

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 1000

Short Title: Motor Oil ADF/Used Oil Program.

(Public)

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Sponsors: Senator Odom.

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Referred to: Finance.

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April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO IMPOSE AN ADVANCE DISPOSAL FEE UPON MOTOR OIL AT THE POINT OF FIRST SALE AND TO ESTABLISH THE USED OIL COLLECTION PROGRAM TO ENCOURAGE THE PROPER MANAGEMENT OF USED OIL GENERATED BY PRIVATE CITIZENS WHO CHANGE THEIR OWN OIL.

The General Assembly of North Carolina enacts:

Section 1. Chapter 105 of the General Statutes is amended by adding a new Article to read:

**"ARTICLE 2E.**

**"MOTOR OIL ADVANCE DISPOSAL FEE.**

**"§ 105-113.120. Definitions.**

The following definitions apply to this Article:

(1) Distributor. – A person who does any of the following:

a. Manufactures or produces motor oil.

b. Acquires motor oil for sale to a wholesale dealer or a retail dealer.

c. Imports motor oil into this State for use by that person.

(2) Motor oil. – Any oil or similar lubricant classified for use in an internal combustion engine, crankcase, transmission, gearbox, or differential.

1           (3) Retail dealer. – A person who sells motor oil to the ultimate consumer  
2           of the motor oil.

3           (4) Sale. – A transfer, a trade, an exchange, or a barter, in any manner or by  
4           any means, with or without consideration.

5           (5) Secretary. – The Secretary of Revenue.

6           (6) Wholesale dealer. – A person who sells motor oil to another for resale.

7 **"§ 105-113.121. Advanced disposal fee imposed.**

8           An advance disposal fee is imposed on motor oil at the rate of two cents (2¢) per  
9 quart.

10 **"§ 105-113.122. Motor oil license required.**

11           (a) Distributors and Wholesale Dealers. – Distributors and wholesale dealers shall  
12 obtain a continuing motor oil license for each place of business for which an advance  
13 disposal fee of twenty-five dollars (\$25.00) shall be paid. For the purpose of this  
14 subsection, 'place of business' means any place where a distributor manufactures or  
15 produces motor oil or any place where a distributor or a wholesale dealer receives or  
16 stores non-fee-paid motor oil.

17           (b) Retail Dealers. – Retail dealers shall obtain for each place of business a  
18 continuing motor oil license for which an advance disposal fee of five dollars (\$5.00)  
19 shall be paid. For the purpose of this subsection, 'place of business' means any place  
20 where a retail dealer receives non-fee-paid motor oil or manufactures or produces motor  
21 oil.

22 **"§ 105-113.123. Liability for advance disposal fee; payment.**

23           (a) Primary Liability. – The distributor, wholesale dealer, or retail dealer who first  
24 distributes, sells, or otherwise handles motor oil in this State is liable for the advance  
25 disposal fee imposed by this Article. A distributor, wholesale dealer, or retail dealer who  
26 brings into this State motor oil made outside the State is the first person to handle the  
27 motor oil in this State. A distributor, wholesale dealer, or retail dealer who is the original  
28 consignee of motor oil that is made outside the State and is shipped into the State is the  
29 first person to handle the motor oil in this State.

30           (b) Secondary Liability. – A retail dealer who acquires non-fee-paid motor oil  
31 from a distributor or a wholesale dealer is liable for any advance disposal fee due on the  
32 motor oil.

33           (c) Reporting Periods. – Except for fees on a designated sale under G.S. 105-  
34 113.126, the fees levied by this Article are payable when a report is required to be filed.  
35 A report is due on a monthly or a quarterly basis. A monthly report covers sales and other  
36 activities occurring in a calendar month and is due within 15 days after the end of the  
37 month covered by the report. A quarterly report covers sales and other activities  
38 occurring in a calendar quarter and is due within 15 days after the end of the quarter  
39 covered by the report. A report shall be filed on a form provided by the Secretary and  
40 shall contain the information required by the Secretary.

41           A person who is consistently liable for less than fifty dollars (\$50.00) of advance  
42 disposal fees a month may, with the approval of the Secretary, file a report on a quarterly  
43 basis. All others who are liable for the advance disposal fee imposed by this Article must

1 file a report on a monthly basis. The amount of advance disposal fee payable by a person  
2 for a reporting period is the amount payable by all places of business owned or operated  
3 by that person.

4 **"§ 105-113.124. Advance disposal fee discount.**

5 A distributor, a wholesale dealer, or a retail dealer who is liable for the advance  
6 disposal fees on motor oil and who files a timely report under G.S. 105-113.123 may  
7 deduct from the amount due with the report a discount of two percent (2%).

8 **"§ 105-113.125. Exemptions.**

9 The advance disposal fee imposed by G.S. 105-113.121 on motor oil does not apply  
10 to the following:

11 (1) Motor oil sold outside the State.

12 (2) Motor oil required to operate industrial machinery and sold for that  
13 purpose.

14 **"§ 105-113.126. Designation of exempt sale.**

15 (a) A distributor or a wholesale dealer who sells motor oil to a person who has  
16 notified the distributor or wholesale dealer in writing that the person intends to resell the  
17 motor oil in a transaction that is exempt from an advance disposal fee under G.S. 105-  
18 113.125 may, when filing a report under G.S. 105-113.123, designate the quantity of  
19 motor oil sold to the person for resale. A distributor or a wholesale dealer shall report a  
20 designated sale on a form provided by the Secretary.

21 (b) A distributor or a wholesale dealer is not required to pay an advance disposal  
22 fee on a designated sale when filing a report. The distributor or the wholesale dealer shall  
23 pay the advance disposal fees due on all other sales in accordance with this section. A  
24 distributor, a wholesale dealer, or a customer of a distributor shall not delay payment of  
25 the advance disposal fees due on motor oil by failing to pay advance disposal fees on a  
26 sale that is not a designated sale or by overstating the quantity of motor oil that will be  
27 resold in a transaction exempt under G.S. 105-113.125.

28 (c) A person who does not sell motor oil in a transaction that is exempt under G.S.  
29 105-113.125 is liable for the advance disposal fees and any penalties and interest due on  
30 the designated sale when the distributor or wholesale dealer has failed to pay the advance  
31 disposal fees due on the sale of the motor oil to that person in reliance on that person's  
32 written notification of intent to resell the motor oil. If the Secretary determines that  
33 motor oil reported as a designated sale is not sold as reported, the Secretary shall assess  
34 the person who notified the distributor or the wholesale dealer of an intention to resell the  
35 motor oil in an exempt transaction for the advance disposal fees due on the sale and any  
36 applicable penalties and interest. A distributor or a wholesale dealer who does not pay  
37 advance disposal fees on motor oil in reliance on a person's written notification of intent  
38 to resell the motor oil in an exempt transaction is not liable for any advance disposal fees  
39 assessed on the motor oil.

40 **"§ 105-113.127. Use of advance disposal fee proceeds.**

41 The Secretary shall credit five percent (5%) of the advance disposal fees collected  
42 under this Article to the Solid Waste Management Trust Fund. The Secretary shall credit  
43 the remaining ninety-five percent (95%) of the advance disposal fees collected under this

1 Article to the Used Oil Collection Fund to be used in accordance with the provisions of  
2 Part 2E of Article 9 of Chapter 130A of the General Statutes."

3 Section 2. Article 9 of Chapter 130A of the General Statutes is amended by  
4 adding a new Part to read:

5 **"PART 2E. USED OIL COLLECTION PROGRAM.**

6 **"§ 130A-309.90. Findings; intent.**

7 (a) The General Assembly finds that used oil is a valuable resource that can be  
8 used as an environmentally acceptable source of energy or as a rerefined product.  
9 Despite its potential value, a significant amount of used motor oil is improperly disposed  
10 of, resulting in a significant environmental problem and a waste of a valuable energy  
11 resource.

12 (b) The General Assembly finds that, although there is an existing system for the  
13 collection and recycling of used oil generated by business and industry, private citizens  
14 who change their own motor oil have only limited access to that system and often dispose  
15 of their used oil on land or in landfills, sewers, drainage systems, septic tanks, surface or  
16 ground waters, and elsewhere.

17 (c) It is the intent of the General Assembly to reduce the amount of improperly  
18 disposed used oil by providing incentives to encourage the establishment of more  
19 certified used oil collection centers and to expand curbside collection programs to receive  
20 used oil from Do-It-Yourselfers.

21 **"§ 130A-309.91. Definitions.**

22 As used in this Part, unless the context requires otherwise:

- 23 (1) 'Do-It-Yourselfer (DIYer)' means an individual who removes used oil  
24 from any internal combustion engine that is owned or operated by that  
25 individual.
- 26 (2) 'Motor oil' has the same meaning as in G.S. 105-113.120.
- 27 (3) 'Reclaim' means to use methods, other than those used in rerefining, to  
28 purify used oil primarily to remove insoluble contaminants, making the  
29 oil suitable for further use. The methods used may include settling,  
30 heating, dehydration, filtration, or centrifuging.
- 31 (4) 'Recycle oil' means to prepare, in a safe, legal, and environmentally  
32 sound manner, used oil for reuse as a petroleum product by reclaiming,  
33 reprocesssing, energy recovery, rerefining, or another means.
- 34 (5) 'Rerefine' means to process used oil to produce high-quality base stocks  
35 for lubricants or other petroleum products. Rerefine may include  
36 distillation, hydrotreating, or treatments employing acid, caustic,  
37 solvent, clay, or other chemicals, or other physical treatments other than  
38 those used in reclaiming.
- 39 (6) 'Retail dealer' has the same meaning as in G.S. 105-113.120.
- 40 (7) 'Used oil' means any oil which has been refined from crude oil or  
41 synthetic oil and, as a result of use, storage, or handling, has become  
42 unsuitable for its original purpose due to the presence of impurities or  
43 loss of original properties, but which may be suitable for further use and

1 is economically recyclable. As used in this Article, used oil does not  
2 include an oil filter that has been drained of free-flowing used oil or an  
3 oil-contaminated material.

4 (8) 'Used oil collection center' means a facility, including a fixed location,  
5 tank, truck, or container, that serves as a centralized collection center  
6 that accepts used motor oil from DIYers.

7 **"§ 130A-309.92. Used Oil Collection Fund.**

8 (a) The Used Oil Collection Fund is created as a nonreverting fund within the  
9 Department. The Used Oil Collection Fund consists of:

10 (1) The proceeds of the motor oil advance disposal fees imposed under  
11 Article 2E of Chapter 105 of the General Statutes.

12 (2) Any contributions and grants from public or private sources.

13 (b) The Used Oil Collection Fund may be used for:

14 (1) Grants to public or private entities to establish certified used oil  
15 collection centers.

16 (2) Grants to units of local government or private collectors that offer or  
17 include, as part of municipal solid waste collection services, curbside  
18 collection of used oil from households, including grants for the  
19 reasonable costs of household containers, truck retrofitting, tanks, and  
20 similar costs associated with the curbside collection of used oil.

21 (3) Grants for advertising, training, and other programs to promote the  
22 collection and recycling of used oil from the public.

23 (4) Grants for public education programs concerning the proper handling  
24 and recycling of used oil.

25 (5) Incentives pursuant to G.S. 130A-309.99 to encourage individuals who  
26 change their own oil to return the oil to used oil collection centers.

27 (6) Grants to indemnify a used oil collection center for the costs arising out  
28 of used oil collected from the public that is unsuitable for reuse or  
29 recycling, results from spills or contamination, or results from the  
30 additional liability associated with the operation of the used oil  
31 collection center.

32 (7) The costs that the Department directly incurs in developing and  
33 administering the Used Oil Collection Program under this Part, not to  
34 exceed seven percent (7%) of the Fund.

35 **"§ 130A-309.93. Used Oil Collection Program; duties of the Department.**

36 (a) The Department shall develop and administer a used oil collection program to  
37 encourage the proper disposal of used oil generated by DIYers and shall adopt rules to  
38 implement this program. The Used Oil Collection Program shall include provisions  
39 regarding:

40 (1) All grants that may be paid from the Used Oil Collection Fund under  
41 G.S. 130A-309.92.

1           (2) Technical assistance to persons who develop the used oil collection  
2 center programs or the curbside collection of used oil as part of  
3 municipal solid waste collection.

4           (3) Management standards and certification requirements for used oil  
5 collection centers, transporters of used oil, and used oil recyclers  
6 consistent with the provisions of this Part and applicable federal laws  
7 and regulations.

8           (b) The Department shall develop criteria for selecting the recipients of the grants  
9 that may be paid from the Used Oil Collection Fund under G.S. 130A-309.92 and shall  
10 select the recipients of these grants.

11           (c) The Department shall establish and maintain a toll-free telephone number for  
12 the purpose of disseminating information regarding:

13               (1) The locations and phone numbers of used oil collection centers within  
14 the State.

15               (2) The availability, dates, and requirements for curbside collection where  
16 available.

17               (3) Locations that accept commercial used oil.

18           (d) The Department may adopt rules to implement this Part.

19 **"§ 130A-309.94. Report requirement.**

20           No later than 1 March of each year, the Department shall submit a report to the  
21 Environmental Review Commission on the Used Oil Collection Program. The report  
22 shall include:

23               (1) The total motor oil advance disposal fee proceeds collected pursuant to  
24 Article 2E of Chapter 105 of the General Statutes during the preceding  
25 calendar year, the total motor oil advance disposal fee proceeds credited  
26 to the Used Oil Collection Fund during the preceding calendar year, and  
27 the total motor oil advance disposal fee proceeds credited to the Solid  
28 Waste Management Trust Fund during the preceding calendar year.

29               (2) The total amount expended from the Used Oil Collection Fund during  
30 the preceding calendar year.

31               (3) Information identifying each grant recipient, the amount of each grant  
32 received, and the proposed use of the grant moneys.

33               (4) The number of gallons of used oil collected under the Used Oil  
34 Collection Program.

35               (5) The cost of developing and administering the Used Oil Collection  
36 Program.

37               (6) A calculation of the per gallon cost of the Used Oil Collection Program,  
38 including the administrative cost of the program.

39 **"§ 130A-309.95. Advisory committee.**

40           The Secretary shall appoint an advisory committee for the Used Oil Collection  
41 Program. The advisory committee shall consist of seven members who shall serve at the  
42 pleasure of the Secretary. In making appointments to the advisory committee, the  
43 Secretary shall select persons who represent the various interests affected by the Used Oil

1 Collection Program. The advisory committee shall recommend criteria for selecting  
2 recipients of the grants that may be paid from the Used Oil Collection Fund under G.S.  
3 130A-309.92 and shall recommend recipients of these grants. Members of the advisory  
4 committee shall receive necessary travel and subsistence expenses while on official  
5 business of the committee in accordance with G.S. 138-5 and G.S. 138-6.

6 **"§ 130A-309.96. Used oil collection centers.**

7 (a) A used oil collection center must be certified by the Department. To be  
8 certified, a center must:

- 9 (1) Participate in the State toll-free telephone used oil information network  
10 system.  
11 (2) Meet the minimum requirements for hours of operation and other  
12 standards established by the Department.  
13 (3) Demonstrate that the center complies with all State rules concerning  
14 tank structure and integrity, maintenance, supervision, employee  
15 training, and housekeeping.

16 (b) Used oil collection centers shall transfer used oil only to certified transporters  
17 and shall maintain records of all volumes of material collected, including the identity of  
18 the hauler and the name and location of the recycling facility to which the oil is being  
19 transported.

20 **"§ 130A-309.97. Oil releases from collection centers.**

21 Upon detecting a release of used oil to the environment at a used oil collection center,  
22 the owner, operator, or lessor of the used collection center shall notify the Department of  
23 the release and shall:

- 24 (1) Stop the release.  
25 (2) Contain the released used oil.  
26 (3) Clean up and properly manage the released used oil.  
27 (4) Repair and replace any leaking used oil storage containers or tanks prior  
28 to returning them to service.

29 **"§ 130A-309.98. Limitation of liability.**

30 (a) A person or the State shall not recover from the owner, operator, or lessor of a  
31 certified used oil collection center any costs of response actions resulting from a release  
32 of used oil collected at the center or subsequently handled or disposed of by others if all  
33 of the following apply:

- 34 (1) The owner, operator, or lessor of the used oil collection center does not  
35 mix the used oil with any hazardous substance.  
36 (2) The owner, operator, or lessor of the used oil collection center does not  
37 accept used oil that the owner, operator, or lessor knows contains  
38 hazardous substances.  
39 (3) The used oil collection center is in compliance with management  
40 standards issued by the Department.  
41 (4) The used oil is removed from the premises by a transporter certified  
42 pursuant to G.S. 130A-309.101.

1 (b) For purposes of this section, the owner, operator, or lessor of a used oil  
2 collection center may presume that a quantity of less than five gallons of used oil  
3 accepted at any one time from any member of the public is not mixed with a hazardous  
4 substance, provided that the owner or operator acts in good faith.

5 (c) This section applies only to activities directly related to the collection of used  
6 oil by a used oil collection center. This section does not apply to intentional misconduct  
7 or grossly negligent acts related to the operations of a used oil collection center.

8 **"§§ 130A-309.99 through 130A-309.102: Reserved.**

9 **"§ 130A-309.103. Used oil filters.**

10 Prior to disposal, used oil filters shall be prepared for disposal in one of the following  
11 ways:

12 (1) Punctured and hot-drained for a minimum of 12 hours.

13 (2) Punctured and cold-drained for a minimum of 24 hours.

14 (3) Drained and crushed.

15 (4) Otherwise prepared for disposal consistent with rules adopted by the  
16 Commission.

17 **"§ 130A-309.104. Retail sales of motor oil.**

18 Any retail dealer that is not a used oil collection center shall post and maintain at or  
19 near the point of motor oil display or sale a durable and legible sign (minimum size of  
20 eight and one-half by 11 inches) informing the public of the importance of proper  
21 collection and disposal of used oil and the State toll-free number for information  
22 regarding used oil collection centers.

23 **"§§ 130A-309.105 through 130A-309.107: Reserved."**

24 Section 3. G.S. 130A-290(b), 130A-309.16, 130A-309.20, 130A-309.22, and  
25 130A-309.23 are repealed.

26 Section 4. G.S. 130A-309.15 is recodified as G.S. 130A-309.105, which is  
27 reserved under Section 2 of this act.

28 Section 5. G.S. 130A-309.17 is recodified as G.S. 130A-309.100, which is  
29 reserved under Section 2 of this act.

30 Section 6. G.S. 130A-309.17, recodified as G.S. 130A-309.100 in Section 5 of  
31 this act, reads as rewritten:

32 **"§ 130A-309.100. Registration of persons transporting, collecting, or recycling used**  
33 **oil; fees; reports and records.**

34 (a) The following persons shall register annually with the Department pursuant to  
35 rules of the Department on forms prescribed by it:

36 (1) Any person who transports over public highways more than 500 gallons  
37 of used oil per ~~week-week~~ or more than 55 gallons at any time.

38 (2) Any person who maintains a collection facility ~~that receives more than~~  
39 ~~6,000 gallons of used oil annually. For purposes of registration, the~~  
40 ~~amount received does not include used oil delivered to collection~~  
41 ~~centers by individuals that change their own personal motor oil. that~~  
42 accepts more than 6,000 gallons of used oil annually from generators  
43 other than DIYers.



1 (3) Any facility that recycles ~~more than 10,000 gallons of used oil annually.~~  
2 used oil.

3 (b) An electric utility which generates during its operation used oil that is then  
4 reclaimed, recycled, or rerefined by the electric utility for use in its operations is not  
5 required to register or report pursuant to this section.

6 (c) An on-site burner which only burns a specification used oil generated by the  
7 burner is not required to register or report pursuant to this section, provided that the  
8 burning is done in compliance with any air permits issued by the Department.

9 (d) The Department may prescribe a fee for the registration required by this  
10 section in an amount which is sufficient to cover the cost of processing applications but  
11 which does not exceed twenty-five dollars (\$25.00).

12 (e) The Department shall require each registered person to submit, no later than 1  
13 July of each year, a report which specifies the type and quantity of used oil transported,  
14 collected, and recycled during the preceding calendar year.

15 (f) Each registered person who transports or recycles used oil shall maintain  
16 records which identify:

17 (1) The source of the materials transported or recycled;

18 (2) The quantity of materials received;

19 (3) The date of receipt; and

20 (4) The destination or end use of the materials.

21 (g) The Department shall perform technical studies to sample used oil at facilities  
22 of representative used oil transporters and at representative recycling facilities to  
23 determine the incidence of contamination of used oil with hazardous, toxic, or other  
24 harmful substances.

25 (h) Any person who fails to register with the Department as required by this  
26 section shall be guilty of a misdemeanor and upon conviction shall be punished as  
27 provided by G.S. 130A-25(a) and G.S. 14-3.

28 (i) The proceeds from the registration fees imposed by this section shall be  
29 deposited into the Solid Waste Management Trust Fund."

30 Section 7. G.S. 130A-309.23 is recodified as G.S. 130A-309.101, which is  
31 reserved under Section 2 of this act.

32 Section 8. G.S. 130A-309.23, recodified as G.S. 130A-309.101 in Section 7 of  
33 this act, reads as rewritten:

34 "**§ 130A-309.101. Certification of used oil transporters.**

35 (a) Any person who transports over public highways after 1 January 1992, more  
36 than 500 gallons of used oil in any week must be a certified transporter or must be  
37 employed by a person who is a certified transporter.

38 (b) The Department of Transportation shall develop a certification program for  
39 transporters of used oil, and shall issue, deny, or revoke certifications authorizing the  
40 holder to transport used oil. Certification requirements shall ~~help assure~~ require that a  
41 used oil transporter is familiar with appropriate rules and used oil management  
42 procedures.

1 (c) The Department of Transportation shall adopt rules governing certification,  
2 which shall include requirements for the following:

- 3 (1) Registration and annual reporting pursuant to G.S. ~~130A-309.17.~~ 130A-  
4 309.100.
- 5 (2) Evidence of familiarity with applicable State laws and rules governing  
6 used oil ~~transportation.~~ transportation and proper used oil management.
- 7 (3) Proof of liability insurance or other means of financial responsibility for  
8 any liability which may be incurred in the transport of used oil.
- 9 (4) Marking, by the certified transporter of used oil, of all vehicles which  
10 transport used oil or all containers of used oil when it is not feasible to  
11 mark the vehicle. The mark must clearly identify the certified used oil  
12 transporter and clearly indicate that the vehicle is used to transport used  
13 oil. The marking must be visible to others travelling on the highway.
- 14 (5) Equipment in the transportation vehicle being in good mechanical  
15 condition and suitable for the transportation of used oil.
- 16 (6) Documentation, maintained by the transporter, that indicates to whom  
17 the used oil is delivered.

18 (d) Where used oil is sold directly by the transporter to an end user, the  
19 documentation required under subsection (c) of this section shall include test results  
20 showing that the used oil meets all applicable standards established by Department rules."

21 Section 9. G.S. 130A-309.18, 130A-309.19, 130A-309.21, and 130A-309.24  
22 are recodified as G.S. 130A-309.107, 130A-309.106, 130A-309.99, and 130A-309.102  
23 respectively, which sections are reserved under Section 2 of this act.

24 Section 10. This act becomes effective January 1, 2000.