

AMENDED IN SENATE MAY 7, 1996
AMENDED IN SENATE APRIL 8, 1996

SENATE BILL

No. 1979

Introduced by Senator O'Connell

February 23, 1996

An act to amend Section 25250.1 of the Health and Safety Code, and to amend Sections 42700, 48623, 48632, 48651, and 48656 of the Public Resources Code, relating to used oil, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1979, as amended, O'Connell. Used oil recycling.

(1) Existing law requires used oil, as defined, to be managed as a hazardous waste until it has been shown to meet specified purity standards or is excluded from regulation as a hazardous waste because it is a recyclable material. For purposes of the provisions regulating the management of used oil, used oil does not include oil that contains more than 1,000 ppm halogens and oil is presumed to be a hazardous waste if it has been mixed with halogenated hazardous waste. A person may rebut the presumption by demonstrating that the used oil does not contain hazardous waste, including if the used oil does not contain more than 3000 ppm total halogens and meets other requirements. A violation of laws regulating used oil is a crime.

This bill would revise the definition of used oil to delete the requirement that the used oil does not contain more than 3000 ppm halogens, for purposes of that presumption, and would

instead allow the presumption to be rebutted if the used oil that is the source of the total halogens meets those other requirements. The bill would thereby impose a state-mandated local program by revising the definition of a crime.

(2) Existing law, the California Integrated Waste Management Act of 1989, requires the Director of Transportation, upon consultation with the California Integrated Waste Management Board, to review and modify all bid specifications relating to the purchase of specified paving materials and backfill materials using certain recycled materials.

This bill would additionally include, as a recycled material, asphalt flux produced from the reprocessing or re-refining of used oil.

(3) Existing law, the California Oil Recycling Enhancement Act, requires every oil manufacturer, as defined, to pay a specified charge to the board. Those payments are deposited in the California Used Oil Recycling Fund, and the money in the fund is continuously appropriated to the board for specified purposes, including the issuance of grants or loans to develop collection technology and uses for recycled oil.

The act defines the term “used oil hauler” for purposes of the act.

A violation of the act is a crime.

This bill would instead authorize the board to issue grants or loans for research, testing, and demonstration projects to develop uses and markets for products resulting from the recycling of used oil, including issuing grants or loans for capital equipment to permitted used oil recycling facilities, to develop further uses or markets for *collection technologies and products resulting from the recycling of used oil, and would require at least 20 percent of the balance remaining in the fund, after specified expenditures are made, to be expended for that purpose*, thereby making an appropriation.

The bill would revise the definition of the term “used oil hauler” to require the used oil that is transported to a storage facility or transfer facility to be further transported to a certified used oil recycling facility.



Since the a bill would revise the definition of a crime, the bill would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25250.1 of the Health and Safety
2 Code is amended to read:

3 25250.1. (a) As used in this article, the following
4 terms have the following meaning:

5 (1) (A) "Used oil" means any oil that has been refined
6 from crude oil, or any synthetic oil, that has been used,
7 and, as a result of use or as a consequence of extended
8 storage, or spillage, has been contaminated with physical
9 or chemical impurities. Examples of used oil are spent
10 lubricating fluids which have been removed from an
11 engine crankcase, transmission, gearbox, or differential of
12 an automobile, bus, truck, vessel, plane, heavy
13 equipment, or machinery powered by an internal
14 combustion engine; industrial oils, including compressor,
15 turbine, and bearing oil; hydraulic oil; metal-working oil;
16 refrigeration oil; and railroad drainings.

17 (B) "Used oil" does not include any of the following:

18 (i) Oil which has a flashpoint below 100 degrees
19 Fahrenheit or which has been mixed with hazardous
20 waste, other than minimal amounts of vehicle fuel.

21 (ii) (I) Wastewater, the discharge of which is subject
22 to regulation under either Section 307(b) or 402 of the
23 Clean Water Act, including wastewaters at facilities
24 which have eliminated the discharge of wastewater,
25 contaminated with de minimis quantities of used oil.

26 (II) For purposes of this clause, "de minimis quantities
27 of used oil" are small spills, leaks, or drippings from



1 pumps, machinery, pipes, and other similar equipment
2 during normal operations, or small amounts of oil lost to
3 the wastewater treatment system during washing or
4 draining operations.

5 (III) This exception does not apply if the used oil is
6 discarded as a result of abnormal manufacturing
7 operations resulting in substantial leaks, spills, or other
8 releases or to used oil recovered from wastewaters.

9 (iii) Used oil re-refining distillation bottoms that are
10 used as feedstock to manufacture asphalt products.

11 (iv) Oil which contains polychlorinated biphenyls
12 (PCBs) at a concentration of 5 ppm or greater.

13 (v) (I) Oil containing more than 1000 ppm total
14 halogens, which shall be presumed to be a hazardous
15 waste because it has been mixed with halogenated
16 hazardous waste listed in Subpart D (commencing with
17 Section 261.30) of Part 261 of Title 40 of the Code of
18 Federal Regulations.

19 (II) A person may rebut the presumption specified in
20 subclause (I) by demonstrating that the used oil does not
21 contain hazardous waste, including, but not limited to, in
22 the manner specified in subclause (III).

23 (III) The presumption specified in subclause (I) is
24 rebutted if the used oil that is the source of total halogens
25 at a concentration of more than 1000 ppm is either
26 household waste, as defined in Section 261.4(b)(1) of
27 Title 40 of the Code of Federal Regulations, or is collected
28 from conditionally exempt small quantity generators, as
29 defined in Section 261.5 of Title 40 of the Code of Federal
30 Regulations. Nothing in this subclause shall be construed
31 as authorizing any person to violate the prohibition
32 specified in Section 25250.7.

33 (2) "Board" means the California Integrated Waste
34 Management Board.

35 (3) (A) "Recycled oil" means any oil, produced from
36 used oil, which has been prepared for reuse and which
37 achieves minimum standards of purity, in liquid form, as
38 established by the department.

39 (B) The following standards of purity are in effect for
40 recycled oil unless the department, by regulation,



1 establishes more stringent standards, and are the only
2 allowed exceptions to the criteria adopted pursuant to
3 Section 25141:

4 (i) Flashpoint: minimum standards set by the
5 American Society for Testing and Materials for the
6 recycled products. However, recycled oil to be burned
7 for energy recovery shall have a minimum flashpoint of
8 100 degrees Fahrenheit.

9 (ii) Total lead: 50 mg/kg or less.

10 (iii) Total arsenic: 5 mg/kg or less.

11 (iv) Total chromium: 10 mg/kg or less.

12 (v) Total cadmium: 2 mg/kg or less.

13 (vi) Total halogens: 3000 mg/kg or less. However,
14 recycled oil shall be demonstrated by testing to contain
15 not more than 1000 mg/kg total halogens listed in
16 Appendix VIII of Part 261 (commencing with Section
17 261.1) of Title 40 of the Code of Federal Regulations.

18 (vii) Total polychlorinated biphenyls (PCBs): 2
19 mg/kg or less.

20 (C) Compliance with the specifications of
21 subparagraph (B) shall not be met by blending or
22 diluting used oil with crude or virgin oil and shall be
23 determined in accordance with the procedures for
24 identification and listing of hazardous waste adopted in
25 regulations by the department. Persons authorized by the
26 department to recycle oil shall maintain records of
27 volumes and characteristics of incoming used oil and
28 outgoing recycled oil and documentation concerning the
29 recycling technology utilized to demonstrate to the
30 satisfaction of the department or other enforcement
31 agencies that the recycling has been achieved in
32 compliance with this subdivision.

33 (D) This paragraph does not apply to oil that is to be
34 disposed of or used in a manner constituting disposal.

35 (4) "Used oil recycling facility" means a facility which
36 reprocesses or re-refines used oil.

37 (5) "Used oil storage facility" means a storage facility,
38 as defined in subdivision (b) of Section 25123.3, which
39 stores used oil.



1 (6) “Used oil transfer facility” means a transfer facility,
2 as defined in subdivision (a) of Section 25123.3, that either
3 stores used oil for periods greater than six days, or greater
4 than 10 days for transfer facilities in areas zoned industrial
5 by the local planning agency, or that transfers used oil
6 from one container to another.

7 (b) (1) Unless otherwise specified, used oil which
8 meets all of the following conditions is not subject to
9 regulation by the department:

10 (A) The used oil meets the standards set forth in
11 paragraph (3) of subdivision (a).

12 (B) The used oil is not hazardous pursuant to the
13 criteria adopted pursuant to Section 25141 for
14 constituents other than those listed in paragraph (3) of
15 subdivision (a).

16 (C) The used oil is not mixed with any waste listed as
17 a hazardous waste in Part 261 (commencing with Section
18 261.1) of Chapter 1 of Title 40 of the Code of Federal
19 Regulations.

20 (2) Used oil recycling facilities that are the first to
21 claim that the used oil meets the requirements specified
22 in paragraph (1) shall maintain an operating log and
23 copies of certification forms as specified in Section
24 25250.19. Any person who generates used oil, and who
25 claims that the used oil is exempt from regulation
26 pursuant to this subdivision, shall notify the department,
27 in writing, of that claim and shall comply with the testing
28 and recordkeeping requirements of Section 25250.19
29 prior to its reuse. In any action to enforce this article, the
30 burden is on the generator or recycling facility,
31 whichever first claimed that the used oil meets the
32 standards and criteria, and on the transporter or the user
33 of the used oil, whichever has possession, to prove that the
34 oil meets those standards and criteria.

35 SEC. 2. Section 42700 of the Public Resources Code is
36 amended to read:

37 42700. The Director of Transportation, upon
38 consultation with the board, shall review and modify all
39 bid specifications relating to the purchase of paving
40 materials, and base, subbase, and pervious backfill



1 materials, using recycled materials. The recycled
2 materials shall include, but are not limited to, recycled
3 asphalt pavement, crushed concrete subbase, foundry
4 slag, asphalt flux produced from the reprocessing or
5 re-refining of used oil, and paving materials utilizing
6 recycled materials, including, but not limited to, crumb
7 rubber from automobile tires, ash, and glass and glassy
8 aggregates. The specifications shall be based on standards
9 developed by the Department of Transportation for
10 recycled paving materials and for recycled base, subbase,
11 and pervious backfill materials. The standards and
12 specifications shall provide for the use of recycled
13 materials and shall not reduce the quality standards for
14 highway and road construction.

15 SEC. 3. Section 48623 of the Public Resources Code is
16 amended to read:

17 48623. "Used oil hauler" means a hazardous waste
18 hauler registered pursuant to Chapter 6.5 (commencing
19 with Section 25100) of Division 20 of the Health and
20 Safety Code who transports used oil to any of the
21 following facilities:

22 (a) A used oil recycling facility certified pursuant to
23 Article 7 (commencing with Section 48660).

24 (b) A used oil storage facility or a used oil transfer
25 facility for further transportation to a certified used oil
26 recycling facility.

27 (c) An out-of-state recycling facility registered with
28 the Environmental Protection Agency and operated in
29 substantial compliance with applicable regulatory
30 standards of the state in which the recycling facility is
31 located.

32 SEC. 4. Section 48632 of the Public Resources Code is
33 amended to read:

34 48632. The board may issue grants or loans pursuant
35 to Section 48631 for only the following purposes:

36 (a) To local governments for providing opportunities
37 for used lubricating oil collection, which are in addition
38 to those included in the local used oil collection programs
39 adopted pursuant to Article 10 (commencing with
40 Section 48690).



1 (b) To nonprofit entities for projects, which may
2 include one or more of the following programs or
3 activities:

4 (1) Establishing used lubricating oil collection centers.

5 (2) Providing containers and other materials and
6 supplies that the public can utilize in an environmentally
7 sound manner to store used lubricating oil for pickup or
8 return to a used oil collection center.

9 (3) Obtaining equipment and establishing procedures
10 to comply with federal, state, and local law regarding the
11 collection, handling, and storage of used oil.

12 (c) Research, testing, and demonstration projects to
13 develop uses and markets for *collection technologies and*
14 products resulting from the recycling of used oil. The
15 board may, for purposes of those activities, issue grants or
16 loans for capital equipment to permitted used oil
17 recycling facilities, if necessary *and incidental* to develop
18 further uses or markets for products resulting from the
19 recycling of used oil.

20 SEC. 5. Section 48651 of the Public Resources Code is
21 amended to read:

22 48651. (a) The board shall pay a recycling incentive
23 to every industrial generator, curbside collection
24 program, and certified used oil collection center, for used
25 lubricating oil collected from the public, or generated by
26 the certified used oil collection center or the industrial
27 generator, and transported by a used oil hauler to the
28 facilities specified in Section 48623.

29 (b) The board shall pay a recycling incentive to an
30 electric utility, as defined in Section 25108, for used
31 lubricating oil generated and used by the electric utility
32 for electrical generation if the electric utility's use of the
33 used lubricating oil meets the requirements of
34 subparagraph (C) of paragraph (2) of subdivision (d) of
35 Section 25143.2 of the Health and Safety Code and the
36 used oil is in compliance with the standards for recycled
37 oil established in paragraph (3) of subdivision (a) of
38 Section 25250.1 of the Health and Safety Code.

39 (c) A person or entity that generates used industrial oil
40 or a used oil storage facility or a used oil transfer facility



1 that accepts used oil shall cause that oil to be transported
2 by a used oil hauler to a certified used oil recycling facility
3 or an out-of-state recycling facility registered with the
4 Environmental Protection Agency and operating in
5 substantial compliance with applicable regulatory
6 standards of the state in which the recycling facility is
7 located.

8 SEC. 6. Section 48656 of the Public Resources Code is
9 amended to read:

10 48656. After all of the expenditures pursuant to
11 Section 48653 have been made, the balance remaining in
12 the fund shall be available to the board for expenditure
13 solely for the implementation of subdivisions (b) and (c)
14 of Section 48631 and ~~Section~~ *Sections 48632 and 48660.5.*
15 The board shall not expend more than two hundred
16 thousand dollars (\$200,000) to implement Section 48660.5
17 and at least 40 percent of the money remaining in the
18 fund shall be expended for the purposes of subdivision (a)
19 of Section 48632, at least 10 percent shall be expended for
20 the purposes of subdivision (b) of Section 48632, ~~and~~ at
21 least 20 percent shall be expended for the purposes of
22 subdivision (c) of Section *48631, and at least 20 percent*
23 *shall be expended for the purposes of subdivision (c) of*
24 *Section 48632.*

25 SEC. 7. No reimbursement is required by this act
26 pursuant to Section 6 of Article XIII B of the California
27 Constitution because the only costs that may be incurred
28 by a local agency or school district will be incurred
29 because this act creates a new crime or infraction,
30 eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section
32 17556 of the Government Code, or changes the definition
33 of a crime within the meaning of Section 6 of Article
34 XIII B of the California Constitution.

35 Notwithstanding Section 17580 of the Government
36 Code, unless otherwise specified, the provisions of this act
37 shall become operative on the same date that the act
38 takes effect pursuant to the California Constitution.

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