

METAL RECYCLING AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott K. Jenkins

House Sponsor: Lee B. Perry

LONG TITLE

General Description:

This bill deals with the recycling of engine blocks and the disposal of used oil.

Highlighted Provisions:

This bill:

▶ states that a person who recycles an engine block is not required to remove the used oil filter on that engine block;

▶ states that a local board of health may not regulate a crusher, dismantler, or scrap metal processor; and

▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-6-706, as last amended by Laws of Utah 2012, Chapter 360

26A-1-121, as last amended by Laws of Utah 2012, Chapter 307

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **19-6-706** is amended to read:



28 **19-6-706. Disposal of used oil -- Prohibitions.**

29 (1) (a) Except as authorized by the director, or by rule of the board, or as exempted in
30 this section, a person may not place, discard, or otherwise dispose of used oil:

31 (i) in any solid waste treatment, storage, or disposal facility operated by a political
32 subdivision or a private entity, except as authorized for the disposal of used oil that is
33 hazardous waste under state law;

34 (ii) in sewers, drainage systems, septic tanks, surface or ground waters, watercourses,
35 or any body of water; or

36 (iii) on the ground.

37 (b) A person who unknowingly disposes of used oil in violation of Subsection (1)(a)(i)
38 is not guilty of a violation of this section.

39 (2) (a) A person may dispose of an item or substance that contains de minimis amounts
40 of oil in disposal facilities under Subsection (1)(a)(i) if:

41 (i) to the extent reasonably possible all oil has been removed from the item or
42 substance; and

43 (ii) no free flowing oil remains in the item or substance.

44 (b) (i) A nonterne plated used oil filter complies with this section if it is not mixed with
45 hazardous waste and the oil filter has been gravity hot-drained by one of the following
46 methods:

47 (A) puncturing the filter antidrain back valve or the filter dome end and gravity
48 hot-draining;

49 (B) gravity hot-draining and crushing;

50 (C) dismantling and gravity hot-draining; or

51 (D) any other equivalent gravity hot-draining method that will remove used oil from
52 the filter at least as effectively as the methods listed in this Subsection (2)(b)(i).

53 (ii) As used in this Subsection (2), "gravity hot-drained" means drained for not less
54 than 12 hours near operating temperature but above 60 degrees Fahrenheit.

55 (iii) This Subsection (2) does not require a person who recycles an engine block to
56 remove a used oil filter from that engine block.

57 (3) A person may not mix or commingle used oil with the following substances, except
58 as incidental to the normal course of processing, mechanical, or industrial operations:

59 (a) solid waste that is to be disposed of in any solid waste treatment, storage, or
60 disposal facility, except as authorized by the director under this chapter; or

61 (b) any hazardous waste so the resulting mixture may not be recycled or used for other
62 beneficial purpose as authorized under this part.

63 (4) (a) This section does not apply to releases to land or water of de minimis quantities
64 of used oil, except:

65 (i) the release of de minimis quantities of used oil is subject to any regulation or
66 prohibition under the authority of the department; and

67 (ii) the release of de minimis quantities of used oil is subject to any rule made by the
68 board under this part prohibiting the release of de minimis quantities of used oil to the land or
69 water from tanks, pipes, or other equipment in which used oil is processed, stored, or otherwise
70 managed by used oil handlers, except wastewater under Subsection 19-6-708(2)(j).

71 (b) As used in this Subsection (4), "de minimis quantities of used oil:"

72 (i) means small spills, leaks, or drippings from pumps, machinery, pipes, and other
73 similar equipment during normal operations; and

74 (ii) does not include used oil discarded as a result of abnormal operations resulting in
75 substantial leaks, spills, or other releases.

76 (5) Used oil may not be used for road oiling, dust control, weed abatement, or other
77 similar uses that have the potential to release used oil in the environment, except in compliance
78 with Section 19-6-711 and board rule.

79 (6) (a) (i) Facilities in existence on July 1, 1993, and subject to this section may apply
80 to the director for an extension of time beyond that date to meet the requirements of this
81 section.

82 (ii) The director may grant an extension of time beyond July 1, 1993, upon a finding of
83 need under Subsection (6)(b) or (c).

84 (iii) The total of all extensions of time granted to one applicant under this Subsection
85 (6)(a) may not extend beyond January 1, 1995.

86 (b) The director upon receipt of a request for an extension of time may request from the
87 facility any information the director finds reasonably necessary to evaluate the need for an
88 extension. This information may include:

89 (i) why the facility is unable to comply with the requirements of this section on or

90 before July 1, 1993;

91 (ii) the processes or functions which prevent compliance on or before July 1, 1993;

92 (iii) measures the facility has taken and will take to achieve compliance; and

93 (iv) a proposed compliance schedule, including a proposed date for being in

94 compliance with this section.

95 (c) Additional extensions of time may be granted by the director upon application by
96 the facility and a showing by the facility that:

97 (i) the additional extension is reasonably necessary; and

98 (ii) the facility has made a diligent and good faith effort to comply with this section
99 within the time frame of the prior extension.

100 Section 2. Section 26A-1-121 is amended to read:

101 **26A-1-121. Standards and regulations adopted by local board -- Local standards**
102 **not more stringent than federal or state standards -- Exceptions for written findings --**
103 **Administrative and judicial review of actions.**

104 (1) (a) The board may make standards and regulations:

105 (i) not in conflict with rules of the Departments of Health and Environmental Quality;
106 and

107 (ii) necessary for the promotion of public health, environmental health quality, injury
108 control, and the prevention of outbreaks and spread of communicable and infectious diseases.

109 (b) The standards and regulations under Subsection (1)(a):

110 (i) supersede existing local standards, regulations, and ordinances pertaining to similar
111 subject matter; and

112 (ii) except as provided under Subsection (1)(c) and except where specifically allowed
113 by federal law or state statute, may not be more stringent than those established by federal law,
114 state statute, or administrative rules adopted by the Utah Department of Health in accordance
115 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

116 (c) (i) ~~[The]~~ Except as provided in Subsection (1)(c)(iii), the board may make standards
117 and regulations more stringent than corresponding federal law, state statute, or state
118 administrative rules for the purposes described in Subsection (1)(a), only if the board makes a
119 written finding after public comment and hearing and based on evidence in the record, that
120 corresponding federal laws, state statutes, or state administrative rules are not adequate to

121 protect public health and the environment of the state.

122 (ii) The findings shall address the public health information and studies contained in
123 the record, which form the basis for the board's conclusion.

124 (iii) The board may not regulate a:

125 (A) crusher, as defined in Subsection [41-3-102\(7\)](#);

126 (B) dismantler, as defined in Subsection [41-3-102\(9\)](#); or

127 (C) scrap metal processor, as defined in Subsection [76-6-1402\(11\)](#).

128 (d) The board shall provide public hearings prior to the adoption of any regulation or
129 standard. Notice of any public hearing shall be published at least twice throughout the county
130 or counties served by the local health department. The publication may be in one or more
131 newspapers, if the notice is provided in accordance with this Subsection (1)(d).

132 (e) The hearings may be conducted by the board at a regular or special meeting, or the
133 board may appoint hearing officers who may conduct hearings in the name of the board at a
134 designated time and place.

135 (f) A record or summary of the proceedings of a hearing shall be taken and filed with
136 the board.

137 (2) (a) A person aggrieved by an action or inaction of the local health department
138 relating to the public health shall have an opportunity for a hearing with the local health officer
139 or a designated representative of the local health department. The board shall grant a
140 subsequent hearing to the person upon the person's written request.

141 (b) In an adjudicative hearing, a member of the board or the hearing officer may
142 administer oaths, examine witnesses, and issue notice of the hearings or subpoenas in the name
143 of the board requiring the testimony of witnesses and the production of evidence relevant to a
144 matter in the hearing. The local health department shall make a written record of the hearing,
145 including findings of facts and conclusions of law.

146 (c) Judicial review of a final determination of the local board may be secured by a
147 person adversely affected by the final determination, or by the Departments of Health or
148 Environmental Quality, by filing a petition in the district court within 30 days after receipt of
149 notice of the board's final determination.

150 (d) The petition shall be served upon the secretary of the board and shall state the
151 grounds upon which review is sought.

152 (e) The board's answer shall certify and file with the court all documents and papers
153 and a transcript of all testimony taken in the matter together with the board's findings of fact,
154 conclusions of law, and order.

155 (f) The appellant and the board are parties to the appeal.

156 (g) The Departments of Health and Environmental Quality may become a party by
157 intervention as in a civil action upon showing cause.

158 (h) A further appeal may be taken to the Court of Appeals under Section [78A-4-103](#).

159 (3) Nothing in the provisions of Subsection (1)(b)(ii) or (c), shall limit the ability of a
160 local health department board to make standards and regulations in accordance with Subsection
161 (1)(a) for:

162 (a) emergency rules made in accordance with Section [63G-3-304](#); or

163 (b) items not regulated under federal law, state statute, or state administrative rule.

Legislative Review Note
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Office of Legislative Research and General Counsel