

STATE OF NEW YORK

5452

2021-2022 Regular Sessions

IN SENATE

March 5, 2021

Introduced by Sen. JACKSON -- read twice and ordered printed, and when printed to be committed 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 lubri-
12 cating 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
23 of 1983 and subdivision 4 as added by chapter 294 of the laws of 1991,
24 is amended and a new section 71-2203 is added to read as follows:

25 § 71-2201. Enforcement of title 23 of article 23 of this chapter.

26 [~~Administrative and civil sanctions.~~] Violations, civil liability. 1.
27 Any person who violates any of the provisions of, or who fails to

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

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

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

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

22 3-a. Any person who knowingly engages in the sale of used oil, shall
23 be liable for a civil penalty not to exceed one thousand dollars for
24 each violation.

25 4. Notwithstanding any other provision of law, any person who shall
26 violate the provisions of paragraph [~~(e)~~] c of subdivision one of
27 section 23-2307 or paragraph [~~(d)~~] d of subdivision two of section
28 23-2307 of this chapter shall be liable for a civil penalty of not more
29 than five hundred dollars, and an additional civil penalty of not more
30 than five hundred dollars for each day during which such violation
31 continues, not to exceed ten thousand dollars.

32 § 71-2203. Criminal liability for violations.

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

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

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