AMENDED IN SENATE JULY 14, 2009

AMENDED IN ASSEMBLY MAY 11, 2009

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california legislature—2009–10 regular session

ASSEMBLY BILL No. 907

Introduced by Assembly Member Chesbro

February 26, 2009

An act 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 and 48651.5 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

AB 907, as amended, Chesbro. California Oil Recycling Enhancement Act: rerefined 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 define the term “rerefined oil” and revise the definition of “used oil hauler” 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 and to promote the use of rerefined oil in automotive and industrial lubricants. 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 requires every oil manufacturer to pay to the board an amount equal to $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 $0.06 per quart and $0.24 per gallon, would authorize the board to adjust the fee annually, as specified, and would exempt from the payment of the fee oil sold as finished lubricant containing ~~100%~~ *70%* rerefined base lubricant.

(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 to pay a rerefining incentive to certain recycling facilities that produce rerefined base lubricant meeting specified requirements. The bill would require the board, on or before January 1, 2012, to consider whether to implement additional incentives that prioritize the highest and most beneficial uses of used lubricating oil.

The bill would require the board to increase the recycling incentive to not less than $0.10 per quart and to set the rerefining incentive at not less than $0.02 per ~~quart~~ *gallon*, and would authorize the board to increase those amounts 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 one-half 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 increase the amount available for payments for implementation of local used oil collection programs to $13,000,000, thereby making an appropriation. 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. Certification eligibility includes compliance with public notice and operational 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 revise the certification eligibility requirements.

(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 also would impose certification requirements on rerefiners of used oil. The bill would require certain out-of-state recycling facilities to make specified certifications of compliance with certain federal and state laws, thereby imposing a state-mandated local program, by creating a new crime.

(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) 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 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. 2. Section 48620.2 is added to the Public Resources Code, to read:

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

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

(b) 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.

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

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

48623. “Used oil hauler” means a hazardous waste hauler 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. 4. 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 *partnership*, including, but not limited to, grants and contracts, 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. 5. 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) Product 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 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. 6. Section 48633 of the Public Resources Code is repealed.

SEC. 7. Section 48634 of the Public Resources Code is repealed.

SEC. 8. 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. 9. Section 48650 of the Public Resources Code is amended to read:

48650. (a) 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 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 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. The board may adjust the fee not more than once annually to reflect increases or decreases in the cost-of-living index during the prior fiscal year as measured by the California Consumer Price Index issued by the Department of Industrial Relations or a successor agency. 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.

(7) Oil sold as a finished lubricant containing ~~100~~ *70* percent rerefined base lubricant.

(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).

SEC. 10. 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 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.

(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.

(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.

SEC. 11. Section 48651.5 is added to the Public Resources Code, to read:

48651.5. (a) 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) To further promote the safe management of used oil, the board, using existing financial resources, shall identify and evaluate the most environmentally beneficial uses of used lubricating oil. On or before January 1, 2012, the board shall consider whether to implement additional incentives pursuant to this section that prioritize the highest and most beneficial uses of used lubricating oil.

SEC. 12. Section 48652 of the Public Resources Code is amended to read:

48652. (a) 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) The board shall set the rerefining incentive at not less than two cents ($0.02) per ~~quart~~ *gallon*. The board may set the amount at an amount higher than two cents ($0.02) per ~~quart~~ *gallon* 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 or implement other incentive options pursuant to subdivision (b) of Section 48651.5 unless it finds that the raise will not adversely affect funding required pursuant to Sections 48631, 48653, and 48660.5.

SEC. 13. 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) 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. Notwithstanding subdivision (b) of Section 48656, the total annual amount shall equal thirteen million dollars ($13,000,000), except that the board may issue the payments as follows, if sufficient funds are not available in the fund:

(A) (i) One-half of the amount that remains in the fund after the expenditures are made pursuant to paragraphs (1) and (2) and subdivision (b).

(ii) The board may utilize additional amounts from the fund up to, but not exceeding, thirteen million dollars ($13,000,000).

(B) Pursuant to paragraph (2) of subdivision (d) of Section 48691, it is the intent of this paragraph that at least three million dollars ($3,000,000) be made available specifically for used oil filter collection and recycling programs.

(C) Payments 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.

(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 measure 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. 14. 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 provided 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. 15. 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. 16. 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 an 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 an 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. 17. Section 48662 of the Public Resources Code is amended to read:

48662. (a) The board shall certify or recertify any 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) Except as provided in paragraph (2) of subdivision (c), the board shall require an out-of-state recycling facility, that receives used oil from a California generator 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.

(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 as defined 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 as defined in Section 48620.2.

(C) The facility meets California standards for used oil handling, waste classification, and disposal specified in Section____ of the Health and Safety Code.

(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. 18. 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. 19. 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. 20. 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~~ *an annual* 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. 21. 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 provided that any program implemented within the boundaries of the nonparticipating jurisdiction is approved by the nonparticipating jurisdiction.

SEC. 22. 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. 23. 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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