

# HOUSE . . . . . No. 827

By Mr. Petersen of Marblehead, petition of Douglas W. Petersen and others for legislation to promote used oil recycling through the establishment of a used oil transaction account to be administered by the Department of Revenue. Environment, Natural Resources and Agriculture.

## The Commonwealth of Massachusetts

### PETITION OF:

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In the Year Two Thousand and Seven.

### AN ACT RELATIVE TO USED OIL RECYCLING.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Chapter 21 of the General Laws is hereby amended by striking  
2 out Section 52A and inserting in place thereof the following  
3 section:—

4 Section 52A. As used in this section, the following words shall,  
5 unless the context requires otherwise, have the following mean-  
6 ings:—

7 (1) Definitions.

8 “Automotive oil”, any oil, which has been refined from crude or  
9 synthetic oil, that is sold in packages or containers containing less  
10 than fifty-five (55) gallons and classified for use in an internal com-  
11 bustion engine, crankcase, transmission, gear box, or differential,  
12 including that for an automobile, bus, truck, boat, lawnmower, or  
13 household power equipment.

14 “Collection center” or “Used oil collection center”, a location or  
15 facility that collects used oil pursuant to this section.

16 “Department”, the Department of Environmental Protection.

17 “First time seller”, the first commercial entity to deliver, transport,  
18 or sell automotive oil to any wholesaler, distributor, or retailer in  
19 Massachusetts.

20 “Fund”, the Used Oil Recycling Fund created by this section.

21 “Marina”, any entity whose primary business involves servicing  
22 powered watercraft or selling marine equipment and supplies,  
23 including automotive oil intended for use in boats.

24 “On-site installer”, any business conducting on-site automotive  
25 oil changes for individuals, including, but not limited to, quick oil  
26 change centers, service stations, and automotive service establish-  
27 ments.

28 “Recycle”, reclaiming, reprocessing, re-refining, or otherwise  
29 preparing used oil so that it may be burned for energy recovery or  
30 reused as a petroleum product in accordance with state and federal  
31 regulations. Recycle does not include burning for energy recovery in  
32 space heaters. This definition is not intended to amend or supersede  
33 the definition of recycling in 310 CMR 16.00.

34 “Recycling incentive payment”, the amount of money paid by the  
35 Department of Revenue from the Transaction Account to used oil  
36 collection centers for used oil that is recycled off the site of a used  
37 oil collection center. The amount of the recycling incentive payment  
38 shall be as follows:—

39 (a) for used oil collection centers that are not on-site installers or  
40 marinas, five (5) cents per quart of used oil recycled off-site. The  
41 Department may adjust this amount to ensure the solvency of the  
42 Fund.

43 (b) for used oil collection centers that are on-site installers or  
44 marinas, an amount not to exceed five (5) cents per quart of the used  
45 oil recycled off-site. The amount is to be determined by the Depart-  
46 ment.

47 “Retailer”, a business, other than an on-site installer or a marina,  
48 that sells automotive oil.

49 “Transaction Account”, the Used Oil Transaction Account created  
50 by this section.

51 “Used oil”, any automotive oil which becomes unsuitable for its  
52 original purpose due to loss of original properties or presence of  
53 impurities.

54 (2) Used Oil Transaction Account.

55 (a) There shall be established a Used Oil Transaction Account  
56 administered by the Department of Revenue.

57 (i) The first time seller to sell automotive oil in Massachusetts  
58 shall pay into the Transaction Account five (5) cents per quart of  
59 automotive oil sold in Massachusetts.

60 (ii) Payments by first time sellers of automotive oil into the Trans-  
61 action Account shall begin six months after the effective date of this  
62 section, and shall occur monthly thereafter.

63 (iii) The Department of Revenue shall make recycling incentive  
64 payments to collection centers from the Transaction Account begin-  
65 ning six (6) months after payments by first time sellers into the  
66 Transaction Account, and thereafter on a quarterly basis.

67 (iv) Collection centers may present claims to the Department of  
68 Revenue for reimbursement of the costs associated with the disposal  
69 of contaminated oil. Such claims shall be paid by the Department of  
70 Revenue from the Transaction Account, subject to the approval of  
71 the Department.

72 (v) The Department of Revenue shall maintain a balance in the  
73 Transaction Account in an amount equal to three (3) times the  
74 monthly average of the first six (6) months of payments made from  
75 the Transaction Account to collection centers.

76 (3) Used Oil Recycling Fund.

77 (a) There shall be established a Used Oil Recycling Fund admin-  
78 istered by the Department of Revenue.

79 (i) Any amounts in excess of the Transaction Account balance  
80 shall be transferred from the Transaction Account to the Fund by the  
81 Department of Revenue. Such transfers shall commence six (6)  
82 months after payments by first time sellers into the Transaction  
83 Account, and shall occur quarterly thereafter, following payment of  
84 recycling incentive payments to collection centers.

85 (ii) Any fines or penalties collected for violations of this section  
86 shall be credited to the Fund.

87 (b) Amounts deposited in the Fund shall be used for the following  
88 purposes:—

89 (i) grants, loans, or other financial assistance to a city, town,  
90 county or other public or private entity pursuant to subsection 5;

91 (ii) public education programs concerning the proper handling,  
92 recycling, and management of used oil, including maintaining the  
93 toll-free telephone number described in subsection 5;

94 (iii) signs required pursuant to subsection 6;

95 (iv) used oil disposal, pursuant to subsection 7(e); or

96 (v) payment of costs incurred by the Department and the Depart-  
97 ment of Revenue for the administration of this section.

98 (4) Powers and duties of the Department of Revenue.

99 (a) The Department of Revenue shall be responsible for adminis-  
100 tering the Transaction Account and the Fund. Administration shall  
101 include collecting five (5) cents per quart payment from first-time  
102 sellers, transferring monies from the Transaction Account to the  
103 Fund, paying recycling incentive payments to collection centers, and  
104 paying for administrative expenses incurred under this section.

105 (b) Within six (6) months of the effective date of this section, the  
106 Department of Revenue shall establish procedures or requirements  
107 for the proper administration of the Transaction Account and the  
108 Fund and to otherwise carry out its duties under this section.

109 (c) The Department of Revenue shall ensure the propriety of  
110 claims made by collection centers for recycling incentive payments,  
111 and may promulgate regulations, in consultation with the Depart-  
112 ment, to require collection centers to maintain records of used oil  
113 collected and recycled, to prepare for the auditing of such records,  
114 and to make other provisions as necessary to ensure the propriety of  
115 such claims.

116 (d) The Department of Revenue shall supply the Department with  
117 information necessary for the report required pursuant to subsection  
118 5(a)(viii).

119 (5) Powers and duties of the Department of Environmental Pro-  
120 tection.

121 (a) Subject to appropriation from the Fund, the Department  
122 shall:—

123 (i) award grants, loans, or other financial assistance to cities,  
124 towns, counties, or other public or private entities for the establish-  
125 ment of used oil collection centers at publicly or privately owned  
126 locations, including, but not limited to, fire stations, police barracks,

127 public works and county garages, solid waste management facilities,  
128 marinas, and docks;

129 (ii) award grants, loans, or other financial assistance to cities,  
130 towns, counties, or other public or private entities that offer curbside  
131 collection of used oil from households. The reasonable costs of col-  
132 lection containers and tanks, truck retro-fitting, and similar costs  
133 associated with the curbside collection of used oil shall be eligible  
134 for reimbursement from the Fund;

135 (iii) Provide technical assistance to used oil collection centers or  
136 other public or private entities as to the proper handling, recycling,  
137 or management of used oil;

138 (iv) Establish and maintain a toll-free telephone number to pro-  
139 vide information about the proper handling, recycling and manage-  
140 ment of used oil, and about the locations and operating hours of used  
141 oil collection centers and other used oil collection programs within  
142 Massachusetts;

143 (v) Develop public education programs concerning the proper  
144 handling, recycling, and management of used oil;

145 (vi) Develop and provide signs to businesses for the collection of  
146 used oil pursuant to subsection 6;

147 (vii) At least once every other year beginning three (3) years after  
148 the effective date of this section submit a report to the clerks of the  
149 House of Representatives and the Senate, the Joint Committee on  
150 Natural Resources and Agriculture, the House Ways and Means  
151 Committee, and the Senate Ways and Means Committee. The report  
152 shall include:—

153 (A) the total amount of payments made into the Transaction  
154 Account;

155 (B) the total amounts expended from the Transaction Account and  
156 the Fund;

157 (C) the number of gallons of used oil collected by collection cen-  
158 ters;

159 (D) costs incurred by collection centers;

160 (E) an evaluation of the effectiveness of recycling incentive pay-  
161 ments as a financial incentive for collection centers and individuals.

162 (b) The Department shall promulgate regulations to implement  
163 the following responsibilities within six (6) months of the effective  
164 date of this section:—

165 (i) establish criteria for awarding grants, loans, and other financial  
166 assistance pursuant to this subsection;

167 (ii) establish the amount of the recycling incentive payments that  
168 can be claimed by businesses and government entities collecting  
169 used oil; and

170 (iii) establish procedures for the authorization of collection cen-  
171 ters and standards for their proper management and operation,  
172 including provisions for the transfer of collection responsibility  
173 under subsection 6.

174 (6) Requirements for Retailers, On-site Installers, Public Entities,  
175 and Marinas.

176 (a) Retailers selling at least two hundred (200) gallons of automo-  
177 tive oil annually, onsite installers, and marinas shall comply with the  
178 requirements for used oil collection centers set forth in subsection 7.

179 (i) Retailers selling at least two hundred (200) gallons of automo-  
180 tive oil annually and on-site installers may contract their collection  
181 responsibility to another used oil collection center within a reason-  
182 able distance. The distance shall be established by the Department.

183 (ii) Marinas may contract their collection responsibility to another  
184 marina that is a used oil collection center within a reasonable dis-  
185 tance. The distance shall be established by the Department.

186 (b) Retailers selling less than two hundred (200) gallons of auto-  
187 motive oil annually and public entities are not required to collect  
188 used oil from individuals. The retailers and public entities that  
189 choose to collect used oil shall comply with the requirements for  
190 used oil collection centers in subsection 7.

191 (c) Retailers selling less than two hundred (200) gallons of auto-  
192 motive oil annually that choose not to collect used oil, as well as  
193 those businesses contracting their collection responsibility pursuant  
194 to subsection (6)(a)(i) and (6)(a)(ii), shall post signs in prominent  
195 locations indicating where used oil can be returned.

196 (d) Any other entity that collects used oil shall comply with  
197 requirements for used oil collection centers.

198 (7) Used Oil Collection Centers.

199 (a) Used oil collection centers, except for marinas, shall accept  
200 used oil from individuals in quantities not to exceed five (5) gallons,  
201 per individual, per day, at no charge.

202 (b) A used oil collection center that is a marina shall accept used  
203 oil, from individuals that use that marina, in quantities not to exceed  
204 five (5) gallons, per individual, per day, at no charge.

205 (c) Used oil collection centers shall:—

206 (i) Comply with standards required by the Department and the  
207 Department of Revenue.

208 (ii) Post signs in prominent locations.

209 (iii) Maintain records of the amount of used oil collected and  
210 recycled.

211 (iv) Upon request, provide information concerning the collection  
212 of used oil to the Department and the Department of Revenue.

213 (d) All used oil collection centers may, on a quarterly basis,  
214 submit claims to the Department of Revenue for recycling incentive  
215 payments.

216 (i) A used oil collection center that is a retailer shall pay each  
217 individual five (5) cents per quart upon the return of used oil. The  
218 retailer shall provide such a payment regardless of whether the  
219 retailer claims recycling incentive payments from the Transaction  
220 Account. Nothing in this section prohibits any person from donating  
221 used oil to a collection center.

222 (ii) A used oil collection center that is an on-site installer, marina,  
223 or public entity that submits claims for recycling incentive payments  
224 shall pay individuals five (5) cents per quart upon the return of used  
225 oil. Nothing in this section prohibits any person from donating used  
226 oil to a collection center.

227 (e) Not more than once per year, collection centers may submit  
228 claims to the Department for reimbursement of costs, not to exceed  
229 five thousand (\$5,000) dollars, associated with the disposal of used  
230 oil that is contaminated with substances that render it unrecyclable,  
231 provided that:—

232 (i) The owner, operator, or lessor of the used oil collection center  
233 or an employee of the owner, operator, or lessor did not contaminate  
234 the used oil collected with any substance that made the used oil  
235 unsuitable for recycling;

236 (ii) The owner, operator, or lessor of the collection center, or an  
237 employee of the owner, operator, or lessor, did not accept used oil  
238 that the owner, operator, or lessor knows, or should have known,  
239 contains substances that made the oil unsuitable for recycling.

240 For purposes of this section, the owner, operator, or lessor of a  
241 used oil collection center may presume that a quantity of less than  
242 five (5) gallons used oil accepted at any one time from any indi-  
243 vidual does not contain a substance that renders it unrecyclable, pro-  
244 vided that the owner or operator acts in good faith, and provided that  
245 the used oil collection center is in compliance with requirements for  
246 collection centers.

247 (iii) Total expenditures for the reimbursement of costs may be  
248 limited by the Department based on gross revenues of the Fund.

249 (8) Penalties.

250 Any person who violates any provision of subsection 7(a), (b), or  
251 (d) shall be liable for a fine not to exceed one hundred (\$100) dollars  
252 per quart of used oil that is the subject of the violation.

253 Any person who violates any provision of subsection 7(c) or any  
254 regulation adopted under authority granted by this section shall be  
255 liable for a fine not to exceed two hundred fifty (\$250) dollars per  
256 violation.

257 Any penalties or fines imposed on collection centers for viola-  
258 tions of subsection 7(a), (b), (c), or (d) shall be deposited into the  
259 Fund.

260 Local boards of health, the Department, and the Department of  
261 Revenue may enforce this section, may impose civil administrative  
262 penalties or fines, and may report violations to the Office of the  
263 Attorney General.