

No. 1982-89

AN ACT

HB 242

For the purpose of providing a system for the collection and recycling of used oil; defining certain terms; prohibiting certain actions; giving certain authority to the Department of Environmental Resources; providing for penalties, and generally dealing with used oil collection, storage, transportation and recycling.

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Legislative findings and policy.

The Legislature finds that a substantial number of gallons of used oil are generated each year in this Commonwealth; that used oil is a valuable petroleum resource which can be recycled and reused and that in spite of the potential for recycling, significant quantities of used oil are wastefully disposed of or improperly used by means which pollute the water, land and air, and endanger the public health and welfare. Used oil should be collected, recycled and reused to the maximum extent possible, by means which are economically feasible and environmentally sound, in order to conserve irreplaceable petroleum resources, preserve and enhance the quality of natural and human environments, reduce our dependence on imported foreign oil and protect the public health and welfare.

Section 2. Short title.

This act shall be known and may be cited as the "Pennsylvania Used Oil Recycling Act."

Section 3. Definitions.

The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

“Department.” The Pennsylvania Department of Environmental Resources.

“Oil retailer.” Any person who annually sells more than 500 gallons of lubricating oil in containers for use off the retailer’s premises.

“Person.” Any individual, trust, firm, joint stock company corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a state, or interstate body.

“Recycle.” To prepare used oil for reuse as a petroleum product or petroleum product substitute by refining, re-refining, reclaiming, reprocessing or other means, or to prepare used oil in a manner that substitutes for a petroleum product made from new oil, provided that the preparation or use is operationally safe, environmentally sound and complies with all laws and regulations.

“Used oil.” A petroleum-based or synthetic oil which is used in an internal combustion engine as an engine lubricant, or as a product used for lubricating motor vehicle transmissions, gears or axles which through use, storage or handling has become unsuitable for its original purpose due to the presence of chemical or physical impurities or loss of original properties.

“Used oil collection site.” Any Pennsylvania State inspection facility, oil retailer or retail service station, or any other site which accepts used oil for recycling with no charge to the public for the service, and which has a used oil collection tank existing on the premises.

“Used oil collection tank.” Any tank, whether above or below ground, into which used oil is drained.

“Used oil recycler.” Any person who recycles more than 7,000 gallons of used oil annually.

“Used oil storage facility.” Any facility which receives more than 10,000 gallons of used oil annually, not including a used oil collection site.

“Used oil transporter.” Any person who collects and transports more than 500 gallons of used oil annually.

Section 4. Duties of the department; public education program; registration.

(a) The department shall, in cooperation with any appropriate agency or instrumentality of the Commonwealth or any of its political subdivisions, conduct a public education program to inform the public of the needs for and the benefits of collecting, recycling and reusing used oil in order to conserve resources, preserve the environment and decrease our dependence on imported foreign oil. As part of this program:

(1) Oil retailers shall be required to post and maintain at or near the point of display or sale durable and legible signs informing the public of the importance of proper collection and disposal of used oil and referring them to the appropriate agency to obtain information on the locations and hours of operation of conveniently located used oil collection sites.

(2) A used oil information center shall be established by the department, in cooperation with any appropriate agency or instrumentality of the Commonwealth or any of its political subdivisions, which will explain Federal, State and local laws, ordinances and regulations governing used oil, as well as how and where and in what manner used oil may be properly disposed of.

(b) A used oil collection site operator may register with the department the name, location and hours of operation of the used-oil collection site.

(c) The registration and subsequent recognition of a facility as a used oil collection site shall be contingent upon a determination by the department that the proposed means of collection and storage are operationally safe, environmentally sound and consistent with the provisions of this act.

Section 5. Used oil collection site operators.

Each used oil collection site operator who registers with the department shall:

(1) Post and maintain a durable and legible sign, readily visible in an appropriate place, which indicates that the facility is an operating used oil collection site.

(2) Maintain on the premises used oil collection tanks which are properly sheltered and protected to prevent spillage, seepage or discharge of the used oil into the water, land and air of the Commonwealth and of sufficient size to handle returns of used oil.

(3) Maintain on the premises, within a very close proximity to the collection tanks, collection facilities for the safe and proper disposal of used oil containers.

Section 6. Collection, storage, transportation and recycling.

(a) It shall be unlawful for any person who collects, stores, transports or recycles used oil to transfer such used oil to persons other than used oil collectors, used oil storage facilities, used oil transporters or used oil recyclers who comply with the terms and conditions as set forth in this section.

(b) It shall be unlawful for any person who collects, stores, transports or recycles used oil to fail to:

(1) maintain such records as are necessary to accurately identify quantities of used oil collected, stored, transported or recycled;

(2) maintain such records as are necessary to accurately identify quantities of used oil transferred to other used oil storage facilities, used oil transporters or used oil recyclers, as well as the method of transportation and the delivery points of such used oil, including those facilities not located in the Commonwealth of Pennsylvania;

(3) label any containers used for the collection, storage or transportation of used oil so as to identify it accurately as used oil to be recycled; and

(4) make available to the department such information concerning used oil as the collectors, storage facility operators, transporters or

recyclers of used oil are required by this section to maintain, or may have at their disposal.

Section 7. Disposal.

(a) No person shall deposit, dispose of or cause to be deposited or disposed of, any used oil into any sewers, drainage systems, surface or ground waters, watercourses or marine waters in the Commonwealth, or onto any public or private land within this Commonwealth, unless a used oil collection site for such proper deposit is located on said land, where the used oil is placed in a used oil collection tank, or unless a used oil storage facility is installed or located on such property for such proper deposit and storage as used oil.

(b) No person shall discharge water, antifreeze, industrial waste or any other contaminant into a used oil collection tank and used oil storage facility.

(c) The provisions of this section do not include the application of used oil to roads for maintenance purposes or the use of recycled or used oil for maintenance or lubrication of agricultural equipment, unless such application is specifically prohibited through any Federal, State or local law, ordinance or regulation.

(d) Any person who burns or incinerates used oil must bear the burden of proof that such burning or incineration is nontoxic and free of any chemical or physical contaminants which may endanger the public health, safety and welfare, or which may pose a threat to the environment.

Section 8. Report to the General Assembly.

The department shall prepare and submit an annual report to the General Assembly summarizing information on used oil collection, storage, transportation, recycling and reuse, analyzing the effectiveness of the provisions of this act and their implementation and making recommendations for any necessary changes in the provisions of their administration.

Section 9. Used oil products.

All officials of this Commonwealth and any of its agencies or any political subdivisions and persons holding contracts with the State or any of its political subdivisions shall encourage and to the extent possible require the procurement and purchase of recycled oil products represented as substantially equivalent to products made from new oil in accordance with rules prescribed by the Federal Trade Commission under section 383(d)(1)(a) of the Energy Policy and Conservation Act, Public Law 94-163, whenever such products are available at prices competitive with those of new oil produced for the same purpose.

Section 10. Enforcement and penalty for violation.

(a) (1) The department shall have the right to conduct inspections of the property of any person subject to the provisions of this act for the purpose of complying with the act.

(2) Should the department find any person in violation of the provisions of section 4(a)(1) or section 5 the department shall issue a

written notice of violation of the act, which notice shall state the specific section and which shall require compliance within 30 days of receipt of notice.

(3) Should said person fail to comply with the act within 30 days, said person shall be guilty of a summary offense.

(b) (1) Any person who knowingly violates the provisions of section 6(a) shall be guilty of a summary offense, and upon second and subsequent offenses, shall be guilty of a misdemeanor.

(2) Any person who violates the provisions of section 6(b)(1), (2) and (3), shall be guilty of a summary offense.

(c) Any person violating the provisions of section 7 shall, upon first conviction, be guilty of a summary offense and upon second or subsequent conviction be guilty of a misdemeanor.

(d) The department may, in lieu of, or in addition to, any criminal penalties herein prescribed, impose civil penalties for violations of this act of not more than \$1,000 for each violation; each day of a continuing violation after notice requirements of subsection (a)(2) shall be deemed as a separate violation.

(e) Upon a violation of this act or any rules, regulations or orders issued under this act, the department may institute a civil action in the Commonwealth Court or in the court of common pleas of the judicial district in which the violation occurs for injunctive relief to restrain the violation and for such other relief as the court shall deem proper. Neither the institution of this action nor any of the proceedings therein shall relieve any party to the proceedings from other fines or penalties prescribed for the violation of this act or any rule.

Section 11. Effective date.

This act shall take effect in 60 days.

APPROVED—The 9th day of April, A. D. 1982.

DICK THORNBURGH