

Assembly Bill No. 1065

CHAPTER 533

An act to amend Sections 19303, 19310, 19310.5, 19310.7, 19311, 19312, 19313.8, 19314, 19315, and 19316 of, and to add Sections 19305.5, 19313.1, and 19316.5 to, the Food and Agricultural Code, relating to kitchen grease.

[Approved by Governor October 5, 2005. Filed with
Secretary of State October 5, 2005.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1065, Matthews. Kitchen grease: transporters.

Existing law requires any person who engages in the transportation of inedible kitchen grease, as defined, to be registered with the Department of Food and Agriculture. Existing law authorizes registered transporters or licensed renderers to transport inedible kitchen grease, as specified.

This bill would define "interceptor grease" for purposes of regulation, including setting fees for transporters of interceptor grease. The bill would require licensed renderers to be registered as transporters in order to transport inedible kitchen grease. The bill would require, as a condition of registration as a transporter of inedible kitchen grease, that the applicant demonstrate the ability to respond to specified damages by means of a policy of insurance or surety bond of not less than \$2,000,000, as specified, and subject to exception. The bill would authorize the department to refuse to register an applicant if certain conditions are found. The bill would authorize the applicant to appeal that denial and would require the department to establish an appeals process for that purpose.

Existing law authorizes the department after a noticed hearing, to suspend or revoke a transporter's registration if it finds certain acts were committed.

This bill would authorize the department to suspend or revoke a transporter's registration for those findings, and would expand the circumstances requiring suspension or revocation to include violations of specified provisions relating to the transportation of inedible kitchen grease. The bill would authorize an appeal of the suspension or revocation and require the department to establish an appeals process including a noticed hearing. The bill would establish similar provisions for the revocation or suspension of a renderer's license and similarly provide for an appeals process.

Existing law provides that it is the purpose of the provisions regulating transporters of inedible kitchen grease to prevent the sale and transfer of illegally obtained inedible kitchen grease.

This bill would expand the purposes of these provisions to include protecting the environment, reducing blockages of public sewer systems, and preventing the improper and illegal transportation and disposal of interceptor grease.

The bill would make other conforming changes.

Existing law requires licensed renderers to record and keep certain records relating to receipt of inedible kitchen grease. Registered transporters and licensed renderers are required to exhibit those records on demand to any peace officer, among others.

This bill would require the records be kept for an additional year. Pursuant to other provisions of law, violation of this provision is a misdemeanor. By expanding the scope of an existing crime, this bill would impose a state-mandated local program. This bill would authorize the department to establish a system for documenting and tracking the transportation of inedible kitchen grease in order to ensure the proper disposal or recycling of that material.

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.

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

SECTION 1. Section 19303 of the Food and Agricultural Code is amended to read:

19303. In addition to any other records required to be kept pursuant to this chapter, every licensed renderer shall record and keep for 2 years, in connection with the receipt of kitchen grease which is not intended for human food, all of the following information:

- (a) The name, address, and registration number of every transporter of inedible kitchen grease who has delivered that material to the renderer.
- (b) The total amount of inedible kitchen grease purchased in each transaction.
- (c) The date of each transaction.

SEC. 2. Section 19305.5 is added to the Food and Agricultural Code, to read:

19305.5. (a) The department may suspend or revoke a registration certificate at any time, if it finds any of the following has occurred:

- (1) The licensee has sold or offered for sale to an unlicensed person, any inedible kitchen grease.
- (2) The licensee has stolen, misappropriated, contaminated, or damaged inedible kitchen grease or containers thereof.
- (3) The licensee has violated any provision of this article or any regulations adopted to implement this article.

(4) The licensee has taken possession of inedible kitchen grease from an unregistered transporter or has knowingly taken possession of inedible kitchen grease that has been stolen.

(b) (1) The licensee may appeal any suspension or revocation decision to the department.

(2) The department shall establish procedures for the appeals process, to include a noticed hearing.

(3) The department may reverse a suspension or revocation upon a finding of good cause to do so.

SEC. 3. Section 19310 of the Food and Agricultural Code is amended to read:

19310. (a) It is unlawful for any person or entity to engage in the transportation of inedible kitchen grease without being registered with the department and without being in possession of a valid registration certificate issued by the department.

(b) Each registration shall expire on December 31st each year.

(c) (1) The department shall require, as a condition of registration, that the applicant demonstrate the ability to respond to damages resulting from the transportation of inedible kitchen grease.

(2) The damages to be covered include public liability, which shall include, but not be limited to, liability for personal injury and property damage.

(3) The ability to respond to damages shall be demonstrated by providing proof of a policy of insurance or surety bond for that purpose in an amount not less than two million dollars (\$2,000,000), except that the required amount shall be not less than one million dollars (\$1,000,000) if the applicant operates only one vehicle and the vehicle has a gross vehicle weight rating of not more than 10,000 pounds.

(4) This subdivision shall not preempt a local ordinance or rule that is more stringent than the provisions of this section.

SEC. 4. Section 19310.5 of the Food and Agricultural Code is amended to read:

19310.5. It is unlawful for any person who is not a registered transporter of inedible kitchen grease to transport that product from any place within this state to any place outside the borders of this state.

SEC. 5. Section 19310.7 of the Food and Agricultural Code is amended to read:

19310.7. Any person registered as a transporter of inedible kitchen grease may deliver any inedible kitchen grease to a licensed renderer or collection center for processing or recycling into usable products. As used in this section, “usable products” includes, but is not limited to, biofuels, lubricants, and animal feed, provided the uses for animal feed are permitted by the rules and regulations adopted by the United States Food and Drug Administration.

SEC. 6. Section 19311 of the Food and Agricultural Code is amended to read:

19311. Any renderer who operates vehicles for the purpose of collecting inedible kitchen grease shall register as a transporter of inedible kitchen grease and otherwise comply with this article.

SEC. 7. Section 19312 of the Food and Agricultural Code is amended to read:

19312. (a) Registration shall be made with the department and shall include all of the following:

- (1) The applicant's name and address.
- (2) A description of the operations to be performed by the applicant.
- (3) The vehicles to be used in the transportation.
- (4) A registration fee of one hundred dollars (\$100).
- (5) A list of the names of the drivers employed by the transporter who transport inedible kitchen grease subject to this article and their drivers' license numbers.

(6) Any other information that may be required by the department.

(b) Any renderer who registers pursuant to this article is not required to pay the fee prescribed in this section.

(c) The department may refuse to issue an original or renewal registration certificate to any applicant for which the grounds specified in subdivisions (a) to (e), inclusive, of Section 19314 exist.

(d) (1) The applicant may appeal the decision of the department to refuse to register the applicant.

(2) The department shall establish procedures for the appeals process, to include a noticed hearing.

(3) The department may reverse a decision to refuse to register the applicant, upon a finding of good cause to do so.

SEC. 8. Section 19313.1 is added to the Food and Agricultural Code, to read:

19313.1. In addition to any other records required to be kept pursuant to this chapter, every transporter of inedible kitchen grease shall record and maintain for two years all of the following:

(a) The name and address of each location from which the transporter obtained the inedible kitchen grease.

(b) The quantity of material received from each location.

(c) The date on which the inedible kitchen grease was obtained from each location.

SEC. 9. Section 19313.8 of the Food and Agricultural Code is amended to read:

19313.8. No registered transporter or any other person shall take possession of inedible kitchen grease from an unregistered transporter or knowingly take possession of stolen inedible kitchen grease.

SEC. 10. Section 19314 of the Food and Agricultural Code is amended to read:

19314. The department may suspend or revoke a registration certificate, at any time, it finds any of the following has occurred:

(a) The registrant has sold or offered for sale to an unlicensed person, any inedible kitchen grease.

(b) The registrant has stolen, misappropriated, contaminated, or damaged inedible kitchen grease or containers thereof.

(c) The registrant has violated any provision of this article or any regulations adopted to implement this article.

(d) The registrant has taken possession of inedible kitchen grease from an unregistered transporter or has knowingly taken possession of inedible kitchen grease that has been stolen.

(e) The registrant has been found to have engaged in, or aided and abetted another person or entity in the commission of, any violation of a statute, regulation, or order, relating to the transportation or disposal of inedible kitchen grease, including a violation of the federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.), the Porter-Cologne Water Quality Control Act (Chapter 1.5 (commencing with Section 13020) of Division 7 of the Water Code), Section 5650 of the Fish and Game Code, commercial vehicle weight limits, or commercial vehicle hours of service.

(f) For purposes of this section, “registrant” includes any business entity, trustee, officer, director, partner, person or other entity holding more than 5 percent equity, ownership, or debt liability in the registered entity engaged in the transportation of inedible kitchen grease.

(g) (1) The registrant may appeal the suspension or revocation decision of the department.

(2) The department shall establish procedures for the appeals process, to include a noticed hearing.

(3) The department may reverse a suspension or revocation upon a finding of good cause to do so.

SEC. 11. Section 19315 of the Food and Agricultural Code is amended to read:

19315. (a) In addition to the registration fee required by Section 19312, the department may charge an additional fee necessary to cover the costs of administering this article. Any additional fee charged pursuant to this section shall not exceed three hundred dollars (\$300) per year per vehicle that is operated to transport kitchen grease, and shall not exceed three thousand dollars (\$3,000) per year per registered transporter.

(b) The secretary shall fix the annual fee established pursuant to this section and may fix different fees for transporters of inedible kitchen grease and collection centers, and for transporters of interceptor grease. The secretary shall also fix the date the fee is due and the method of collecting the fee. If an additional fee is imposed on licensed renderers pursuant to subdivision (a) of Section 19227 and an additional fee is imposed on registered transporters pursuant to subdivision (a), only one additional fee may be imposed on a person or firm that is both licensed as a renderer pursuant to Article 6 (commencing with Section 19300) and registered as a transporter of inedible kitchen grease pursuant to this article, which fee shall be the higher of the two fees.

(c) If the fee established pursuant to this section is not paid within one calendar month of the date it is due, a penalty shall be imposed in the amount of 10 percent per annum on the amount of the unpaid fee.

(d) This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

(e) For the purposes of this section, “interceptor grease” means inedible kitchen grease that is principally derived from food preparation, processing, or waste, and that is removed from a grease trap or grease interceptor.

SEC. 12. Section 19316 of the Food and Agricultural Code is amended to read:

19316. It is the purpose of this article to prevent the sale and transfer of illegally obtained inedible kitchen grease, to protect the environment, to reduce blockages of public sewer systems, and to prevent the improper and illegal transportation and disposal of inedible kitchen grease.

SEC. 13. Section 19316.5 is added to the Food and Agricultural Code, to read:

19316.5. The department is authorized to establish a system for documenting and tracking the transportation of inedible kitchen grease in order to ensure the proper disposal or recycling of that material.

SEC. 14. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.