,
41 in the case of a first conviction, of not less than five hundred dollars
42 nor more than eighteen thousand dollars or by imprisonment for a term of
43 not more than one year, or by both such fine and imprisonment, for each
44 separate violation. If the conviction is for an offense committed after
45 the first conviction of such person under this subdivision, such person
46 shall be punished by a fine not to exceed twenty-six thousand dollars,
47 or by imprisonment, or by both such fine and imprisonment. Each day on
48 which such violation occurs shall constitute a separate violation.

49 2. In determining the amount of any fine, penalty or sentence imposed
50 pursuant to this section, the commissioner or the court shall take into
51 consideration any evidence introduced by a party regarding the economic
52 impact of a penalty on a business, the compliance history of a violator,
53 good faith efforts of a violator to comply, any economic benefit
54 obtained from noncompliance, the amount of risk or damage to public
55 health or the environment caused by a violator, whether the violation
56 was procedural in nature, or such other factors as justice may require.

1 § 3. This act shall take effect on the first of May next succeeding
2 the date on which it shall have become a law. Effective immediately,
3 the addition, amendment and/or repeal of any rule or regulation neces-
4 sary for the implementation of this act on its effective date are
5 authorized to be made and completed on or before such date.