

**Senate Bill No. 1824**

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Passed the Senate August 19, 1998

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*Secretary of the Senate*

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Passed the Assembly August 13, 1998

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_ day  
of \_\_\_\_\_, 1998, at \_\_\_\_ o'clock \_\_M.

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*Private Secretary of the Governor*

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## CHAPTER \_\_\_\_

An act to amend Sections 25250.1, 25250.4, and 25250.7 of the Health and Safety Code, and to amend Section 48620 of the Public Resources Code, relating to used oil.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1824, Calderon. Used oil: recycling.

(1) Existing law defines the term “recycled oil,” for purposes of the provisions regulating used oil, as meaning any oil, produced from used oil, that has been prepared for reuse, and that achieves minimum standards of purity, as established by the Department of Toxic Substances Control. A violation of the provisions regulating used oil is a crime.

This bill would revise that definition of recycled oil to include any oil that meets specified requirements as to the manner the recycled oil is produced from used oil and would additionally define the term “contaminated petroleum product.”

(2) Existing law prohibits any person who generates, stores, or transfers used oil, from intentionally contaminating used oil with other hazardous waste, except with minimal amounts of vehicle fuel.

This bill would allow a used oil recycling facility to mix used oil with a contaminated petroleum product or with an oily waste, other than wastes listed as hazardous under specified federal law, under specified conditions. The bill would allow a generator or transporter to mix used oil with contaminated petroleum products under specified conditions, thereby imposing a state-mandated local program by creating a new crime.

The bill would also correct erroneous references.

(3) 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 25250.1 of the Health and Safety Code is amended to read:

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

(1) (A) “Used oil” means any 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. Examples of used oil are spent lubricating fluids that have been removed from an engine crankcase, transmission, gearbox, or differential of an automobile, bus, truck, vessel, plane, heavy equipment, or machinery powered by an internal combustion engine; industrial oils, including compressor, turbine, and bearing oil; hydraulic oil; metal-working oil; refrigeration oil; and railroad drainings.

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

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

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

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

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



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

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

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

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

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

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

(3) (A) “Recycled oil” means any oil that meets all of the following requirements:

(i) Is produced either solely from used oil, or is produced solely from used oil that has been mixed with one or more contaminated petroleum products or oily wastes, other than wastes listed as hazardous under the federal act, provided that if the resultant mixture is subject to regulation as a hazardous waste under paragraph (2) of subdivision (b) of Section 279.10 of Title 40 of the Code of Federal Regulations, the mixture is managed as a hazardous waste in accordance with all applicable hazardous waste regulations, and the recycled oil produced from the mixture is not subject to regulation as a hazardous waste under paragraph (2) of subdivision



(b) of Section 279.10 of Title 40 of the Code of Federal Regulations. If the oily wastes with which the used oil is mixed were recovered from a unit treating hazardous wastes that are not oily wastes, these recovered oily wastes are not excluded from being considered as oily wastes for purposes of this section or Section 25250.7.

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

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

(II) The recycled oil is produced at a used oil recycling facility that is authorized to operate pursuant to Section 25200 or 25200.5 solely by means of one or more processes specifically authorized by the department. The department may not authorize a used oil recycling facility to use a process in which used oil is mixed with one or more contaminated petroleum products or oily wastes unless the department determines that the process to be authorized for mixing used oil with those products or wastes will not substantially contribute to the achievement of compliance with the specifications of subparagraph (B).

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

(iii) Has been prepared for reuse and it achieves minimum standards of purity, in liquid form, as established by the department.

(B) The following standards of purity are in effect for recycled oil unless the department, by regulation, establishes more stringent standards, and are the only allowed exceptions to the criteria adopted pursuant to Section 25141:

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



- (ii) Total lead: 50 mg/kg or less.
- (iii) Total arsenic: 5 mg/kg or less.
- (iv) Total chromium: 10 mg/kg or less.
- (v) Total cadmium: 2 mg/kg or less.

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

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

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

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

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

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

(6) “Used oil transfer facility” means a transfer facility, as defined in subdivision (a) of Section 25123.3, that either stores used oil for periods greater than six days, or greater than 10 days for transfer facilities in areas zoned industrial



by the local planning agency, or that transfers used oil from one container to another.

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

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

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

(iii) It is not listed in Subpart D (commencing with Section 261.30) of Part 261 of Subchapter 1 of Chapter 1 of Title 40 of the Code of Federal Regulations.

(iv) It has not been mixed with a hazardous waste other than another contaminated petroleum product or an oily waste.

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

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

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

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

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

(2) Used oil recycling facilities that are the first to claim that the used oil meets the requirements specified in paragraph (1) shall maintain an operating log and copies of certification forms as specified in Section 25250.19. Any person who generates used oil, and who claims that the used oil is exempt from regulation pursuant to this subdivision, shall notify the department,



in writing, of that claim and shall comply with the testing and recordkeeping requirements of Section 25250.19 prior to its reuse. In any action to enforce this article, the burden is on the generator or recycling facility, whichever first claimed that the used oil meets the standards and criteria, and on the transporter or the user of the used oil, whichever has possession, to prove that the oil meets those standards and criteria.

SEC. 2. Section 25250.4 of the Health and Safety Code is amended to read:

25250.4. Used oil shall be managed as a hazardous waste in accordance with the requirements of this chapter until it has been shown to meet the requirements of subdivision (b) of Section 25250.1 or is excluded from regulation as a hazardous waste pursuant to Section 25143.2.

SEC. 3. Section 25250.7 of the Health and Safety Code is amended to read:

25250.7. (a) Except as provided in subdivision (b) or (c), no person who generates, stores, or transfers used oil shall intentionally contaminate used oil with other hazardous waste, other than minimal amounts of vehicle fuel.

(b) A used oil recycling facility may mix used oil with a contaminated petroleum product or with an oily waste other than wastes listed as hazardous under the federal act, if both of the following conditions apply:

(1) If the resultant mixture is subject to regulation as a hazardous waste under paragraph (2) of subdivision (b) of Section 279.10 of Title 40 of the Code of Federal Regulations, it is managed as a hazardous waste in accordance with all applicable hazardous waste regulations.

(2) The resultant mixture is used to produce recycled oil, as defined in paragraph (3) of subdivision (a) of Section 25250.1, at a used oil recycling facility solely by means of a process that has been specifically authorized by the department.

(c) A generator or transporter may mix used oil with one or more contaminated petroleum products if the



mixture is managed in accordance with Section 25143.2 or if all of the following conditions apply:

(1) If the resultant mixture is subject to regulation as a hazardous waste under paragraph (2) of subdivision (b) of Section 279.10 of Title 40 of the Code of Federal Regulations, it is managed as a hazardous waste in accordance with all applicable hazardous waste regulations.

(2) (A) The resultant mixture is transported to a used oil recycling facility that issues a statement, in writing, to the generator or transporter that the mixture will be used to produce recycled oil, as defined in paragraph (3) of subdivision (a) of Section 25250.1, at a facility authorized to operate pursuant to Section 25200 or 25200.5 solely by means of a process that has been specifically authorized by the department.

(B) The resultant mixture is transported to a used oil recycling facility located in another state that is authorized by the agency authorized to implement the federal act in that state.

(3) The mixing is not conducted in a manner which violates subparagraph (C) of paragraph (3) of subdivision (a) of Section 25250.1.

(4) The transporter tests the halogen content of the used oil to demonstrate compliance with clause (vi) of subparagraph (B) of paragraph (3) of subdivision (a) of Section 25250.1 before mixing the used oil with the contaminated petroleum product.

SEC. 4. Section 48620 of the Public Resources Code is amended to read:

48620. “Recycled oil” means recycled oil, as defined in Section 25250.1 of the Health and Safety Code.

SEC. 5. 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.

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



Approved \_\_\_\_\_, 1998

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*Governor*

