AMENDED IN ASSEMBLY SEPTEMBER 4, 2009

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AMENDED IN SENATE APRIL 20, 2009

SENATE BILL No. 546

Introduced by Senator Lowenthal
(Coauthors: Senators Corbett and Oropeza)
(Coauthor: Assembly Member Hall)

February 27, 2009

An act to add Sections 25250.29 and 25250.30 to the Health and Safety Code, and to amend Sections 48100, 48623, 48631, 48632, 48645, 48650, 48651, 48652, 48653, 48656, 48660, 48660.5, 48662, 48670, 48673, 48674, 48690, and 48691 of, to add Sections 48620.2, 48651.5, and 48654 to, and to repeal Sections 48633 and 48634 of, the Public Resources Code, relating to oil, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 546, as amended, Lowenthal. Used oil.

(1) The California Oil Recycling Enhancement Act, administered by the California Integrated Waste Management Board, among other things, defines terms and establishes the used oil recycling program, consisting of a recycling incentive system, grants or loans to local governments and nonprofit entities for specified purposes related to used lubricating oil collection and recycling and stormwater pollution from used oil and oil byproducts, development and implementation of an information and

education program to promote alternatives to the illegal disposal of used oil, and a reporting, monitoring, and enforcement program to ensure that laws relating to used oil are properly carried out. A violation of the act is a crime.

This bill would revise the definition of "used oil hauler" and define the term "rerefined oil," for purposes of the act, and would revise and recast the used oil recycling program, so that, among other things, it would no longer provide for loans, and it would provide for the development and implementation of an information and education program to promote methods to reduce the amounts of used oil generated, among other things. The bill would revise the purposes for which grants under the program may be made and would authorize grants additionally to be made to private entities.

(2) The act generally imposes a charge on oil manufacturers, payable to the board, in the amount of $0.04 for every quart, or $0.16 for every gallon, of lubricating oil sold or transferred in the state, or imported into the state for use in the state.

This bill would increase those amounts to $0.065 and $0.26, respectively through December 31, 2013, and on and after January 1, 2014, those charges would be $0.06 for every quart and $0.24 for every gallon. The charges for finished lubricant containing at least 70% rerefined base lubricant would ~~not~~ be revised ~~and would remain at $0.04~~ *to $0.03* for every quart and ~~$0.16~~ *to $0.12* for every gallon.

(3) The act requires the board to pay a recycling incentive to every industrial generator, curbside collection program, and certified used oil collection center, for used lubricating oil if certain conditions apply, and to an electric utility, as defined, for certain used lubricating oil. Existing law requires the board to set the recycling incentive amount at not less than $0.04 per quart, and authorizes the board to set the amount at a higher amount if the board determines that a higher amount is necessary to promote recycling of used lubricating oil and sufficient funds are available in the California Used Oil Recycling Fund.

This bill would revise the conditions applicable to used lubricating oil that must be met before the board is required to pay the recycling incentive, and would delete the requirement that the board pay the recycling incentive to an electric utility for certain used lubricating oil.

The bill additionally would require the board on and after January 1, ~~2014~~ *2013*, to pay a rerefining incentive to certain recycling facilities that produce rerefined base lubricant meeting specified requirements. The bill would require the board, to coordinate a comprehensive life cycle analysis of the used lubricating and industrial oil management process, evaluate the used oil management policies on used oil collection rates, and by January 1, 2014, report to the Legislature its findings.

The bill would require the board to increase the recycling incentive to not less than $0.10 per quart, except for used oil generated by a certified used oil collection center and an industrial generator, and, on and after January 1, 2014, to set the rerefining incentive at not less than $0.02 per gallon, and would authorize the board to increase those amounts as specified if it determines that a higher amount is necessary to promote the collection and recycling of used lubricating oil or the rerefining of used lubricating oil, as applicable, and sufficient funds are available in the California Used Oil Recycling Fund.

(4) The act requires the board to deposit the charges described in (2) above, civil penalties and fines paid pursuant to the act, and all other revenues received pursuant to the act, in the California Used Oil Recycling Fund, part of which is continuously appropriated to the board to pay recycling incentives, to provide a reserve for contingencies, to make specified payments for implementation of certain local used oil collection programs in a total amount equal to $10,000,000 or ½ the amount remaining in the fund after specified expenditures are made, for certain grants and loans, and for reimbursement for certain disposal costs of contaminated used oil. The act authorizes money in the fund, upon appropriation by the Legislature, among other things, to be transferred to the Farm and Ranch Solid Waste Cleanup and Abatement Account in the General Fund, to pay costs associated with implementing and operating the farm and ranch solid waste cleanup and abatement grant program.

This bill would authorize the continuously appropriated moneys in the fund also to be used for rerefining incentives and to evaluate the used oil management policies, thereby making an appropriation. The bill would increase the amount available for payments for implementation of local used oil collection programs to ~~$13,000,000,~~ *$11,000,000,* or if that amount is not available, the bill would require the board to determine the amount pursuant to a specified formula, thereby making an appropriation, and would exempt the application and grant award process for these payments from a public meeting requirement, otherwise applicable to programs under the act. The bill would prohibit money in the California Used Oil Recycling Fund attributable to increasing or adjusting the charge on oil manufacturers described in (2) above from being transferred to the Farm and Ranch Solid Waste Cleanup and Abatement Account.

(5) The act prohibits a used oil collection center from being eligible for the payment of recycling incentives until the board has certified the center and authorizes the board to cancel certification, after a public hearing, upon finding noncompliance with certification requirements. The act requires a center to reapply for certification every 2 years.

This bill instead would require a center to reapply for certification every 4 years and would eliminate the public hearing requirement for cancellation of certification.

(6) Under the act, if the board finds that a shipment of used oil from a certified used oil collection center or a curbside collection program is contaminated by hazardous material and other specified requirements are met, the board, upon application of the center or program, is required to reimburse the center or program for the additional disposal cost of the used oil, subject to eligibility requirements and payment limitations.

This bill would include uncertified publicly funded used oil collection centers in small rural counties in those entities eligible to receive that reimbursement, and would modify the eligibility requirements and payment limitations.

(7) The act imposes certification requirements for used oil recycling facilities.

This bill would specify requirements for out-of-state used oil recycling facilities seeking incentive payments, including requirements to register with the board and make certain declarations under penalty of perjury. Because this would expand the application of a crime, it would impose a state-mandated local program. The bill would authorize a facility *registered or* certified under this provision to enter into a testing and reporting agreement with the Department of Toxic Substances Control and agree to reimburse the department for its full reasonable costs associated with the agreement. The bill also would impose certification requirements on rerefiners of used oil.

(8) The act imposes reporting requirements on industrial generators of used lubricating oil, used oil collection centers, and curbside collection programs, to be eligible for payment of a recycling incentive.

This bill would revise those reporting requirements.

(9) This bill would make other related changes to the act.

(10) Because a violation of the act is a crime, the bill would impose a state-mandated local program by, among other things, bringing rerefiners of used lubricating oil within the ambit of the act.

(11) Existing law generally regulates persons who generate, receive, store, transfer, transport, treat, or recycle used oil. A violation of those requirements is a crime.

This bill would generally require used oil to be tested and analyzed by a laboratory accredited by the State Department of Public Health, to ensure that it meets specified criteria, before a load of used oil is shipped to a transfer facility, recycling facility, or facility located out of the state. The bill would require the testing and analysis to be accomplished by a registered hazardous waste transporter before acceptance at a transfer or recycling facility or shipment out of state, except as otherwise specified. The bill would require the person performing the test to maintain records of the test for at least 3 years and to be subject to audit and verification by the Department of Toxic Substances Control. The bill would require the registered hazardous waste transporter who is listed as the transporter on the Uniform Hazardous Waste Manifest used to ship used oil out of state to submit a report annually to the department containing information regarding shipment of used oil out of state. Because a violation of the used oil requirements would be a crime, the bill would impose a state-mandated local program.

(12) 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:

SECTION 1. Section 25250.29 is added to the Health and Safety Code, to read:

25250.29. (a) Except as provided in subdivisions (b) and (g), before a load of used oil is shipped to a transfer facility, recycling facility, or facility located out of the state, the used oil shall be tested and analyzed by a laboratory accredited by the State Department of Public Health pursuant to Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101, to ensure that the used oil meets all of the following characteristics:

(1) A flashpoint above 100 degrees Fahrenheit.

(2) A polychlorinated biphenyls (PCB) concentration of less than 5 ppm.

(3) A concentration of total halogens of 1000 ppm or less, unless the presumption in subclause (I) of clause (v) of subparagraph (C) of paragraph (1) of subdivision (a) of Section 25250.1 has been rebutted pursuant to subclause (II) of clause (v) of subparagraph (C) of paragraph (1) of subdivision (a) of Section 25250.1.

(b) The testing and analysis required pursuant to subdivision (a) shall be accomplished by a registered hazardous waste transporter prior to acceptance at a transfer facility or recycling facility, or shipment out of the state, except the transporter is not required to perform the testing and analysis if the transporter can do any of the following:

(1) (A) Demonstrate that testing and analysis has been performed by the generator of the used oil prior to shipment.

(B) Subparagraph (A) does not require the generator of the used oil to perform the testing and analysis required by this section.

(2) Provide documentation that the testing will be performed by a transfer facility or a recycling facility issued a permit by the department pursuant to this chapter.

(3) If shipped to an out-of-state facility, provide documentation certifying that the out-of-state facility receiving the used oil has entered into an agreement with the department that meets the requirements of Section 25250.30.

(c) (1) A transporter shall not require a used oil collection center to test tanks or containers that contain only used lubricating oil or oil filters accepted from the public as a condition of accepting the oil for shipment.

(2) A transporter shall not require a generator to test used oil as a condition of accepting that used oil for shipment.

(3) This subdivision does not alter a generator's responsibility to comply with regulations adopted by the department that govern the operation of a generator, and a transporter shall not be required to transport untested used oil.

(d) This section does not affect or limit a testing requirement that the department may impose on a used oil transfer facility or used oil recycling facility as a condition of a permit issued by the department, including, but not limited to, a test required pursuant to a facility's waste analysis plan.

(e) The person performing a test required by subdivision (a) shall maintain records of tests performed for used oil for at least three years and is subject to audit and verification by the department.

(f) The registered hazardous waste transporter who is listed as the transporter on the Uniform Hazardous Waste Manifest used to ship used oil out of state shall submit a report, on or before March 1 of each year, to the department, containing all of the following information for the preceding year:

(1) Total volume of used oil shipped out of state.

~~(2) Date of each shipment of used oil out of state.~~

~~(3) Uniform Hazardous Waste Manifest tracking number used to ship used oil out of the state.~~

~~(4) Volume of used oil shipped out of state listed on each manifest.~~

~~(5)~~

(2) Information pertaining to the out-of-state facility to which the used oil was shipped, including the facility name, facility address, and facility EPA ID number.

~~(6) Signed certification that all used oil shipped out of the state was analyzed and conformed to the requirements of subdivision (a), including identification of the accredited laboratory utilized to test and analyze the used oil shipment.~~

~~(7)~~

(3) Any other information that the department may require *to ensure that the same data gathered for used oil managed within the state is gathered for used oil shipped out of state*.

(g) (1) This section does not apply to a load for shipment that consists exclusively of used lubricating oil accepted by a used oil collection center from the public, including, but not limited to, used lubricating oil accepted by a publicly funded certified or uncertified used oil collection center located in a small rural county.

(2) This section does not require a generator to test used oil for dielectric oil derived from highly refined mineral oil used in oil filled electrical equipment. Nothing in this section exempts that oil from any testing requirement required by any other law.

(3) This section does not prohibit the transportation of used oil to a facility located outside the state, or impose liability other than compliance with the requirements of this section upon, or in

another way affect the liability of, a generator whose used oil is transported to a facility located outside the state.

SEC. 2. Section 25250.30 is added to the Health and Safety Code, to read:

25250.30. A used oil recycling facility located out of state that is *registered or* certified in accordance with Section 48662 of the Public Resources Code may enter into a testing and reporting agreement with the department. The agreement shall include a requirement on the out-of-state used oil recycling facility that is equivalent to the current testing and testing-related reporting requirements of a used oil recycling facility permit. As part of the agreement, the out-of-state used oil recycling facility shall agree to reimburse the department's full reasonable costs associated with the agreement, including any inspections the department deems necessary to ensure compliance with this provision.

SEC. 3. Section 48100 of the Public Resources Code is amended to read:

48100. (a) The Legislature hereby finds and declares that illegal disposal of solid waste on property owned by innocent parties is a longstanding problem needing attention and that grants provided under this chapter will support the cleanup of farm and ranch property.

(b) The board shall establish a farm and ranch solid waste cleanup and abatement grant program for the purposes of cleaning up and abating the effects of illegally disposed solid waste pursuant to this chapter.

(c) (1) The Farm and Ranch Solid Waste Cleanup and Abatement Account is hereby created in the General Fund and may be expended by the board, upon appropriation by the Legislature in the annual Budget Act, for the purposes of this chapter.

(2) The following funds shall be deposited into the account:

(A) Money appropriated by the Legislature from the Integrated Waste Management Fund or the California Used Oil Recycling Fund to the board for the grant program, or from the California Tire Recycling Management Fund to the board for the purposes set forth in paragraph (10) of subdivision (b) of Section 42889.

(B) Notwithstanding Section 16475 of the Government Code, any interest earned on the money in the account.

(3) The board may expend the money in the account for both of the following purposes:

(A) To pay the costs of implementing this chapter, which costs shall not exceed 7 percent of the funds available for the grant program.

(B) To make payments for grants authorized by this chapter.

(4) Upon authorization by the Legislature in the annual Budget Act, the sum of all funds transferred into the account from other funds or accounts shall not exceed one million dollars ($1,000,000) annually.

(5) Except as provided in paragraph (2) of subdivision (c) of Section 48653 and notwithstanding any other provision of law, the grant program shall be funded from the following funds:

(A) The Integrated Waste Management Fund.

(B) The California Tire Recycling Management Fund, for the purposes set forth in paragraph (10) of subdivision (b) of Section 42889.

(C) The California Used Oil Recycling Fund.

(d) For purposes of this chapter, the following definitions shall apply:

(1) "Native American tribe" has the same meaning as tribe, as defined in subdivision (b) of Section 44201.

(2) "Public entity" means a city, county, or resource conservation district.

SEC. 4. Section 48620.2 is added to the Public Resources Code, to read:

48620.2. (a) "Rerefined oil" means a lubricant base stock or oil base that has been derived from used oil and meets all the following criteria:

(1) Processed using a series of mechanical or chemical methods, or both, including at a minimum, but not limited to, vacuum distillation, followed by solvent refining or hydrotreating.

(2) Capable of meeting the Physical and Compositional Properties, in addition to the Contaminants and Toxicological Properties, as defined under the American Society for Testing and Materials (ASTM) D6074-99 standard.

(3) Processed into a material that has a performance quality level suitable for use in a finished lubricant.

(b) A producer of a rerefined base stock shall provide a purchaser of that base stock with information that certifies that the rerefined base stock is rerefined oil, as that term is defined by subdivision (a). Any rerefined base stock that does not comply with subdivision (a) shall not be sold as rerefined oil and is subject to all applicable hazard, personal protection, and risk communication requirements until subsequent testing demonstrates compliance with subdivision (a).

SEC. 5. Section 48623 of the Public Resources Code is amended to read:

48623. "Used oil hauler" means a hazardous waste transporter registered pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code who transports used oil to a used oil recycling facility certified pursuant to Article 7 (commencing with Section 48660), to a used oil storage facility, to a used oil transfer facility, or to an out-of-state recycling facility registered with the board to be operating in substantial compliance with Part 279 (commencing with Section 279.1) of Title 40 of the Code of Federal Regulations.

SEC. 6. Section 48631 of the Public Resources Code is amended to read:

48631. The used oil recycling program shall include, but is not limited to, all of the following:

(a) A recycling incentive system as described in Article 6 (commencing with Section 48650).

(b) Public and private grants and contracts, including, but not limited to, those between the board and local governments, nonprofit entities, and private entities for the purposes specified in Section 48632.

(c) Development and implementation of an information and education program to promote safe and proper used oil collection and treatment methods, methods to reduce used oil generation, and advances in new and existing technologies, including, but not limited to, use of rerefined oil in automotive and industrial lubricants.

(d) A reporting, monitoring, and enforcement program to ensure that all statutes and regulations relating to used oil are properly carried out.

SEC. 7. Section 48632 of the Public Resources Code is amended to read:

48632. The board may, pursuant to subdivision (b) of Section 48631, issue grants to or contract with local governments, nonprofit entities, and private entities, for any of the following purposes:

(a) Providing and maintaining collection and recycling opportunities for used lubricating oil and filters that are in addition to those included in the local used oil collection programs adopted pursuant to Article 10 (commencing with Section 48690).

(b) Research, testing, and demonstration projects for in-service uses, collection technologies, and end-of-life used oil management.

(c) Developing uses and markets for low environmental impact products resulting from the recycling of used oil, including, but not limited to, promoting the manufacture of rerefined lubricating oil.

(d) Protecting advancements and developments in lubricating oil resulting from, but not limited to, new requirements or technologies in fuel efficiency and performance, synthetic or biobased lubricants, alternative fuels, and methods to extend lubricating oil life.

(e) Education and mitigation projects relating to stormwater pollution from used oil and its impacts on receiving waters, soils, and oceans.

(f) A local government shall not receive a grant or contract pursuant to this section for any purpose identified in subdivision (e) unless the local government certifies that it has a stormwater management program that is approved by the appropriate California regional water quality control board and that the project approved for funding under subdivision (e) is consistent with that approved stormwater management program.

(g) An information and education program pursuant to subdivision (c) of Section 48631.

SEC. 8. Section 48633 of the Public Resources Code is repealed.

SEC. 9. Section 48634 of the Public Resources Code is repealed.

SEC. 10. Section 48645 of the Public Resources Code is amended to read:

48645. Except for payments made to local governments pursuant to paragraph (3) of subdivision (a) of Section 48653, final approval of applicant and project eligibility standards, scoring and evaluation processes, and awarding of grants under this chapter shall be made in a public meeting of, and pursuant to a vote of, the board.

SEC. 11. Section 48650 of the Public Resources Code is amended to read:

48650. (a) Except as provided in subdivisions (c) and (d), every oil manufacturer shall pay to the board, on or before the last day of the month following each quarter, an amount equal to six and one-half cents ($0.065) for every quart, or twenty-six cents ($0.26) for every gallon, of lubricating oil sold or transferred in the state, or imported into the state for use in the state in that quarter. For lubricating oil sold by weight, a weight to volume conversion factor of 7.5 pounds per gallon shall be used to determine the fee. Except as provided in subdivision (b), no payment is required for oil that meets any of the following:

(1) Oil for which a payment has already been made to the board pursuant to this section.

(2) Oil exported or sold for export from the state.

(3) Oil sold for use in vessels operated in interstate or foreign commerce.

(4) Oil imported into the state in the engine crankcase, transmission, gear box, or differential of an automobile, bus, truck, vessel, plane, train, or heavy equipment or machinery.

(5) Bulk oil imported into, transferred in, or sold in the state to a motor carrier, as defined in Section 408 of the Vehicle Code, and used in a vehicle designated in subdivisions (a) and (b) of Section 34500 of the Vehicle Code.

(6) The oil otherwise subject to payment pursuant to this subdivision has a volume of five gallons or less.

(b) If oil exempted from payment pursuant to subdivision (a) is subsequently sold or transferred for use, or is used, in this state, and the use does not qualify for exemption pursuant to subdivision (a), the entity that sells, transfers, or uses the oil for a purpose that is not exempt from payment, shall make the payment specified in subdivision (a).

(c) Every manufacturer of finished lubricant containing at least 70 percent rerefined base lubricant shall pay to the board an amount equal to ~~four cents ($0.04)~~ *three cents ($0.03)* for every quart or ~~sixteen cents ($0.16)~~ *twelve cents ($0.12)* for every gallon sold or transferred in the state or imported into the state, pursuant to the schedule established in subdivision (a).

(d) Except as provided in subdivision (c), on and after January 1, 2014, every oil manufacturer shall pay to the board an amount equal to six cents ($0.06) for every quart or twenty-four cents ($0.24) for every gallon of lubricating oil sold or transferred in the state or imported into the state, pursuant to the schedule established in subdivision (a).

SEC. 12. Section 48651 of the Public Resources Code is amended to read:

48651. (a) The board shall pay a recycling incentive pursuant to subdivision (a) of Section 48652 to every industrial generator, curbside collection program, and certified used oil collection center, for used lubricating oil collected from the public or generated by the certified used oil collection center or the industrial generator, if either of the following conditions apply:

(1) The used lubricating oil is transported by a used oil hauler to a used oil storage facility or to a used oil transfer facility for the purpose of producing recycled oil as defined in Section 48620.

(2) The used lubricating oil is transported by a used oil hauler directly to an in-state used oil recycling facility that is certified pursuant to subdivision (a) of Section 48662, or to an out-of-state used oil recycling facility registered pursuant to subdivision (b) of Section 48662 or certified pursuant to subdivision (c) of Section 48662, for the purpose of producing recycled oil as defined in Section 48620.

(b) A used oil storage facility or a used oil transfer facility that accepts used oil pursuant to paragraph (1) of subdivision (a) shall cause that oil to be transported by a used oil hauler to a used oil recycling facility certified pursuant to subdivision (a) of Section 48662 or to an out-of-state used oil recycling facility registered pursuant to subdivision (b) of Section 48662 or certified pursuant to subdivision (c) of Section 48662 for the purpose of producing recycled oil as defined in Section 48620.

SEC. 13. Section 48651.5 is added to the Public Resources Code, to read:

48651.5. (a) ~~The~~ *Effective January 1, 2013, the* board, with regard to promoting the recycling of used lubricating oil into rerefined oil, shall pay a rerefining incentive pursuant to subdivision (b) of Section 48652 if all of the following conditions are met:

(1) The facility is an in-state or out-of-state recycling facility that is certified in accordance with subdivision (c) of Section 48662 and produces rerefined base lubricant meeting the specifications of rerefined oil as defined in Section 48620.2.

(2) The used oil was generated and collected within the state and prior to treatment or processing has been tested to meet the definition of used oil as specified in paragraph (1) of subdivision (a) of Section 25250.1 of the Health and Safety Code.

(3) The facility submits to the board a completed used oil rerefining incentive payment claim in the form and manner that the board may prescribe.

(b) (1) To further promote the safe management of used oil, *and to review the changes in policy and program enacted by the Legislature in Senate Bill No. 546 of the 2009 Regular Session, without implying that any further changes are necessary and warranted,* the board, using existing financial resources, shall do all of the following:

(A) Contract with a third-party consultant with recognized expertise in life cycle assessments to coordinate a comprehensive life cycle analysis of the used lubricating and industrial oil management process, from generation through collection, ~~rerefining, reuse as a fuel, and other dispositions.~~ *transportation, and reuse alternatives*

(B) Solicit input from representatives of all used oil stakeholders in defining the scope and design of the life cycle analysis, in conducting the life cycle analysis, and in issuing a draft report for public review and comment.

(C) Evaluate the positive and negative impacts of the testing requirements established in Section 25250.29 of the Health and Safety Code, the tiered fee on lubricating oil established in Section 48650, and the tiered incentive payments established in Section 48652, on used oil collection rates.

(D) On or before January 1, 2014, submit a report to the Legislature describing the findings of the life cycle analysis and the evaluation of the used oil management policies on used oil collection rates specified in subparagraph (C) and provide any recommendations for statutory changes that may be necessary to promote increased collection and responsible management of used oil.

(2) All costs incurred by the board and its contractors in meeting the requirements of this subdivision shall be covered by the additional one-half-cent ($0.005) fee established in subdivision (a) of Section 48650, and effective through December 31, 2013, pursuant to subdivision (d) of Section 48650.

SEC. 14. Section 48652 of the Public Resources Code is amended to read:

48652. (a) Except as provided in subdivision (d), the board shall set the recycling incentive at not less than ten cents ($0.10) per quart. The board may set the amount at an amount higher than ten cents ($0.10) if the board determines that a higher amount is necessary to promote the collection and recycling of used lubricating oil and sufficient funds are available in the fund.

(b) On and after January 1, 2014, the board shall set the rerefining incentive at not less than two cents ($0.02) per gallon. On and after January 1, 2015, the board may set the rerefining incentive at a higher amount if the board determines that a higher amount is necessary to promote rerefining of used lubricating oil and sufficient funds are available in the fund.

(c) The board shall not change the amount of an incentive paid pursuant to this section until at least one year has passed since the amount was last set. The amount of an incentive paid by the board shall remain at the previous amount for one month after setting the incentive at a different amount. The board shall not raise the amount of an incentive paid unless it finds that the raise will not adversely affect funding required pursuant to Sections 48631, 48653, and 48660.5.

(d) The board shall set the recycling incentive for used oil generated by a certified used oil collection center and an industrial generator at not less than four cents ($0.04) per quart. The board may set the amount higher than four cents ($0.04), if the board determines that a higher amount is necessary to promote the collection and recycling of used oil from these generators and sufficient funds are available.

SEC. 15. Section 48653 of the Public Resources Code is amended to read:

48653. The board shall deposit all amounts paid pursuant to Section 48650 by manufacturers, civil penalties, and fines paid pursuant to this chapter, and all other revenues received pursuant to this chapter into the California Used Oil Recycling Fund, which is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the money in the fund is to be appropriated solely as follows:

(a) Continuously appropriated to the board for expenditure for the following purposes:

(1) To pay recycling incentives pursuant to Section 48651.

(2) To provide a reserve for contingencies, as may be available after making other payments required by this section, in an amount not to exceed one million dollars ($1,000,000).

(3) (A) To make payments for the implementation of local used oil collection programs adopted pursuant to Article 10 (commencing with Section 48690) to cities, based on the city's population, and counties, based on the population of the unincorporated area of the county. Payment shall be determined by multiplying the total annual amount by the fraction equal to the population of cities and counties that are eligible for payments pursuant to Section 48690, divided by the population of the state. The board shall use the latest population estimates of the state generated by the Population Research Unit of the Department of Finance in making the calculations required by this paragraph. Notwithstanding subdivision (b) of Section 48656, the total annual amount shall equal ~~thirteen~~ *eleven* million dollars ~~($13,000,000)~~ *($11,000,000)*, subject to subparagraph (B).

(B) If sufficient funds are not available to initially issue full funding pursuant to subparagraph (A), the board shall provide funding as follows:

(i) For the purposes set forth in this paragraph, one-half of the amount that remains in the fund after the expenditures are made pursuant to paragraphs (1) and (2) and subdivision (b). The board may utilize additional amounts from the fund, up to, but not exceeding, ~~thirteen million dollars ($13,000,000)~~ *eleven million dollars ($11,000,000)*.

(ii) As the board finds is fiscally appropriate, for the purposes set forth in Section 48656. The board shall give priority to the distribution of funding in clause (i) for the purposes of this paragraph.

(C) Pursuant to paragraph (2) of subdivision (d) of Section 48691, it is the intent of this paragraph that at least one million dollars ($1,000,000) be made available specifically for used oil filter collection and recycling programs.

(4) To implement Section 48660.5, in an amount not to exceed two hundred thousand dollars ($200,000) annually.

(5) For expenditures pursuant to Section 48656.

(b) The money in the fund may be expended by the board for the administration of this chapter and by the department for inspections and reports pursuant to Section 48661, only upon appropriation by the Legislature in the annual Budget Act.

(c) (1) Except as provided in paragraph (2), the money in the fund may be transferred to the Farm and Ranch Solid Waste Cleanup and Abatement Account in the General Fund, upon appropriation by the Legislature in the annual Budget Act, to pay the costs associated with implementing and operating the Farm and Ranch Solid Waste Cleanup and Abatement Grant Program established pursuant to Chapter 2.5 (commencing with Section 48100).

(2) The money in the fund attributable to a charge increase or adjustment made or authorized in an amendment to subdivision (a) of Section 48650 by the act adding this paragraph shall not be transferred to the Farm and Ranch Solid Waste Cleanup and Abatement Account.

(d) Appropriations to the board to pay the costs necessary to administer this chapter shall not exceed three million dollars ($3,000,000) annually.

(e) The Legislature hereby finds and declares its intent that three hundred fifty thousand dollars ($350,000) should be annually appropriated from the California Used Oil Recycling Fund in the annual Budget Act to the board, commencing with fiscal year 2010–11, for the purposes of Section 48655 and to conduct those investigations and enforcement actions necessary to implement subdivision (b) of Section 48651.

SEC. 16. Section 48654 is added to the Public Resources Code, to read:

48654. (a) It is the intent of the Legislature in enacting this chapter that local government sponsored used motor oil collection programs in rural counties continue to operate and be funded to maintain or expand their existing collection efforts. As such, funding should be increased according to increased costs due to the imposition of new requirements under this chapter enacted in the act that added this section in the 2009-10 Regular Session of the Legislature.

(b) (1) The board shall provide funds from the California Used Oil Recycling Fund to rural counties for local government sponsored collection efforts to cover additional costs of testing or reduced availability of the recycling incentive caused by increased regulatory expenses pursuant to the addition of Section 25250.29 to the Health and Safety Code, and amendments to Sections 48623, 48631, 48632, 48651, 48662, and 48670, enacted in the act that added this section in the 2009-10 Regular Session of the Legislature.

(2) To qualify for such funding, the local government shall demonstrate to the board that it has incurred additional costs and that these costs could not have been avoided or lessened through the use of a commercially viable alternative transporter or recycling facilities that are in compliance with this chapter.

SEC. 17. Section 48656 of the Public Resources Code is amended to read:

48656. After all of the expenditures pursuant to Section 48653 have been made, notwithstanding paragraph (5) of subdivision (a) of Section 48653, the balance remaining in the fund shall be available to the board for the following purposes:

(a) The implementation of subdivisions (b) and (c) of Section 48631 and Section 48651.5, subject to both of the following requirements:

(1) The allocation of funds to implement subdivisions (b) and (c) of Section 48631 shall be at the discretion of the board to be determined annually in a public meeting and pursuant to a vote of the board.

(2) The board shall pay rerefining incentives pursuant to Section 48651.5 if sufficient funds are available in the fund.

(b) Annual revenues left unspent in excess of one million dollars ($1,000,000) shall be allocated pursuant to paragraph (3) of subdivision (a) of Section 48653 for local collection programs adopted pursuant to Article 10 (commencing with Section 48690).

SEC. 18. Section 48660 of the Public Resources Code is amended to read:

48660. (a) No used oil collection center shall be eligible for the payment of recycling incentives until the board has certified that the center is in compliance with the requirements in subdivision (b). Before certification, the board may require the center to submit any information that the board determines is necessary to find that the center is in compliance with those requirements. A center shall reapply for certification every four years. The board may cancel the certification of a center if the board finds that the center is not, or has not been, in compliance with subdivision (b). The board may withhold the payment of recycling incentives for used lubricating oil collected by a center if the board finds that the center was not in compliance with subdivision (b) during the time in which the used lubricating oil was collected.

(b) To be eligible for certification by the board and for the payment of recycling incentives, the used oil collection center shall do all of the following:

(1) Accept used lubricating oil from the public at no charge during the hours that the entity operating as the center is open for business.

(2) Pay to a person, at his or her request, an amount equal to the recycling incentive that the center will receive for used lubricating oil brought to the center in containers by the person. Nothing in this chapter prohibits a person from donating used lubricating oil to a center. The recycling incentive may be in the form of a credit that may be applied toward the purchase of goods or services offered by the center, as determined by the board. The credit shall be in the form of a voucher or coupon with a value of at least twice the incentive amount to be paid pursuant to Section 48652 and have no other limits for use, unless prescribed by the board.

(3) Provide information to the board for informing the public of the center's acceptance of used lubricating oil.

(4) Provide notice to the public of the center's acceptance of used lubricating oil from the public through periodic advertising in local media and onsite signs that meet the following requirements:

(A) Onsite signs shall be of a design and specification prescribed by the board and shall state that the center is certified by the state and collects used oil from the public at no charge.

(B) A certified center shall post an exterior sign of a design and specification prescribed by the board in a location that is easily visible from a public street. In addition, the certified center shall post an informational sign of a design and specification prescribed by the board so that it is easily readable from the location where the used oil is received from the public.

(C) If local zoning ordinances prevent signs of a size consistent with this paragraph, the exterior symbolic sign shall be of the maximum allowable size.

(c) Notwithstanding subdivision (b), a used oil collection center may refuse to accept used lubricating oil that has been contaminated in a manner other than that which would occur through normal use.

(d) Notwithstanding subdivision (b), a used oil collection center shall not knowingly accept used lubricating oil for which a payment has not been made pursuant to Section 48650.

SEC. 19. Section 48660.5 of the Public Resources Code is amended to read:

48660.5. (a) If the board finds that a shipment of used oil from a certified used oil collection center, curbside collection program, or uncertified publicly funded used oil collection center in a small rural county is contaminated by hazardous materials in excess of that which generally occurs in normal use, which renders the used oil infeasible for recycling, and requires that the used oil be destroyed at a substantially higher cost than the cost generally to recycle used oil, the board shall, upon application by the used oil collection center or curbside collection program, reimburse the center or program for the additional disposal cost, subject to the eligibility requirements of subdivision (b), except as provided in subdivision (c).

(b) A certified used oil collection center, curbside collection program, or uncertified publicly funded used oil collection center in a small rural county is eligible for reimbursement only if it demonstrates to the satisfaction of the board all of the following, except that paragraph (1) does not apply to a publicly funded used oil collection center in a small rural county:

(1) The center or program has established procedures to ensure that the used oil it generates and accepts from the public will not be mixed with other hazardous wastes, especially halogen-contaminated and polychlorinated biphenyl-contaminated wastes. These procedures shall include, but not be limited to, instructing the public and employees that used oil shall not be mixed with other hazardous waste. The board shall not require a

center or program to test used oil received from the public as part of these procedures.

(2) The shipment contains not more than five gallons or pounds of contaminants combined, based on the contaminant concentrations and the total volume or weight of the shipment.

(c) In a calendar year, a used oil collection center, curbside collection program, or uncertified publicly funded used oil collection center in a small rural county shall be reimbursed for not more than one shipment and for not more than five thousand dollars ($5,000) in disposal costs for halogen-contaminated waste or not more than the actual net additional costs of disposing of polychlorinated biphenyl-contaminated wastes, subject to the availability of funds pursuant to Section 48656.

SEC. 20. Section 48662 of the Public Resources Code is amended to read:

48662. (a) The board shall certify or recertify a used oil recycling facility located in this state for which the board has received a report from the department pursuant to Section 48661, unless the board determines that the facility is engaged in a repeating or recurring pattern of noncompliance that poses a significant threat to public health and safety or the environment.

(b) The board shall require an out-of-state recycling facility, that receives used oil from a California generator and to which a recycling incentive may be paid, to register with the board declaring under penalty of perjury that the facility is operating in substantial compliance with Part 279 (commencing with Section 279.1) of Title 40 of the Code of Federal Regulations. An out-of-state recycling facility registering with the board pursuant to this subdivision shall, upon request, provide the board or the department with a copy of any inspection report issued for the facility by, or any other enforcement related documents available to, the agency responsible for enforcing Part 279 (commencing with Section 279.1) of Title 40 of the Code of Federal Regulations at the facility.

(c) The board shall certify or recertify a rerefiner of used oil for which the board has received a report from the department that the facility meets either of the following requirements:

(1) The used oil recycling facility located in this state is certified pursuant to subdivision (a) and produces rerefined base lubricant meeting the specifications in Section 48620.2.

(2) The used oil recycling facility is an out-of-state facility that has demonstrated to the satisfaction of the department all of the following:

(A) The facility substantially meets the requirements in Part 279 (commencing with Section 279.1) of Title 40 of the Code of Federal Regulations.

(B) The facility produces rerefined base lubricant meeting the specifications in Section 48620.2. An out-of-state recycling facility registering with the board pursuant to this subdivision shall, upon request, provide the board or the department with a copy of records demonstrating that the used oil has been recycled to meet the specifications for rerefined oil, as defined in Section 48620.2.

(d) An out-of-state facility that seeks certification shall annually certify in writing to the board, under penalty of perjury, that the facility substantially meets the requirements in paragraph (2) of subdivision (c).

(e) Paragraph (2) of subdivision (c) does not require the department to inspect or prohibit the department from inspecting an out-of-state facility to determine whether the department is satisfied that the facility substantially meets the requirements for certification.

(f) As a condition of demonstrating compliance pursuant to paragraph (2) of subdivision (c), a facility shall enter into an agreement with the department pursuant to Section 25201.9 of the Health and Safety Code to pay the department's full expenses of conducting the review and any inspection costs the department may incur in determining whether the facility meets the requirements for certification.

(g) If the board denies certification to a facility subject to subdivision (a) or (c), the board may subsequently certify the facility if it determines that the facility meets the standards for certification.

SEC. 21. Section 48670 of the Public Resources Code is amended to read:

48670. (a) To be eligible for payment of a recycling incentive, an industrial generator of used lubricating oil, a used oil collection center, or a curbside collection program shall report to the board, for each quarter, based on the following reporting limitations and requirements:

(1) The amount of lubricating oil purchased and the amount of used lubricating oil that is transported to a certified used oil recycling facility, to a used oil storage facility, or to a used oil transfer facility, or that is transported to an out-of-state recycling facility registered with the board to be operating in substantial compliance with Part 279 (commencing with Section 279.1) of Title 40 of the Code of Federal Regulations.

(2) The amount of used lubricating oil collected from the public, for use in determining the recycling incentive payment, that is transported to a certified used oil recycling facility, to a used oil storage facility, or to a used oil transfer facility, or that is transported to an out-of-state recycling facility registered with the board to be operating in substantial compliance with Part 279 (commencing with Section 279.1) of Title 40 of the Code of Federal Regulations. However, a certified collection center with service bays located in a small rural county shall be eligible for a recycling incentive based on 60 percent of the total oil recycled by collecting used oil from the public and servicing motor vehicles. If the center documents, in the form prescribed by the board, that the portion that resulted from public collection exceeds 60 percent of the total oil recycled, the center shall be eligible for the incentive payment based on the actual amount of used oil accepted from the public and recycled.

(b) The reports shall be submitted on or before the 45th day following each quarter, in the form and manner that the board may prescribe, and shall include copies of manifests or modified manifest receipts from used oil haulers.

(c) The board may delegate to the executive officer of the board the authority to accept reports submitted after the 45th day and to reduce, eliminate, or approve the amount of incentive fee to be paid due to the late submission of the report. The board may provide, by regulation, for a longer reporting period for industrial generators that generate less than 1,000 gallons of used oil annually.

SEC. 22. Section 48673 of the Public Resources Code is amended to read:

48673. (a) A used oil recycling facility issued a permit by the department to produce recycled oil, as defined in Section 25250.1 of the Health and Safety Code, and an out-of-state recycling facility that is either registered with the board pursuant to subdivision (b) of Section 48662 or certified by the board pursuant to subdivision (c) of Section 48662, shall report to the board for each quarter the amount of California used oil received and the resultant amount of recycled oil produced.

(b) A facility subject to this section shall provide estimates, where feasible, of the amount that is used lubricating oil and the amount that is used industrial oil.

(c) The reports required by this section shall be submitted on or before the last day of the month following each quarter, in the form and manner that the board may prescribe.

SEC. 23. Section 48674 of the Public Resources Code is amended to read:

48674. After receiving payments pursuant to paragraph (3) of subdivision (a) of Section 48653, each local government shall submit a report to the board, in the manner specified by the board, that includes any amendments to the local used oil collection program adopted pursuant to Section 48690, a description of all measures taken to implement the program, and a description of how payments were expended.

SEC. 24. Section 48690 of the Public Resources Code is amended to read:

48690. A local government is eligible for a payment pursuant to paragraph (3) of subdivision (a) of Section 48653, if it develops and submits a local used oil collection program to the board pursuant to Section 48691 and files a report pursuant to Section 48674. The board shall make a payment to every local government that submits a program and files a report unless the board finds that the program or its implementation does not comply with criteria contained in this article. The board may make a payment to another entity that will implement the program of a local government in lieu of making a payment to that local government with the concurrence of that local government. A payment issued by the board pursuant to this section may take the form of an advance payment. If a local government does not implement a used oil collection program or chooses not to accept the payment pursuant to paragraph (3) of subdivision (a) of Section 48653, the board may allocate that local government's payment to another local government that commits to implementing a used oil collection program pursuant to Section 48691 and serving the residents of the nonparticipating local government, if any program implemented within the boundaries of the nonparticipating jurisdiction is approved by the nonparticipating jurisdiction.

SEC. 25. Section 48691 of the Public Resources Code is amended to read:

48691. (a) A local used oil collection program shall provide for used lubricating oil collection by either of the following or a combination of the two:

(1) Ensuring that at least one certified used oil collection center is available for every 100,000 residents not served by curbside used oil collection, that accepts oil from the public at no charge, at least 20 hours each week, on four days each week, of which three hours each week are outside the weekday hours of 8 a.m. through 5:30 p.m.

(2) Providing used oil curbside collection at least once a month.

(b) A local used oil collection program shall include a public education program that informs the public of locally available used oil recycling opportunities.

(c) A local government may implement its used oil collection program in conjunction with other similar programs in order to improve used oil recycling efficiency.

(d) A local government that has implemented the used oil collection and education elements of subdivisions (a) and (b) may also include, in the local used oil collection program one or both of the following:

(1) Provisions for the mitigation and the collection of oil and oil byproducts, including other solid waste that may be mixed with oil or oil byproducts from stormwater runoff, including devices to capture that stormwater runoff, such as the use of storm drain inlet filter devices. A local government shall not receive a payment pursuant to Section 48690 for the purposes identified pursuant to this paragraph unless the local government certifies that it has a stormwater management program that is approved by the appropriate California regional water quality control board and that the provisions in the local used oil collection program approved for funding under this paragraph are consistent with that approved stormwater management program.

(2) A used oil filter collection and recycling program.

SEC. 26. 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.

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