

CHAPTER 349

HEALTH AND ENVIRONMENT

HOUSE BILL 10-1125

BY REPRESENTATIVE(S) Hullinghorst, Apuan, Labuda, Levy, Merrifield, Middleton, Primavera, Vigil, Fischer, McFadyen, Pommer, Soper;
also SENATOR(S) Schwartz, Foster, Williams.

AN ACT

CONCERNING THE AUTHORITY OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT TO REGULATE CERTAIN ACTIVITIES WITH RESPECT TO WASTE GREASE DERIVED FROM FOOD PREPARATION, AND MAKING AN APPROPRIATION THEREFOR.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 30-20-113 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

30-20-113. Inspection - enforcement - nuisances - violations - civil penalty.
(1) No person shall:

(d) COLLECT, TRANSPORT, STORE, PROCESS, OR DISPOSE OF TRAP GREASE OR YELLOW GREASE IN ANY MANNER THAT VIOLATES SECTION 30-20-123 OR ANY RULE PROMULGATED PURSUANT THERETO.

SECTION 2. 30-20-118 (1), Colorado Revised Statutes, is amended to read:

30-20-118. Solid waste management fund - created. (1) There is hereby created in the state treasury a fund to be known as the solid waste management fund, which shall consist of moneys collected pursuant to sections 30-20-103.7, ~~and~~ 30-20-109, AND 30-20-123, as well as that portion of the fee designated for solid waste management under section 25-16-104.5 (2), C.R.S. Such moneys shall be appropriated annually to the department by the general assembly. Except as provided in section 25-15-314, C.R.S., the moneys in the solid waste management fund shall not be credited or transferred to the general fund or any other fund of the state.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SECTION 3. Part 1 of article 20 of title 30, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

30-20-123. Trap grease and yellow grease - registration - fees - record-keeping - violations - rules - definitions - legislative declaration.

(1) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT THE SAFE AND PROPER COLLECTION, TRANSPORTATION, AND DISPOSAL OF YELLOW GREASE AND TRAP GREASE IS A MATTER OF STATEWIDE CONCERN AND THAT STATE OVERSIGHT OF PERSONS AND VEHICLES ENGAGED IN SUCH ACTIONS IS NECESSARY TO PROTECT THE PUBLIC HEALTH AND ENVIRONMENT. THE GENERAL ASSEMBLY FURTHER DECLARES THAT THE STATE'S SHARING OF DATA GENERATED UNDER THIS SECTION WITH LOCAL ENTITIES THAT REGULATE WASTE DISPOSAL WILL ENHANCE PROTECTION OF THE PUBLIC HEALTH AND ENVIRONMENT, AND, TO THAT END, THE DEPARTMENT IS ENCOURAGED TO SHARE SUCH INFORMATION WITH SUCH OTHER REGULATING ENTITIES.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "COLLECT" MEANS TO GATHER; EXCEPT THAT "COLLECT" DOES NOT INCLUDE MOVING GREASE FROM ONE AREA OR CONTAINER TO ANOTHER AREA OR CONTAINER ON THE SAME PREMISES.

(b) "COMMISSION" MEANS THE SOLID AND HAZARDOUS WASTE COMMISSION CREATED IN SECTION 25-15-302, C.R.S.

(c) "FACILITY" MEANS ANY REAL PROPERTY LOCATION USED FOR THE COLLECTION, TRANSPORTATION, STORAGE, PROCESSING, OR DISPOSAL OF GREASE, INCLUDING, WITHOUT LIMITATION, A PROCESSING PLANT, TRANSFER STATION, OR TRANS-SHIPMENT LOCATION. "FACILITY" DOES NOT INCLUDE A DOMESTIC WASTEWATER TREATMENT WORKS AS DEFINED IN SECTION 25-8-103, C.R.S., THAT PROCESSES WASTE GREASE AS PART OF ITS OPERATIONS THAT ARE REGULATED BY THE DEPARTMENT PURSUANT TO ARTICLE 8 OF TITLE 25, C.R.S.

(d) "GREASE" MEANS TRAP GREASE OR YELLOW GREASE IN A QUANTITY IN EXCESS OF AN AMOUNT DETERMINED BY THE COMMISSION BY RULE.

(e) "MANIFEST" MEANS THE DOCUMENT USED FOR IDENTIFYING THE QUANTITY, COMPOSITION, ORIGIN, ROUTING, AND DESTINATION OF GREASE DURING ITS TRANSPORTATION FROM THE POINT OF GENERATION TO THE POINT OF STORAGE, TREATMENT, OR DISPOSAL.

(f) "REGISTRANT" MEANS A PERSON REGISTERED UNDER SUBSECTION (3) OF THIS SECTION.

(g) "STORE" MEANS TO POSSESS, IMPOUND, CONTAIN, OR CONTROL GREASE; EXCEPT THAT "STORE" DOES NOT APPLY TO THE TEMPORARY RETENTION OF GREASE ON THE PREMISES WHERE THE GREASE WAS INITIALLY GENERATED.

(h) "TRANSPORT" MEANS TO USE A VEHICLE TO HAUL, SHIP, CARRY, CONVEY, OR TRANSFER GREASE FROM ONE PLACE TO ANOTHER. "TRANSPORT" DOES NOT INCLUDE MOVING GREASE GENERATED ON SITE INTO ANOTHER ON-SITE CONTAINER, WHETHER

INDOORS OR OUTDOORS.

(i) "TRAP GREASE" MEANS THE RESIDUAL YELLOW GREASE, WASTE WATER, AND DEBRIS PRINCIPALLY DERIVED FROM FOOD PREPARATION OR PROCESSING, OR WASTE THAT IS INTERCEPTED BY AND CONTAINED IN GREASE TRAPS OR GREASE INTERCEPTORS.

(j) "YELLOW GREASE" MEANS USED COOKING OIL, SPENT SHORTENINGS, OR ANY OTHER INEDIBLE KITCHEN GREASE OR WASTE VEGETABLE OIL PRODUCED BY RESTAURANT AND FOOD FACILITIES.

(3) (a) **Registration.** (I) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ON AND AFTER THE DATE SPECIFIED BY RULE OF THE COMMISSION PURSUANT TO SUBPARAGRAPH (III) OF PARAGRAPH (a) OF SUBSECTION (9) OF THIS SECTION:

(A) NO PERSON SHALL COLLECT, TRANSPORT, STORE, PROCESS, OR DISPOSE OF GREASE UNLESS THE PERSON IS VALIDLY REGISTERED WITH THE DEPARTMENT IN ACCORDANCE WITH THIS SECTION AND RULES ADOPTED BY THE COMMISSION UNDER THIS SECTION;

(B) NO FACILITY, INCLUDING A TRANSFER STATION, SHALL ACCEPT GREASE FOR PROCESSING, HANDLING, OR STORAGE UNLESS THE FACILITY IS VALIDLY REGISTERED WITH THE DEPARTMENT IN ACCORDANCE WITH THIS SECTION AND RULES ADOPTED BY THE COMMISSION UNDER THIS SECTION AND PROMINENTLY DISPLAYS A DECAL ISSUED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (3); AND

(C) NO VEHICLE SHALL BE USED TO TRANSPORT GREASE UNLESS THE VEHICLE IS VALIDLY REGISTERED WITH THE DEPARTMENT IN ACCORDANCE WITH THIS SECTION AND RULES ADOPTED BY THE COMMISSION UNDER THIS SECTION AND DISPLAYS A DECAL ISSUED UNDER PARAGRAPH (b) OF THIS SUBSECTION (3).

(II) A PERSON REGISTERING A PERSON, VEHICLE, OR FACILITY UNDER THIS SUBSECTION (3) SHALL:

(A) SUBMIT TO THE DEPARTMENT A REGISTRATION APPLICATION CONTAINING ALL THE INFORMATION REQUIRED BY THE COMMISSION, IN THE FORM AND MANNER SPECIFIED BY THE COMMISSION;

(B) PAY AN ANNUAL REGISTRATION FEE, IN A REASONABLE AMOUNT TO COVER THE DIRECT AND INDIRECT COSTS INCURRED BY THE DEPARTMENT IN ADMINISTERING THIS SECTION, AS DETERMINED BY RULE OF THE COMMISSION IN ACCORDANCE WITH PARAGRAPH (a.5) OF SUBSECTION (9) OF THIS SECTION; AND

(C) POST, AT THE TIME OF REGISTRATION, A SURETY BOND OR OTHER DEBT INSTRUMENT OR METHOD OF FINANCIAL ASSURANCE, AS DETERMINED BY RULE OF THE COMMISSION, WITH THE DEPARTMENT IN AN AMOUNT DETERMINED BY THE DEPARTMENT TO BE REASONABLY SUFFICIENT TO REMEDIATE ANY ENVIRONMENTAL OR HEALTH HARM CAUSED BY NONCOMPLIANT DISPOSAL, DUMPING, OR OTHER RELEASE OF GREASE.

(III) EACH PERSON, FACILITY, AND VEHICLE ENGAGED IN THE COLLECTION,

TRANSPORTATION, PROCESSING, STORAGE, OR DISPOSAL OF GREASE SHALL BE SEPARATELY REGISTERED; EXCEPT THAT, IF A PERSON SO ENGAGED EMPLOYS ANOTHER PERSON TO COLLECT, TRANSPORT, PROCESS, STORE, OR DISPOSE OF GREASE, THE INDIVIDUAL SO EMPLOYED IS NOT REQUIRED TO BE SEPARATELY REGISTERED.

(IV) UPON RECEIVING THE APPLICATION, FEE, AND BOND OR OTHER INSTRUMENT OF FINANCIAL ASSURANCE REQUIRED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), THE DEPARTMENT SHALL REGISTER THE PERSON, FACILITY, OR VEHICLE. AT THAT TIME, THE DEPARTMENT SHALL PROVIDE TO THE REGISTRANT ANY NECESSARY DECALS AS DESCRIBED UNDER PARAGRAPH (b) OF THIS SUBSECTION (3).

(b) **Decals.** (I) UPON REGISTRATION OF A FACILITY OR VEHICLE UNDER PARAGRAPH (a) OF THIS SUBSECTION (3), THE DEPARTMENT SHALL ISSUE TO THE REGISTRANT DECALS NECESSARY TO COMPLY WITH THIS SUBSECTION (3), WHICH THE REGISTRANT SHALL PROMPTLY AFFIX TO THE REGISTERED FACILITY OR VEHICLE.

(II) DECALS SHALL BE VALID FOR A PERIOD DETERMINED BY THE COMMISSION BY RULE, NOT TO EXCEED FIVE YEARS. A DECAL ISSUED PURSUANT TO THIS SECTION SHALL CONTAIN THE INFORMATION REQUIRED BY RULE PROMULGATED BY THE COMMISSION, INCLUDING AT LEAST AN EXPIRATION DATE AND THE DECAL NUMBER.

(c) **Uniform manifests.** (I) NO REGISTRANT SHALL ACCEPT GREASE FOR TRANSPORTATION UNLESS THE REGISTRANT HAS COMPLETELY FILLED OUT A UNIFORM MANIFEST ON A FORM ESTABLISHED OR APPROVED BY THE DEPARTMENT AND CONTAINING THE INFORMATION SPECIFIED BY RULE PROMULGATED BY THE COMMISSION, INCLUDING AT LEAST THE FOLLOWING:

(A) THE MANIFEST NUMBER;

(B) THE DECAL NUMBER OF THE REGISTERED VEHICLE USED TO TRANSPORT THE GREASE;

(C) THE REGISTRANT'S SIGNATURE UNDER PENALTY OF PERJURY, NAME, ADDRESS, TELEPHONE NUMBER, AND REGISTRATION NUMBER;

(D) THE CURRENT DATE; THE FACILITY REGISTRATION NUMBER, NAME, ADDRESS, AND TELEPHONE NUMBER OF THE SOURCE OF THE GREASE; AND THE FACILITY REGISTRATION NUMBER, NAME, ADDRESS, AND TELEPHONE NUMBER OF THE FACILITY TO WHICH THE GREASE WILL BE TRANSPORTED; AND

(E) THE AMOUNT OF GREASE IN THE LOAD.

(II) THE REGISTRANT TRANSPORTING THE GREASE SHALL RETAIN ONE COPY OF THE MANIFEST AND SHALL PROVIDE ONE COPY OF THE MANIFEST TO THE SOURCE OF THE GREASE AND THE REGISTERED FACILITY TO WHICH THE GREASE IS TRANSPORTED.

(III) THE REGISTRANT TRANSPORTING THE GREASE AND THE REGISTERED FACILITY TO WHICH THE GREASE IS TRANSPORTED SHALL EACH KEEP A COPY OF THE MANIFEST FOR AT LEAST THREE YEARS AFTER THE DATE STATED ON THE MANIFEST.

(IV) THE UNIFORM MANIFEST REQUIRED UNDER THIS SECTION SHALL BE AVAILABLE FROM THE DEPARTMENT'S WEB SITE IN SUCH A MANNER THAT ENABLES A PERSON TO EITHER PRINT A HARD COPY OF THE MANIFEST OR COMPLETE, STORE, AND SUBMIT THE MANIFEST ELECTRONICALLY. A UNIFORM MANIFEST SHALL BE MAINTAINED USING THE SAME MEDIUM IN WHICH IT WAS FILLED OUT AND IN ACCORDANCE WITH THIS SECTION AND RULES PROMULGATED BY THE COMMISSION.

(4) A REGISTRANT SHALL KEEP AND MAINTAIN, FOR AT LEAST TWO CALENDAR YEARS, CERTAIN RECORDS AS PRESCRIBED BY THE COMMISSION, INCLUDING MANIFESTS PURSUANT TO PARAGRAPH (c) OF SUBSECTION (3) OF THIS SECTION. THE RECORDS SHALL BE MADE AVAILABLE TO THE DEPARTMENT FOR INSPECTION UPON REQUEST.

(5) A REGISTRANT SHALL SUBMIT, ON OR BEFORE A DATE SPECIFIED BY RULE OF THE COMMISSION, AN ANNUAL REPORT TO THE DEPARTMENT REGARDING THE REGISTRANT'S COLLECTION, TRANSPORTATION, STORAGE, PROCESSING, OR DISPOSAL OF GREASE. THE INFORMATION REQUIRED IN THE REPORT SHALL BE SPECIFIED BY RULE OF THE COMMISSION. THE DEPARTMENT SHALL KEEP CONFIDENTIAL VOLUMETRIC AND PROPRIETARY INFORMATION CONTAINED IN THE REPORT.

(6) A PERSON ARRANGING FOR THE TRANSPORTATION OR DISPOSAL OF GREASE SHALL NOT CONTRACT WITH, ENGAGE, EMPLOY, OR OTHERWISE USE A PERSON OTHER THAN A REGISTRANT FOR SUCH PURPOSES.

(7) (a) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), A PERSON COLLECTING OR TRANSPORTING GREASE FOR PERSONAL USE SHALL COMPLY WITH THIS SUBSECTION (7).

(II) A PERSON COLLECTING, TRANSPORTING, USING, OR STORING GREASE FOR CONVERSION TO, AND USE BY THE PERSON AS, BIOFUEL IS EXEMPT FROM PARAGRAPHS (b) AND (c) OF THIS SUBSECTION (7).

(b) AS USED IN THIS SUBSECTION (7), "PERSONAL USE" MEANS THAT THE PERSON COLLECTING OR TRANSPORTING THE GREASE INTENDS TO USE THE GREASE, AND THAT SUCH GREASE IS LIMITED TO:

(I) THE TRANSPORTATION OF AT LEAST A MINIMUM QUANTITY OF GREASE, AS DETERMINED BY RULE OF THE COMMISSION, AND NO MORE THAN FIFTY-FIVE GALLONS OF GREASE AT A TIME; AND

(II) THE POSSESSION OF AT LEAST A MINIMUM QUANTITY OF GREASE, AS DETERMINED BY RULE OF THE COMMISSION, AND NO MORE THAN ONE HUNDRED SIXTY-FIVE GALLONS OF GREASE AT A TIME, WHICH AMOUNT INCLUDES THE QUANTITY OF GREASE BEING TRANSPORTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH (b).

(c) ON AND AFTER THE DATE SPECIFIED IN SUBPARAGRAPH (III) OF PARAGRAPH (a) OF SUBSECTION (9) OF THIS SECTION, A PERSON COLLECTING OR TRANSPORTING GREASE FOR PERSONAL USE SHALL REGISTER ANNUALLY WITH THE DEPARTMENT AS A PERSONAL USER. THE REGISTRATION SHALL INCLUDE IDENTIFICATION OF ANY VEHICLES OR PHYSICAL LOCATIONS INVOLVED IN THE PERSONAL USE. A PERSON

REGISTERING UNDER THIS SECTION SHALL PAY A FEE, IN AN AMOUNT SUFFICIENT TO RECOVER THE DIRECT AND INDIRECT COSTS OF ADMINISTERING THIS SECTION AS DETERMINED BY THE COMMISSION IN ACCORDANCE WITH PARAGRAPH (a.5) OF SUBSECTION (9) OF THIS SECTION, AT THE TIME OF REGISTRATION.

(d) A PERSON COLLECTING OR TRANSPORTING GREASE UNDER THIS SUBSECTION (7) SHALL NOT:

(I) BARTER, TRADE, OR SELL ANY PORTION OF THE GREASE TO ANY PERSON; OR

(II) TAKE ANY GREASE FROM ANY CONTAINER OWNED BY A REGISTRANT WITHOUT THE REGISTRANT'S WRITTEN PERMISSION.

(8) ALL FEES COLLECTED PURSUANT TO THIS SECTION SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE SOLID WASTE MANAGEMENT FUND CREATED IN SECTION 30-20-118.

(9) (a) BY DECEMBER 31, 2011, THE COMMISSION SHALL PROMULGATE REASONABLE RULES TO IMPLEMENT AND ADMINISTER THIS SECTION, INCLUDING RULES SPECIFYING:

(I) APPROPRIATE METHODS TO COLLECT, TRANSPORT, STORE, PROCESS, AND DISPOSE OF GREASE;

(II) THE MINIMUM AMOUNT OF GREASE, THE COLLECTION OR TRANSPORTATION OF WHICH REQUIRES A PERSON TO REGISTER AS A PERSONAL USER UNDER SUBSECTION (7) OF THIS SECTION; AND

(III) THE DATE BY WHICH PERSONS ENGAGED IN COLLECTING, TRANSPORTING, OR DISPOSING OF GREASE MUST BE REGISTERED UNDER SUBSECTION (3) OR (7) OF THIS SECTION, WHICH DATE SHALL BE NINETY DAYS AFTER THE DATE THAT THE RULES ARE ADOPTED.

(a.5) THE FEE AMOUNTS ESTABLISHED BY THE COMMISSION UNDER THIS SECTION SHALL NOT EXCEED:

(I) ONE THOUSAND ONE HUNDRED FORTY DOLLARS PER NONVEHICLE REGISTRANT;

(II) FIVE HUNDRED SEVENTY DOLLARS PER VEHICLE; AND

(III) NINETY-SIX DOLLARS PER PERSON REGISTERING AS A PERSONAL USER UNDER SUBSECTION (7) OF THIS SECTION.

(b) THE COMMISSION MAY PROMULGATE RULES PERIODICALLY AS IT DEEMS NECESSARY OR CONVENIENT FOR THE ADMINISTRATION OF THIS SECTION.

(10) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE REGISTRATION BY ANY PERSON WHO IS NEITHER ENGAGED IN THE BUSINESS OF, NOR OTHERWISE KNOWINGLY, COLLECTING, TRANSPORTING, OR DISPOSING OF GREASE. HOWEVER, IF A SOLID WASTE HAULER DISCOVERS GREASE THAT THE HAULER REASONABLY

BELIEVES IS IN A QUANTITY REGULATED BY THE DEPARTMENT, THE HAULER SHALL IMMEDIATELY NOTIFY THE DEPARTMENT. THE DEPARTMENT SHALL THEN DETERMINE WHETHER THE HAULER IS REQUIRED TO REGISTER UNDER THIS SECTION IN ORDER TO COLLECT, TRANSPORT, OR DISPOSE OF THE GREASE.

(11) THE DEPARTMENT MAY MAKE THE DATA IT COLLECTS UNDER THIS SECTION AVAILABLE TO REGULATING ENTITIES.

(12) (a) A PERSON MAY STORE ON THE PERSON'S PROPERTY GREASE THAT THE PERSON INTENDS TO USE.

(b) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE DEPARTMENT HAS EXCLUSIVE AUTHORITY TO REGULATE THE STORAGE OF GREASE.

SECTION 4. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the solid waste management cash fund created in section 30-20-118, Colorado Revised Statutes, not otherwise appropriated, to the department of public health and environment, for allocation to the hazardous materials and waste management division, for the fiscal year beginning July 1, 2010, the sum of sixty-one thousand nine hundred sixty-four dollars (\$61,964) and 0.7 FTE, or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2010, the sum of seven thousand five hundred thirty-eight dollars (\$7,538), or so much thereof as may be necessary, for the provision of legal services to the department of public health and environment related to the implementation of this act. Said sum shall be from reappropriated funds received from the department of public health and environment out of the appropriation made in subsection (1) of this section.

SECTION 5. Act subject to petition - effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2010 and shall take effect on the date of the official declaration of the vote thereon by the governor.

(2) The provisions of this act shall apply to conduct occurring on or after the applicable effective date of this act.

Approved: June 7, 2010