

**ASSEMBLY BILL**

**No. 628**

---

---

**Introduced by Assembly Member Bloom**

February 24, 2015

---

---

An act to amend Section 25250.1 of the Health and Safety Code, relating to used oil.

LEGISLATIVE COUNSEL'S DIGEST

AB 628, as introduced, Bloom. Used oil.

Existing law authorizes the Department of Toxic Substances Control to regulate the disposal of hazardous waste, including used oil, and, for those purposes, defines “used oil” to mean oil that has been refined from crude oil, or any synthetic oil, that has been used, and, as a result of use or as a consequence of extended storage, or spillage, has been contaminated with physical or chemical impurities.

This bill would clarify that the synthetic oil referred to in the definition of “used oil” may be from any source.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

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

- 1 SECTION 1. Section 25250.1 of the Health and Safety Code  
2 is amended to read:  
3 25250.1. (a) As used in this article, the following terms have  
4 the following meaning:  
5 (1) (A) “Used oil” means all of the following:  
6 (i) Oil that has been refined from crude oil, or any synthetic ~~oil,~~  
7 *oil from any source*, that has been used, and, as a result of use or

1 as a consequence of extended storage, or spillage, has been  
2 contaminated with physical or chemical impurities.

3 (ii) Material that is subject to regulation as used oil under Part  
4 279 (commencing with Section 279.1) of Subchapter I of Chapter  
5 1 of Title 40 of the Code of Federal Regulations.

6 (B) Examples of used oil are spent lubricating fluids that have  
7 been removed from an engine crankcase, transmission, gearbox,  
8 or differential of an automobile, bus, truck, vessel, plane, heavy  
9 equipment, or machinery powered by an internal combustion  
10 engine; industrial oils, including compressor, turbine, and bearing  
11 oil; hydraulic oil; metalworking oil; refrigeration oil; and railroad  
12 drainings.

13 (C) “Used oil” does not include any of the following:

14 (i) Oil that has a flashpoint below 100 degrees Fahrenheit or  
15 that has been mixed with hazardous waste, other than minimal  
16 amounts of vehicle fuel.

17 (ii) (I) Wastewater, the discharge of which is subject to  
18 regulation under either Section 307(b) (33 U.S.C. Sec. 1317(b))  
19 or Section 402 (33 U.S.C. Sec. 1342) of the federal Clean Water  
20 Act (33 U.S.C. Sec. 1251 et seq.), including wastewaters at  
21 facilities that have eliminated the discharge of wastewater,  
22 contaminated with de minimis quantities of used oil.

23 (II) For purposes of this clause, “de minimis quantities of used  
24 oil” are small spills, leaks, or drippings from pumps, machinery,  
25 pipes, and other similar equipment during normal operations, or  
26 small amounts of oil lost to the wastewater treatment system during  
27 washing or draining operations.

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

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

34 (iv) Oil that contains polychlorinated biphenyls (PCBs) at a  
35 concentration of 5 ppm or greater.

36 (v) (I) Oil containing more than 1000 ppm total halogens, which  
37 shall be presumed to be a hazardous waste because it has been  
38 mixed with halogenated hazardous waste listed in Subpart D  
39 (commencing with Section 261.30) of Part 261 of Subchapter I of  
40 Chapter 1 of Title 40 of the Code of Federal Regulations.

1 (II) A person may rebut the presumption specified in subclause  
2 (I) by demonstrating that the used oil does not contain hazardous  
3 waste, including, but not limited to, in the manner specified in  
4 subclause (III).

5 (III) The presumption specified in subclause (I) is rebutted if it  
6 is demonstrated that the used oil that is the source of total halogens  
7 at a concentration of more than 1000 ppm is solely either household  
8 waste, as defined in Section 261.4(b)(1) of Title 40 of the Code  
9 of Federal Regulations, or is collected from conditionally exempt  
10 small quantity generators, as defined in Section 261.5 of Title 40  
11 of the Code of Federal Regulations. Nothing in this subclause  
12 authorizes any person to violate the prohibition specified in Section  
13 25250.7.

14 (2) “Board” means the California Integrated Waste Management  
15 Board.

16 (3) (A) “Recycled oil” means any oil that meets all of the  
17 following requirements specified in clauses (i) to (iii), inclusive:

18 (i) Is produced either solely from used oil, or is produced solely  
19 from used oil that has been mixed with one or more contaminated  
20 petroleum products or oily wastes, other than wastes listed as  
21 hazardous under the federal act, provided that if the resultant  
22 mixture is subject to regulation as a hazardous waste under Section  
23 279.10(b)(2) of Title 40 of the Code of Federal Regulations, the  
24 mixture is managed as a hazardous waste in accordance with all  
25 applicable hazardous waste regulations, and the recycled oil  
26 produced from the mixture is not subject to regulation as a  
27 hazardous waste under Section 279.10(b)(2) of Title 40 of the  
28 Code of Federal Regulations. If the oily wastes with which the  
29 used oil is mixed were recovered from a unit treating hazardous  
30 wastes that are not oily wastes, these recovered oily wastes are not  
31 excluded from being considered as oily wastes for purposes of this  
32 section or Section 25250.7.

33 (ii) The recycled oil meets one of the following requirements:

34 (I) The recycled oil is produced by a generator lawfully recycling  
35 its oil.

36 (II) The recycled oil is produced at a used oil recycling facility  
37 that is authorized to operate pursuant to Section 25200 or 25200.5  
38 solely by means of one or more processes specifically authorized  
39 by the department. The department may not authorize a used oil  
40 recycling facility to use a process in which used oil is mixed with

1 one or more contaminated petroleum products or oily wastes unless  
2 the department determines that the process to be authorized for  
3 mixing used oil with those products or wastes will not substantially  
4 contribute to the achievement of compliance with the specifications  
5 of subparagraph (B).

6 (III) The recycled oil is produced in another state, and the used  
7 oil recycling facility where the recycled oil is produced, and the  
8 process by which the recycled oil is produced, are authorized by  
9 the agency authorized to implement the federal act in that state.

10 (iii) Has been prepared for reuse and meets all of the following  
11 standards:

12 (I) The oil meets the standards of purity set forth in subparagraph  
13 (B).

14 (II) If the oil was produced by a generator lawfully recycling  
15 its oil or the oil is lawfully produced in another state, the oil is not  
16 hazardous pursuant to the criteria adopted by the department  
17 pursuant to Section 25141 for any characteristic or constituent  
18 other than those listed in subparagraph (B).

19 (III) The oil is not mixed with any waste listed as a hazardous  
20 waste in Part 261 (commencing with Section 261.1) of Subchapter  
21 I of Chapter 1 of Title 40 of the Code of Federal Regulations.

22 (IV) The oil is not subject to regulation as a hazardous waste  
23 under the federal act.

24 (V) If the oil was produced lawfully at a used oil recycling  
25 facility in this state, the oil is not hazardous pursuant to any  
26 characteristic or constituent for which the department has made  
27 the finding required by subparagraph (B) of paragraph (2) of  
28 subdivision (a) of Section 25250.19, except for one of the  
29 characteristics or constituents identified in the standards of purity  
30 set forth in subparagraph (B).

31 (B) The following standards of purity are in effect for recycled  
32 oil, in liquid form, unless the department, by regulation, establishes  
33 more stringent standards:

34 (i) Flashpoint: minimum standards set by the American Society  
35 for Testing and Materials for the recycled products. However,  
36 recycled oil to be burned for energy recovery shall have a minimum  
37 flashpoint of 100 degrees Fahrenheit.

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

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

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

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

2 (vi) Total halogens: 3000 mg/kg or less. However, recycled oil  
3 shall be demonstrated by testing to contain not more than 1000  
4 mg/kg total halogens listed in Appendix VIII of Part 261  
5 (commencing with Section 261.1) of Subchapter I of Chapter 1 of  
6 Title 40 of the Code of Federal Regulations.

7 (vii) Total polychlorinated biphenyls (PCBs): less than 2 mg/kg.

8 (C) Compliance with the specifications of subparagraph (B) or  
9 with the requirements of clauses (iv) and (v) of subparagraph (B)  
10 of paragraph (1) shall not be met by blending or diluting used oil  
11 with crude or virgin oil, or with a contaminated petroleum product  
12 or oily waste, except as provided in subclause (II) of clause (ii) of  
13 subparagraph (A), and shall be determined in accordance with the  
14 procedures for identification and listing of hazardous waste adopted  
15 in regulations by the department. Persons authorized by the  
16 department to recycle oil shall maintain records of volumes and  
17 characteristics of incoming used oil and outgoing recycled oil and  
18 documentation concerning the recycling technology utilized to  
19 demonstrate to the satisfaction of the department or other  
20 enforcement agencies that the recycling has been achieved in  
21 compliance with this subdivision.

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

24 (4) “Used oil recycling facility” means a facility that reprocesses  
25 or re-refines used oil.

26 (5) “Used oil storage facility” means a storage facility, as  
27 defined in subdivision (b) of Section 25123.3, that stores used oil.

28 (6) “Used oil transfer facility” means a transfer facility, as  
29 defined in subdivision (a) of Section 25123.3, that meets the  
30 qualifications to be a storage facility, for purposes of Section  
31 25123.3.

32 (7) (A) For purposes of this section and Section 25250.7 only,  
33 “contaminated petroleum product” means a product that meets all  
34 of the following conditions:

35 (i) It is a hydrocarbon product whose original intended purpose  
36 was to be used as a fuel, lubricant, or solvent.

37 (ii) It has not been used for its original intended purpose.

38 (iii) It is not listed in Subpart D (commencing with Section  
39 251.30) of Part 261 of Subchapter I of Chapter 1 of Title 40 of the  
40 Code of Federal Regulations.

1 (iv) It has not been mixed with a hazardous waste other than  
2 another contaminated petroleum product.

3 (B) Nothing in this section or Section 25250.7 shall be construed  
4 to affect the exemptions in Section 25250.3, or to subject  
5 contaminated petroleum products that are not hazardous waste to  
6 any requirements of this chapter.

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

9 (1) The used oil has not been treated by the generator of the  
10 used oil, the generator claims the used oil is exempt from regulation  
11 by the department, and the used oil meets all of the following  
12 conditions:

13 (A) The used oil meets the standards set forth in subparagraph  
14 (B) of paragraph (3) of subdivision (a).

15 (B) The used oil is not hazardous pursuant to the criteria adopted  
16 by the department pursuant to Section 25141 for any characteristic  
17 or constituent other than those listed in subparagraph (B) of  
18 paragraph (3) of subdivision (a).

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

23 (D) The used oil is not subject to regulation as either hazardous  
24 waste or used oil under the federal act.

25 (E) The generator of the used oil has complied with the  
26 notification requirements of subdivision (c) and the testing and  
27 recordkeeping requirements of Section 25250.19.

28 (F) The used oil is not disposed of or used in a manner  
29 constituting disposal.

30 (2) The used oil meets all the requirements for recycled oil  
31 specified in paragraph (3) of subdivision (a), the requirements of  
32 subdivision (c), and the requirements of Section 25250.19.

33 (c) Used oil recycling facilities and generators lawfully recycling  
34 their own used oil that are the first to claim that recycled oil meets  
35 the requirements specified in paragraph (2) of subdivision (b) shall  
36 maintain an operating log and copies of certification forms, as  
37 specified in Section 25250.19. Any person who generates used  
38 oil, and who claims that the used oil is exempt from regulation  
39 pursuant to paragraph (1) of subdivision (b), shall notify the  
40 department, in writing, of that claim and shall comply with the

1 testing and recordkeeping requirements of Section 25250.19 prior  
2 to its reuse. In any action to enforce this article, the burden is on  
3 the generator or recycling facility, whichever first claimed that the  
4 used oil or recycled oil meets the standards and criteria, and on  
5 the transporter or the user of the used oil or recycled oil, whichever  
6 has possession, to prove that the oil meets those standards and  
7 criteria.

8 (d) Used oil shall be managed in accordance with the  
9 requirements of this chapter and any additional applicable  
10 requirements of Part 279 (commencing with Section 279.1) of  
11 Subchapter I of Chapter 1 of Title 40 of the Code of Federal  
12 Regulations.

O