

SUBJECT: Collection and recycling of used oil and oil filters

COMMITTEE: Environmental Regulation — committee substitute recommended

VOTE: 8 ayes — Chisum, Jackson, Dukes, Howard, Kuempel, Saunders, Stiles, Yost

0 nays

1 absent — Talton

SENATE VOTE: On final passage, May 9 — 31-0

WITNESSES: None

DIGEST: CSSB 1683 would amend the Health and Safety Code, Chapter 371 to make changes to the Used Oil Collection, Management and Recycling Act. The state's used oil recycling program would be changed to ensure that it is consistent and no more stringent than the federal program required for used oil and oil filter management. The statutes would be amended to include specific references to used oil *filters* and not just used oil and to strengthen penalties for violating the act.

The bill would reduce the used oil recycling fee on the sale of automotive oil from two cents per quart to one cent as of September 1, 1997. Twenty-five percent of sales fees currently transferred from the Used Oil Recycling Fund to the Hazardous and Solid Waste Remediation Fee Fund would be set aside to clean up sites contaminated with used oil. Money from the Used Oil Recycling fund could *only* be used for public education, grants, registration and administrative costs.

A used oil filter could not be intentionally or knowingly be placed in or accepted for disposal in a TNRCC-permitted landfill. Grants could be made to private entities to establish do-it-yourself used oil collection centers, new disposal options for used oil filters would be provided, certain entities would be exempted from used oil fees, and oil distributors would be registered by the comptroller. TNRCC would establish rules to

implement the used oil recycling program amended by CSSB 1683 no later than January 1, 1996.

Definitions. The bill would amend, delete and add a number of definitions to the Used Oil Collection, Management and Recycling Act including providing that recycling would also include burning used oil for energy recovery.

"Used oil filter" would be redefined; the new definition would not include a used oil filter that remains with an engine block that is recycled or a used oil filter that has been that has been diverted for recycling as defined by Health and Safety Code, sec. 361.421 and that has been:

- drained and compressed enough to remove 80 percent of the oil weight remaining in the filter;
- dismantled and separated into its components; and
- processed according to federal or state requirements.

A "do-it-yourselfer used oil collection center" would be a site accepting used oil collected from do-it-yourselfers (a registered do-it-yourselfer collection center that also generated oil could co-mingle that oil with the oil it collected) and "*used oil collection center*" would be a TNRCC-registered site to manage oil collected from oil generators and household do-it-yourselfers.

Grants for private entities to establish used oil collection centers.

TNRCC would add private entities to the list of possible recipients of grants for used oil collection programs to encourage recycling of household do-it-yourselfer used oil. Do-it-yourselfer used oil collection centers and used oil collection centers would be established at locations accessible to the public.

TNRCC would appoint a seven-member grant advisory committee to administer a used oil grant program, including members representing oil manufacturers, oil collection centers and local governments. The committee would recommend criteria for grants, establish guidelines for

allowable administrative expenses and recommend grant recipients. TNRCC would also adopt guidelines for allowable administrative expenses.

Used oil collection facilities. All appropriate businesses would be encouraged to serve as do-it-yourselfer used oil or used oil collection centers. They would have to register biennially and report annually to TNRCC. TNRCC would adopt rules regarding do-it-yourselfer used oil and used oil collection centers. TNRCC would reimburse these collection centers under certain circumstances for disposal costs associated with contaminated oils unsuitable for recycling.

Do-it-yourselfer collection centers could not accept more than five gallons of oil from anyone at any one time, and registered used oil collection centers could not take more than 55 gallons of used oil from any person at one time.

A private entity serving voluntarily as a do-it-yourselfer used oil collection center would be exempt from the registration fee. Do-it-yourselfer or used oil collection centers could not be reimbursed more than \$7,500 annually. Reimbursements would be paid out of the Used Oil Recycling Fund but could not exceed \$500,000 annually.

Penalties. Violating rules of the used oil recycling program would result in a fine of not less than \$100 or more than \$10,000 a day for a continuing violation, and/or a prison term not to exceed five years. Penalties would be doubled for a repeat offender.

It would be an offense to knowingly transport, treat, store, dispose of, recycle, cause to be transported or otherwise handle any used oil within the state in violation of standards or rules for the management of used oil. The bill would delete a provision providing that it would be an offense to intentionally mix used oil with hazardous waste or other hazardous substances or PCBs.

The bill would also remove specific references making it an offense to dispose of used oil in a landfill.

Used oil handlers other than generators. TNRCC would adopt rules and impose a fee to cover the cost of registering used oil handlers other than generators.

A used oil transporter could consolidate loads of used oil for purposes of transportation but could not process used oil.

Railroad Commission exemption. The bill would provide that used-oil and oil filter requirements would not apply to used oil generated by certain activities regulated by the Railroad Commission.

The bill would take effect September 1, 1995.

**SUPPORTERS
SAY:**

The U.S. Environmental Protection Agency (EPA) had not issued regulations regarding used oil filters at the time the 72nd Legislature enacted SB 1340 by Parker, which created Texas' used oil recycling program. The current used oil and used oil filter program in Texas unnecessarily imposes more stringent management requirements than the regulations of the EPA.

The federal standards, established under the Resource Conservation and Recovery Act (RCRA) of 1976, balance the objectives of preserving a valuable resource and protecting the natural environment far better than the current Texas program. CSSB 1683 would ensure that the state's used oil program is consistent with and not more stringent than the federal RCRA program and would allow TNRCC to seek delegation of the federal used oil recycling program.

The bill does not include in the definition of "used oil filter" filters that have been processed in specific ways (drained and compressed to remove 80 percent of the oil, for example), but it does still specify that those used oil filters not included in the bill's definition of used oil filter would be diverted for recycling as defined by the Health and Safety Code, sec. 361.421. This definition of a recycled product would not allow a recycled product to be landfilled. The bill, therefore, would absolutely not allow used oil filters to be landfilled through the definition of "used oil filter."

The definition of "used oil filter" in the bill has one purpose — to exclude from the definition only those filters which have been processed in accordance with standards set by TNRCC. TNRCC rules recognize that, once processed, a used oil filter no longer poses the threat to human health or the environment that it once did, and there is no need for further special regulation of the resulting scrap metals, which will then be subject to the same laws that govern all scrap metals in the state.

All filters would still have to be recycled, but CSSB 1683 would allow drained, crushed, or shredded filters from which used oil has been removed to be treated as any other non-hazardous scrap handled by a steel mill. The mill could then develop an efficient and profitable recycling program that would create a demand for used oil filters. Soon recyclers would pay for filters. Currently, filter installers (such as Jiffy Lube) must pay as much as \$40-\$60 per barrel to have filters taken away.

Current TNRCC rules are so restrictive that only a couple of companies have been able to monopolize the used oil and oil filter recycling market. Steel mills, for example, would be encouraged to enter the market if CSSB 1683 is enacted and all regulations regarding used oil filters were not applied to filters diverted for recycling. Steel mills (regulated on every side for discharges, air emissions etc.) have been wary about stepping forward to submit to an additional set of regulations concerning, for example, transportation of filters. Under CSSB 1683 steel mills would have an incentive to enter the used oil filter recycling market.

CSSB 1683 would provide for an expanded statewide network of used oil collection sites for private citizens who change their own motor oil, encouraging entities in the private sector to establish oil collection sites. The private sector is better equipped than governmental entities to establish and operate used oil collection centers that are truly convenient to the public.

As private sector participation increases, the need for state money to establish public sector collection centers decreases. Thus, halving the fee in 1997 would not cripple the program. CSSB 1683 would encourage a private sector solution to what is now being handled by the TNRCC

through grants by exempting from fees those businesses willing to open used oil collection centers.

Exempting certain entities from fees and encouraging them with grants to open used oil collection centers will reduce pollution from used oil throughout the state. If the public had convenient local places to take their oil, they would be less inclined to dump it down the sewer. A small amount of used oil can cause serious harm. When even one person pours their used oil down a city sewer, the cost of cleanup can be exorbitant.

The advisory committee would work with TNRCC to control agency administrative costs. This is necessary because in the past the agency has not run the program efficiently, and administrative costs have risen as high as 25 percent of total costs.

OPPONENTS
SAY:

The way that "used oil filter" is defined in the bill, so as not to include certain used oil filters that have been diverted for recycling, could ultimately result in the remains of crushed or dismantled oil-contaminated used filters going into landfills.

Halving the used oil recycling fee rate in 1997 and exempting certain facilities from fees would reduce the amount of money available to local units of government for the construction and operation of used oil collection centers and would severely limit TNRCC's ability to administer the used oil and used oil filter collection and recycling program. Without a stable funding source, it is possible that the state would not obtain federal delegation for the program.

Steel mills are not currently limited in any way from recycling used oil filters under current TNRCC filter management standards. Nothing prevents steel mills from participating except their own refusal to invest capital. The companies in Texas who do recycle used oil filters have invested and raised private capital without any state grant or subsidy; steel mills, if they are really interested, should do the same.

Steel mills, in fact, are limited in how many filters they can process not because of used oil filter regulations but because of air permit regulations regarding the burning of used oil filters. Therefore, abolishing all TNRCC

oil filter regulations would neither increase nor decrease the number of filters that can be accepted or processed by a steel mill.

TNRCC regulations have allowed the filter recycling business to grow so much that multi-million dollar investments have been made in the used oil filter recycling industry. The regulations have resulted in predictability, stability and healthy competition within the industry, causing Texas' recycling costs to be the lowest in the nation. Texas regulations have served as a model for regulations in several other states and should not be altered.

NOTES:

The House committee substitute provided that a used oil center could not accept more than 55 gallons of used oil at one time, provided for an offense if someone *intentionally* made a false statement and provided that a used oil collection center would fall under many of the same provisions as a do-it-yourselfer used oil collection center. The Senate-passed version of SB 1683 provided for a nine-member advisory committee to recommend rather than establish guidelines for administrative expenses and deleted a statutory provision providing that administrative costs of implementing the program could come from the Used Oil Recycling Fund.

A similar bill, HB 3220 by Howard, was placed on the General State Calendar on May 10 but was not considered by the House.