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**ST. PAUL, MINN.**



**SANITATION & ENVIRONMENTAL QUALITY**  
**Title 5**

**§ 371.001**

(d) Fees collected under this section shall be deposited in the state treasury to the credit of the hazardous and solid waste fee fund.

Amended by Acts 1993, 73rd Leg., ch. 564, § 1.06, eff. June 11, 1993; Acts 1993, 73rd Leg., ch. 746, § 8, eff. Aug. 30, 1993.

**Historical and Statutory Notes**

**1993 Legislation**

Sections 2.01(11) and 2.02 of Acts 1993, 73rd Leg., ch. 564, provide:

"Sec. 2.01. The following funds and accounts and revenues authorized to be deposited to these funds and accounts are exempt from the provisions of Subsection (h), Section 403.094, Government Code. Except as amended by this Act, these funds and accounts are dedicated to the purposes for which they were established under the applicable provisions of law. The comptroller may, with the concurrence of the state treasurer, establish any of the following funds as dedicated accounts in the general revenue fund, provided that such accounts maintain any attributes authorized under provisions of law:"

"(11) the hazardous and solid waste fees fund authorized under Sections 361.132 and 370.008, Health and Safety Code, as amended by this Act;"

"Sec. 2.02. The funds and accounts described in Section 2.01 of this Act are further exempt from any provision of Subsection (b), Section 403.095, Government Code, that would authorize the expenditure or transfer of dedicated revenues inconsistent with Section 2.01 of this Act. Nothing in this section shall otherwise limit the authority of the legislature to appropriate funds from any fund or account."

Acts 1993, 73rd Leg., ch. 746, §§ 9(11) and 10 provide:

"Sec. 9. The following funds and accounts, and revenues authorized to be deposited to these funds and accounts, are exempt from the provisions of Subsection (h), Section 403.094, Government Code. Except as amended by this Act, these funds and accounts are dedicated to the purposes for which they were established under the applicable provisions of law. The comptroller may, with the concurrence of the treasurer, establish any of the following funds as dedicated accounts in the general revenue fund, provided that such accounts maintain any attributes authorized under provisions of law:"

"(11) hazardous and solid waste fees fund authorized under Sections 361.132 and 370.008, Health and Safety Code, as amended by this Act;"

"Sec. 10. The funds and accounts described in Section 9 of this Act are further exempt from any provision of Subsection (b), Section 403.095, Government Code, that would authorize the expenditure or transfer of dedicated revenues inconsistent with Section 9 of this Act. Nothing in this section shall otherwise limit the authority of the legislature to appropriate funds from any fund or account."

**CHAPTER 371. USED OIL COLLECTION, MANAGEMENT, AND RECYCLING**

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**SUBCHAPTER A. GENERAL PROVISIONS**

**§ 371.001. Short Title**

This chapter may be cited as the Texas Used Oil Collection, Management, and Recycling Act.

Amended by Acts 1995, 74th Leg., ch. 887, § 1, eff. Sept. 1, 1995.

## § 371.002

## SANITATION & ENVIRONMENTAL QUALITY Title 5

### § 371.002. Findings

The legislature finds that:

- (1) when properly managed and recycled, used oil is a valuable energy resource;
- (2) used oil can be recycled into a number of different products;
- (3) improper disposal of used oil is a significant environmental problem and a waste of a potentially valuable energy resource;
- (4) there is a need for an expanded statewide network of used oil collection sites for private citizens who change their own motor oil;
- (5) the private sector, with incentives, is best equipped to establish and operate used oil collection centers that are convenient for the public;
- (6) the need for publicly operated used oil collection centers is greatest in more sparsely populated areas of the state and should diminish over time;
- (7) the United States Environmental Protection Agency has issued final regulations that properly classify and regulate used oil and used oil filters in accordance with the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.);
- (8) the current used oil and used oil filter program in this state imposes more stringent management requirements than the regulations of the United States Environmental Protection Agency;
- (9) limited public money is needed to finance public and private infrastructure investments to collect, manage, and recycle used motor oil;
- (10) the used oil management standards under the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.) establish a balanced approach to the objectives of preserving a valuable resource and protecting the natural environment; and
- (11) recycling, reuse, treatment, or proper disposal of used oil produces a more advantageous cost-benefit ratio in accomplishing the goals of state law, and these considerations should be included in the source reduction and waste minimization plans adopted under Section 361.505 to the extent applicable.

Amended by Acts 1995, 74th Leg., ch. 887, § 1, eff. Sept. 1, 1995.

### § 371.0025. Purpose and Scope

(a) The purposes of this chapter are to:

- (1) ensure that this state's used oil program is consistent with and not more stringent than the federal program for the management of used oil under 40 C.F.R. Part 279 unless otherwise required by state or federal law; and
- (2) establish a program to promote public and private do-it-yourselfer used oil collection centers and used oil collection centers.

(b) This chapter does not apply to used oil:

- (1) generated in connection with activities regulated by the Railroad Commission of Texas under Chapter 91 or 141, Natural Resources Code, or Chapter 27, Water Code;
- (2) exempted under 40 C.F.R. Section 279.10(g) because the oil has been introduced into a crude oil pipeline or is being processed at a petroleum refining facility; or
- (3) generated through other activities exempted under 40 C.F.R. Part 271 or 279.

(c) This chapter does not apply to a used oil filter generated in connection with activities regulated by the Railroad Commission of Texas under Chapter 91 or 141, Natural Resources Code, or Chapter 27, Water Code.

Added by Acts 1995, 74th Leg., ch. 887, § 2, eff. Sept. 1, 1995.

### § 371.003. Definitions

In this chapter:

- (1) "Aboveground tank" means a tank used to store or process oil that is not an underground storage tank as defined by 40 C.F.R. Section 280.12.
- (2) "Automotive oil" means any lubricating oils intended for use in an internal combustion engine, crankcase, transmission, gear box, or differential for an automobile, bus, or

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**SANITATION & ENVIRONMENTAL QUALITY**

**Title 5**

truck. The term includes oil that is not labeled specifically for that use but is suitable for that use according to generally accepted industry specifications.

(3) "Commission" means the Texas Natural Resource Conservation Commission.

(4) "Container" means a portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

(5) "Do-it-yourselfer used oil collection center" means a site or facility that accepts or aggregates and stores used oil collected only from household do-it-yourselfers. A registered do-it-yourselfer used oil collection center that is also a used oil generator may commingle household do-it-yourselfer used oil with the used oil it generates.

(6) "Existing tank" means a tank that is used for the storage or processing of used oil and that as of September 1, 1995, is in operation or is being installed. A tank is being installed if the owner or operator has obtained all necessary federal, state, and local approvals or permits and:

(A) a continuous on-site installation program has begun; or

(B) the owner or operator has entered into contractual obligations for installation of the tank that cannot be cancelled or modified without substantial loss.

(7) "Household do-it-yourselfer used oil" means oil that is derived from a household, including used oil generated by an individual through the maintenance of the individual's personal vehicle or equipment.

(8) "Household do-it-yourselfer used oil generator" means an individual who generates household do-it-yourselfer used oil.

(9) "New tank" means a tank for the storage or processing of used oil the installation of which begins on or after September 1, 1995.

(10) "Petroleum refining facility" means an establishment primarily engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, and lubricants through fractionation, straight distillation of crude oil, redistillation of unfinished petroleum derivatives, cracking, or other processes.

(11) "Processing" means chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of, fuel oils, lubricants, or other used-oil-derived products, including blending used oil with virgin petroleum products, blending used oils to meet fuel specifications, filtration, simple distillation, chemical or physical separation, and rerefining.

(12) "Reclaiming" means processing material to recover a usable product or regenerating material, including recovering lead from a spent battery and regenerating spent solvents.

(13) "Recycling" means:

(A) preparing used oil for reuse as a petroleum product by rerefining, reclaiming, or other means;

(B) using used oil as a lubricant or petroleum product instead of using a petroleum product made from new oil; or

(C) burning used oil for energy recovery.

(14) "Rerefining" means applying processes to material composed primarily of used oil to produce high-quality base stocks for lubricants or other petroleum products, including settling, filtering, catalytic conversion, fractional/vacuum distillation, hydrotreating, or polishing.

(15) "Rerefining distillation bottoms" means the heavy fraction of filtered and dehydrated used oil produced by vacuum distillation. The composition of still bottoms varies with column operation and feedstock.

(16) "Tank" means a stationary device designed to contain an accumulation of used oil that is constructed primarily of nonearthen materials that provide structural support, including wood, concrete, steel, and plastic.

(17) "Used oil" means oil that has been refined from crude oil, or synthetic oil, that as a result of use has been contaminated by physical or chemical impurities.

(18) "Used oil aggregation point" means a site or facility that accepts, aggregates, or stores used oil collected from:

## § 371.003

## SANITATION & ENVIRONMENTAL QUALITY Title 5

(A) used oil generation sites owned or operated by the owner or operator of the used oil aggregation point and transported to the used oil aggregation point in shipments of not more than 55 gallons; or

(B) household do-it-yourselfers.

(19) "Used oil burner" means a facility in which used oil not meeting the specifications in 40 C.F.R. Section 279.11 is burned for energy recovery in a device listed in 40 C.F.R. Section 279.61(a).

(20) "Used oil collection center" means a site or facility that is registered by the commission to manage used oil and accepts, aggregates, or stores used oil collected from:

(A) used oil generators regulated under 40 C.F.R. Part 279, Subpart C, who transport used oil to the used oil collection center in shipments of not more than 55 gallons under 40 C.F.R. Section 279.24; or

(B) household do-it-yourselfers.

(21) "Used oil fuel marketer" means a person who:

(A) directs a shipment of used oil not meeting the specifications in 40 C.F.R. Section 279.11 from the person's facility to a used oil burner; or

(B) first claims that used oil to be burned for energy recovery meets the used oil specifications in 40 C.F.R. Section 279.11.

(22) "Used oil generator" means a person, by site, whose act or process:

(A) produces used oil; or

(B) first causes used oil to become subject to regulation.

(23) "Used oil processor or rerefiner" means a facility that processes used oil.

(24) "Used oil transfer facility" means a transportation-related facility, including a loading dock, parking area, storage area, or other area, where shipments of used oil are held for more than 24 hours and not more than 35 days during the normal course of transportation. A transfer facility that stores used oil for more than 35 days is subject to 40 C.F.R. Part 279, Subpart F.

(25) "Used oil transporter" means a person who:

(A) transports used oil; or

(B) owns or operates a used oil transfer facility.

Amended by Acts 1993, 73rd Leg., ch. 899, § 4.05, eff. Oct. 1, 1993; Acts 1995, 74th Leg., ch. 76, § 11.122, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 887, § 3, eff. Sept. 1, 1995.

### Historical and Statutory Notes

#### 1995 Legislation

This section was amended by Acts 1995, 74th Leg., ch. 76, § 11.122. However, § 1.02(b) of Acts 1995, 74th Leg., ch. 76 provides:

"If any provision of this Act conflicts with a statute enacted by the 74th Legislature, Regular Session, 1995, the statute controls."

### SUBCHAPTER B. USED OIL RECYCLING PROGRAM

#### § 371.021. Public Education

The commission shall conduct an education program to inform the public of the need for and benefits of the collection and recycling of used oil and used oil filters. The program shall:

(1) establish, maintain, and publicize a used oil information center that prepares and disperses materials and information explaining laws and rules regulating used oil and informing the public of places and methods for proper recycling of used oil;

(2) encourage the voluntary establishment of used oil collection and recycling programs by private businesses and organizations and by local governments and provide technical assistance to persons who organize those programs; and

(3) encourage local governments to procure recycled automotive and industrial oils and oils blended with recycled oils, if those oils meet equipment manufacturer's specifications.

Amended by Acts 1995, 74th Leg., ch. 76, § 11.123, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 887, § 4, eff. Sept. 1, 1995.

## SANITATION & ENVIRONMENTAL QUALITY Title 5

#### § 371.022. Notice by Retail Dealer

A retail dealer who annually sends containers for use off-premises shall pay a commission:

- (1) informing the public that it is a used oil collection center;
- (2) containing instructions for proper recycling of used oil;
- (3) prominently displaying the location of the collection center established under Section 371.021.

Amended by Acts 1995, 74th Leg., ch. 76, § 11.122, eff. Sept. 1, 1995.

#### § 371.023. Grants to Local Governments

(a) The commission shall develop and administer grants to local government entities that encourages the collection and recycling of used oil.

(b) The commission may approve grants for the following programs:

- (1) curbside pickup of used oil by government or its representative;
- (2) retrofitting of municipal fleet vehicles for household do-it-yourself use;
- (3) establishment of do-it-yourself oil collection centers at locations accessible to the public;
- (4) provision of containers for household do-it-yourself use at collection centers in an environmentally sound manner;
- (5) any other activity the commission determines will encourage the proper recycling of used oil.

(c) The commission shall appoint an advisory committee consisting of representatives of the commission and represent oil collection centers, and local governments without compensation and are responsible for the performance of their duties. The advisory committee shall:

- (1) recommend criteria for grant awards;
- (2) establish guidelines for grant awards;
- (3) recommend grant recipients;
- (4) The commission by rule shall:

- (1) establish procedures for grant awards under this section; and
- (2) adopt guidelines for grant awards established by the advisory committee.

Amended by Acts 1995, 74th Leg., ch. 76, § 11.123, eff. Sept. 1, 1995.

#### 1995 Legislation

This section was amended by Acts 1995, 74th Leg., ch. 76, § 11.123. However, Acts 1995, 74th Leg., ch. 76 provides:

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### **Title 5**

**§ 371.023**

#### **§ 371.022. Notice by Retail Dealer**

A retail dealer who annually sells directly to the public more than 500 gallons of oil in containers for use off-premises shall post in a prominent place a sign provided by the commission:

- (1) informing the public that improper disposal of used oil is prohibited by law;
- (2) containing instructions for disposal of used oil filters; and
- (3) prominently displaying the toll-free telephone number of the state used oil information center established under Section 371.021.

Amended by Acts 1995, 74th Leg., ch. 76, § 11.123, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 887, § 4, eff. Sept. 1, 1995

#### **§ 371.023. Grants to Local Governments and Private Entities**

(a) The commission shall develop a grant program for local governments and private entities that encourages the collection, reuse, and recycling of household do-it-yourself used oil.

(b) The commission may approve a grant for any project that uses one or more of the following programs:

- (1) curbside pickup of containers of household do-it-yourself used oil by a local government or its representative;
- (2) retrofitting of municipal solid waste equipment to facilitate curbside pickup of household do-it-yourself used oil;
- (3) establishment of do-it-yourself used oil collection centers and used oil collection centers at locations accessible to the public, including landfills, fire stations, retail stores, quick lubrication centers, and automobile repair shops;
- (4) provision of containers and other materials and supplies that can be used to store household do-it-yourself used oil for pickup or delivery to a do-it-yourself used oil collection center in an environmentally sound manner; and
- (5) any other activity the advisory committee established under Subsection (c) determines will encourage the proper recycling of household do-it-yourself used oil.

(c) The commission shall appoint an advisory committee for the used oil grant program. The advisory committee consists of seven members who serve at the pleasure of the commission and represent oil manufacturers as defined by Section 371.062, operators of used oil collection centers, and local governments. The advisory committee members serve without compensation and are not entitled to reimbursement for expenses incurred in the performance of their duties. The advisory committee shall:

- (1) recommend criteria for grants;
- (2) establish guidelines for allowable administrative expenses; and
- (3) recommend grant recipients to the commission based on the used oil collection needs of this state.

(d) The commission by rule shall:

- (1) establish procedures for the application for and criteria for the award of grants under this section; and
- (2) adopt guidelines for allowable administrative expenses in accordance with guidelines established by the advisory committee.

Amended by Acts 1995, 74th Leg., ch. 76, § 11.123, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 887, § 4, eff. Sept. 1, 1995.

#### **Historical and Statutory Notes**

##### **1995 Legislation**

This section was amended by Acts 1995, 74th Leg., ch. 76, § 11.123. However, § 1.02(b) of Acts 1995, 74th Leg., ch. 76 provides:

"If any provision of this Act conflicts with a statute enacted by the 74th Legislature, Regular Session, 1995, the statute controls."



## § 371.024

## SANITATION & ENVIRONMENTAL QUALITY Title 5

### § 371.024. Collection Facilities

(a) All appropriate businesses and government agencies are encouraged to serve as do-it-yourselfer used oil collection centers or used oil collection centers.

(b) A do-it-yourselfer used oil collection center and a used oil collection center shall:

(1) register biennially with the commission; and

(2) report annually to the commission the amounts of used oil collected by the center from the public.

(c) The commission shall adopt rules governing the registration of and reporting by do-it-yourselfer used oil collection centers and used oil collection centers.

(d) The commission by rule shall adopt standards for managing and operating a do-it-yourselfer used oil collection center or a used oil collection center.

(e) The commission may impose a registration fee in an amount sufficient to cover the actual cost of registering do-it-yourselfer used oil collection centers and used oil collection centers. A private entity that serves voluntarily as a do-it-yourselfer used oil collection center or a used oil collection center is exempt from the registration fee.

Amended by Acts 1995, 74th Leg., ch. 76, § 11.124, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 887, § 4, eff. Sept. 1, 1995.

### § 371.0245. Reimbursement of Used Oil Collection Center's Hazardous Waste Expense

(a) The commission, on proper application, shall reimburse the owner or operator of an eligible registered do-it-yourselfer used oil collection center or a used oil collection center for costs associated with the collection center's disposal of:

(1) household do-it-yourselfer used oil collected by the collection center that, unknown to the center at the time of collection, contains hazardous wastes or is unfit for recycling;

(2) household do-it-yourselfer used oil collected by the collection center that has been commingled with oils described in Subdivision (1) and is unsuitable for recycling; or

(3) contaminated used oil left at the collection center as used oil after posted business hours and without the knowledge of the collection center.

(b) A registered do-it-yourselfer used oil collection center or used oil collection center is eligible for reimbursement if it demonstrates to the satisfaction of the commission that:

(1) the center has established procedures to minimize the risk that the center will mix the used oil the center generates or collects from the public with hazardous wastes, especially halogenated wastes;

(2) the center accepts not more than:

(A) five gallons of used oil from any person at any one time if the center is a registered do-it-yourselfer used oil collection center; or

(B) 55 gallons of used oil from any person at one time if the center is a registered used oil collection center; and

(3) the center can document to the satisfaction of the commission the volume of used oil the center collects from the public during any period under review by:

(A) providing a process by which all individuals leaving household do-it-yourselfer used oil at the center are required to provide their names, addresses, and the approximate amounts of used oil brought to the collection center; or

(B) another method approved by the commission.

(c) For the purpose of Subsection (b)(2), the owner or operator of a registered do-it-yourselfer used oil collection center or used oil collection center may presume that a quantity of used oil collected from a member of the public that does not exceed the applicable collection limit established by that subsection is not mixed with a hazardous substance if the owner or operator acts in good faith in the belief the oil is generated from the individual's personal activity.

## SANITATION & ENVIRONMENTAL QUALITY Title 5

(d) In any state fiscal year, the cost of a do-it-yourselfer used oil collection center may not exceed the amount of state funds available for that purpose, subject to Section 371.0246.

(e) Reimbursements may not exceed the amount of state funds available for that purpose, and may not exceed an amount equal to the amount of state funds available for that purpose. Added by Acts 1993, 73rd Leg., ch. 887, § 4, eff. Sept. 1, 1995.

### 1993 Legislation

Sections 4.10 and 4.11 of the "Sec. 4.10. The change in 371.0245 and 371.0246, Health added by this article, applies to an eligible registered pub center on or after September 1, 1995."

### § 371.0246. Procedure

(a) An owner or operator of a do-it-yourselfer used oil collection center may apply for reimbursement.

(b) An application for reimbursement shall be filed with the commission.

(c) An application must contain:

(1) the name of the owner or operator;

(2) the name of the registered do-it-yourselfer used oil collection center which the contaminant was collected from;

(3) the name, address, and telephone number of the hazardous waste transporter;

(4) a copy of any receipt for the shipment of used oil;

(5) a copy of each document shown on the application:

(A) canceled check;

(B) business receipt;

(C) other documents;

(6) a waste characterization report for the hazardous waste by the transporter or disposal facility;

(7) any other information.

(d) All claims for reimbursement shall be paid from funds available for that purpose. This subchapter does not apply to any other fund.

Added by Acts 1993, 73rd Leg., ch. 887, § 4, eff. Sept. 1, 1995.

### 1993 Legislation

Sections 4.10 and 4.11 of the "Sec. 4.10. The change in 371.0245 and 371.0246, Health added by this article, applies to an eligible registered center on or after September 1, 1995."

## § 371.0246

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(d) In any state fiscal year, a registered do-it-yourselfer used oil collection center or used oil collection center may not be reimbursed for more than \$7,500 in total eligible disposal costs, subject to Section 371.0246(d).

(e) Reimbursements made under this section shall be paid out of the used oil recycling fund and may not exceed an aggregate amount of \$500,000 each fiscal year.

Added by Acts 1993, 73rd Leg., ch. 899, § 4.07, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 887, § 4, eff. Sept. 1, 1995.

#### Historical and Statutory Notes

##### 1993 Legislation

Sections 4.10 and 4.11 of the 1993 Act provide:

"Sec. 4.10. The change in law made by Sections 371.0245 and 371.0246, Health and Safety Code, as added by this article, applies only to costs incurred by an eligible registered public used oil collection center on or after September 1, 1993.

"Sec. 4.11. Not later than December 1, 1993, the Texas Water Commission or its successor shall adopt any rules necessary to administer the reimbursement program established by Sections 371.0245 and 371.0246, Health and Safety Code, as added by this article."

### § 371.0246. Procedures for Reimbursement

(a) An owner or operator of a registered do-it-yourselfer used oil collection center or used oil collection center may apply for reimbursement from the commission.

(b) An application for reimbursement shall be submitted on a form approved or provided by the commission.

(c) An application must contain:

(1) the name, address, and telephone number of the applicant;

(2) the name, mailing address, location address, and commission registration number of the registered do-it-yourselfer used oil collection center or used oil collection center from which the contaminated oil was removed;

(3) the name, address, telephone number, and commission registration number of the hazardous waste transporter used to dispose of the contaminated used oil;

(4) a copy of any shipping documents that accompanied the transportation of the shipment of used oil;

(5) a copy of each invoice for which reimbursement is requested and evidence that the amount shown on the invoice has been paid in full in the form of:

(A) canceled checks;

(B) business receipts from the person who performed the work; or

(C) other documentation approved by the commission;

(6) a waste-characterization or similar documentation required before acceptance of a hazardous waste by the disposal facility that accepted the contaminated used oil for treatment or disposal; and

(7) any other information that the executive director may reasonably require.

(d) All claims for reimbursement filed under this section and Section 371.0245 are subject to funds available for disbursement in the used oil recycling fund and to Section 371.0245(e). This subchapter does not create an entitlement to money in the used oil recycling fund or any other fund.

Added by Acts 1993, 73rd Leg., ch. 899, § 4.07, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 887, § 4, eff. Sept. 1, 1995.

#### Historical and Statutory Notes

##### 1993 Legislation

Sections 4.10 and 4.11 of the 1993 Act provide:

"Sec. 4.10. The change in law made by Sections 371.0245 and 371.0246, Health and Safety Code, as added by this article, applies only to costs incurred by an eligible registered public used oil collection center on or after September 1, 1993.

"Sec. 4.11. Not later than December 1, 1993, the Texas Water Commission or its successor shall adopt any rules necessary to administer the reimbursement program established by Sections 371.0245 and 371.0246, Health and Safety Code, as added by this article."

## § 371.025

## SANITATION & ENVIRONMENTAL QUALITY Title 5

### § 371.025. Limitation of Liability

(a) A person may not recover from the owner, operator, or lessor of a registered do-it-yourselfer used oil collection center or used oil collection center any damages or costs of response actions at another location resulting from a release or threatened release of used oil collected at the center if:

(1) the owner, operator, or lessor of the collection center does not mix the used oil collected with any hazardous waste or polychlorinated biphenyls (PCBs);

(2) the owner, operator, or lessor of the collection center does not accept used oil that the owner, operator, or lessor knows contains hazardous waste or PCBs; and

(3) the collection center is in compliance with management standards adopted by the commission.

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

(c) This section applies only to activities directly related to the collection of used oil by a do-it-yourselfer used oil collection center or a used oil collection center. This section does not apply to grossly negligent activities related to the operation of a do-it-yourselfer used oil collection center or a used oil collection center.

(d) This section does not affect or modify the obligations or liability of any person other than the owner, operator, or lessor of the collection center under any other provisions of state or federal law, including common law, for injury or damage resulting from a release of used oil or hazardous substances.

(e) This section does not affect or modify the obligations or liability of any owner, operator, or lessor of a collection center with regard to services other than accepting used oil from the public.

Amended by Acts 1995, 74th Leg., ch. 76, § 11.125, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 887, § 4, eff. Sept. 1, 1995.

### § 371.026. Registration of Used Oil Handlers Other Than Generators

(a) The commission shall adopt rules governing registration and reporting of used oil handlers other than generators. The rules shall require that a used oil handler other than a generator:

(1) register biennially with the commission;

(2) report annually the sources of used oil handled during the preceding year, the quantity of used oil received, the date of receipt, and the destination or end use of the used oil;

(3) provide evidence of familiarity with applicable state laws and rules and management procedures applicable to used oil handling; and

(4) provide proof of liability insurance or other evidence of financial responsibility for any liability that may be incurred in handling used oil.

(b) The commission by rule shall adopt reasonable management and safety standards for the handling of used oil.

(c) The commission may impose a registration fee in an amount sufficient to cover the actual cost of registering used oil handlers other than generators.

(d) A used oil transporter may consolidate or aggregate loads of used oil for purposes of transportation but may not process used oil, except that a used oil transporter may conduct incidental processing operations, including settling and water separation, that occur in the normal course of the transportation of used oil but that are not designed to produce, or make more amenable for the production of, used-oil-derived products or used oil fuel.

Amended by Acts 1995, 74th Leg., ch. 76, § 11.126, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 887, § 4, eff. Sept. 1, 1995.

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1995 Legislation  
This section was amended by Acts 1995, 74th Leg., ch. 76, § 11.126, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 887, § 4, eff. Sept. 1, 1995.

### § 371.027. Gifts and Grants

The commission may accept gifts, grants, donations, and other contributions under this chapter.

Amended by Acts 1995, 74th Leg., ch. 887, § 4, eff. Sept. 1, 1995.

### § 371.028. Rules

Not later than January 1, 1996, the commission shall promulgate rules necessary to implement this chapter. Unless otherwise required, the rules shall be consistent with and not inconsistent with the Resource Conservation and Recovery Act of 1976, as amended. Amended by Acts 1995, 74th Leg., ch. 887, § 4, eff. Sept. 1, 1995.

## SUBCHAPTER 371.041. ACTIONS BY THE COMMISSION

### § 371.041. Actions by the Commission

(b) A person commits an offense if:

(1) intentionally discharges used oil into surface water or groundwater;

(2) knowingly mixes used oil with hazardous waste at a landfill or directly disposes of it;

(3) knowingly transports, stores, or otherwise handles used oil in violation of:

(A) in violation of

(B) without first obtaining a permit under rules adopted under

(4) intentionally uses used oil for other similar uses to

(5) violates an order of the commission or any rule adopted under

(6) intentionally manifests, records, reports, or otherwise complies with

(c) It is an exception to the provisions of this chapter if the used oil is from a generator in the environment and the generator is not a used oil handler.

(d) It is an exception to the provisions of this chapter if the used oil is with waste that is the result of the mechanical or obsolete metal

Amended by Acts 1995, 74th Leg., ch. 887, § 4, eff. Sept. 1, 1995.

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**§ 371.041**

**Historical and Statutory Notes**

**1995 Legislation**

This section was amended by Acts 1995, 74th Leg., ch. 76, § 11.126. However, § 1.02(b) of Acts 1995, 74th Leg., ch. 76 provides:

"If any provision of this Act conflicts with a statute enacted by the 74th Legislature, Regular Session, 1995, the statute controls."

**§ 371.027. Gifts and Grants**

The commission may apply for, request, solicit, contract for, receive, and accept gifts, grants, donations, and other assistance from any source to carry out its powers and duties under this chapter.

Amended by Acts 1995, 74th Leg., ch. 76, § 11.127, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 887, § 4, eff. Sept. 1, 1995.

**§ 371.028. Rules**

Not later than January 1, 1996, the commission shall adopt rules, standards, and procedures necessary to implement the used oil recycling program established by this chapter. Unless otherwise required by federal or state law, the rules, standards, and procedures must be consistent with and not more stringent than the used oil management standards under the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.).

Amended by Acts 1995, 74th Leg., ch. 76, § 11.127, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 887, § 4, eff. Sept. 1, 1995.

**SUBCHAPTER C. CERTAIN ACTIONS PROHIBITED; PENALTIES**

**§ 371.041. Actions Prohibited**

*[See main volume for (a)]*

(b) A person commits an offense if the person:

(1) intentionally discharges used oil into a sewer, drainage system, septic tank, surface water or groundwater, watercourse, or marine water;

(2) knowingly mixes or commingles used oil with waste that is to be disposed of in landfills or directly disposes of used oil on land;

(3) knowingly transports, treats, stores, disposes of, recycles, causes to be transported, or otherwise handles any used oil within the state:

(A) in violation of standards or rules for the management of used oil; or

(B) without first complying with the registration requirements of Section 371.026 and rules adopted under that section;

(4) intentionally applies used oil to roads or land for dust suppression, weed abatement, or other similar uses that introduce used oil into the environment;

(5) violates an order of the commission to cease and desist any activity prohibited by this section or any rule applicable to a prohibited activity; or

(6) intentionally makes a false statement or representation in an application, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of program compliance.

(c) It is an exception to the application of Subsection (b) if a person unknowingly disposes into the environment any used oil that has not been properly segregated or separated by the generator from other solid wastes.

(d) It is an exception to the application of Subsection (b)(2) if the mixing or commingling of used oil with waste that is to be disposed of in landfills is incident to and the unavoidable result of the mechanical shredding of motor vehicles, appliances, or other items of scrap, used, or obsolete metals.

Amended by Acts 1995, 74th Leg., ch. 76, § 11.128, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 887, § 5, eff. Sept. 1, 1995.

## § 371.042

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### § 371.042. Criminal Penalties

(a) Except as provided by Subsection (b), an offense under Section 371.041 is punishable by:

- (1) a fine of not less than \$100 or more than \$10,000 for each act of violation or each day of a continuing violation;
- (2) imprisonment for a term not to exceed five years; or
- (3) both the fine and the imprisonment.

(b) If it is shown on the trial of an offense under Section 371.041 that the defendant has previously been convicted of an offense under Section 371.041, the offense is punishable by:

- (1) a fine of not less than \$200 or more than \$20,000 for each act of violation or each day of a continuing violation;
- (2) imprisonment for a term not to exceed 10 years; or
- (3) both the fine and the imprisonment.

Amended by Acts 1995, 74th Leg., ch. 887, § 6, eff. Sept. 1, 1995.

### Historical and Statutory Notes

#### 1995 Legislation

Section 11 of the 1995 amendatory act provides:

"(a) The change in law made by this Act to Section 371.042, Health and Safety Code, applies only to an offense committed on or after the effective date of this Act. For purposes of this

section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

"(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose."

### § 371.043. Civil Penalty

*[See main volume for (a) and (b)]*

(c) The penalty imposed by this section does not apply to failure to pay a fee under Section 371.062 or failure to file a report under Section 371.024.

(d) The commission, a local government in whose jurisdiction the violation occurs, or the state may bring suit to recover a penalty under this section.

Amended by Acts 1995, 74th Leg., ch. 76, § 11.129, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 887, § 7, eff. Sept. 1, 1995.

### § 371.044. Injunctive Relief

(a) If it appears that a violation or threat of violation of this chapter or any rule or order adopted under this chapter has occurred or is about to occur and is causing or may cause immediate injury or constitutes a significant threat to the health, welfare, or personal property of a citizen or a local government, the commission, the local government, or the state may bring suit in district court for injunctive relief to restrain the violation or the threat of violation.

*[See main volume for (b)]*

Amended by Acts 1995, 74th Leg., ch. 76, § 11.130, eff. Sept. 1, 1995.

## SUBCHAPTER D. USED OIL RECYCLING FUND; FEES

### § 371.061. Used Oil Recycling Fund

*[See main volume for (a)]*

(b) The fund consists of:

- (1) fees collected under Sections 371.024, 371.026, and 371.062;
- (2) interest and penalties imposed under this chapter for late payment of fees, failure to file a report, or other violations of this chapter; and

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(3) gifts, grants, donations, or receive under Section 371.027.

(c) Except as provided by Subsec for purposes authorized by this chap

- (1) public education;
- (2) grants to public and privat collection centers;

- (3) registration of do-it-yourself and used oil handlers other than
- (4) administrative costs of impl

*Text of subsec*

(d) The commission shall set as for the sole purpose of restoring th commission has identified as havin ment and for which other funds f ment are not sufficient. This subs

(e) The fund is exempt from the Code.

Amended by Acts 1993, 73rd Leg., ch. eff. Sept. 1, 1995; Acts 1995, 74th Leg

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#### 1993 Legislation

Sections 2.01(4) and 2.02 of Acts 19 ch. 564, provide:

"Sec. 2.01. The following funds and revenues authorized to be depo funds and accounts are exempt from of Subsection (h), Section 403.094 Code. Except as amended by th funds and accounts are dedicated to for which they were established un ble provisions of law. The compr the concurrence of the state treas any of the following funds as dedica the general revenue fund, provide counts maintain any attributes au provisions of law:"

"(4) the used oil recycling fund a Section 371.061, Health and Safety

"Sec. 2.02. The funds and accou Section 2.01 of this Act are furth any provision of Subsection (b), Government Code, that would auth diture or transfer of dedicated re tent with Section 2.01 of this Act. section shall otherwise limit the legislature to appropriate funds f account."

Acts 1993, 73rd Leg., ch. 746 provide:

"Sec. 9. The following funds : revenues authorized to be deposi

### § 371.062. Fee on Sale o

(a) In this section:

- (1) "Distributor" means this state and annually sell

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**§ 371.062**

(3) gifts, grants, donations, or other financial assistance the commission is authorized to receive under Section 371.027.

(c) Except as provided by Subsection (d), the commission may use money in the fund only for purposes authorized by this chapter, including:

- (1) public education;
- (2) grants to public and private do-it-yourselfer used oil collection centers and used oil collection centers;
- (3) registration of do-it-yourselfer used oil collection centers, used oil collection centers, and used oil handlers other than generators; and
- (4) administrative costs of implementing this chapter.

*Text of subsec. (d) effective until January 1, 1997*

(d) The commission shall set aside 25 percent of the fees collected under Section 371.062 for the sole purpose of restoring the environmental quality of those sites in the state that the commission has identified as having been contaminated through improper used oil management and for which other funds from a potentially responsible party or the federal government are not sufficient. This subsection expires on January 1, 1997.

(e) The fund is exempt from the application of Sections 403.094(h) and 403.095, Government Code.

Amended by Acts 1993, 73rd Leg., ch. 899, § 4.06, eff. Oct. 1, 1993; Acts 1995, 74th Leg., ch. 76, § 11.131, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 887, § 8, eff. Sept. 1, 1995.

**Historical and Statutory Notes**

**1993 Legislation**

Sections 2.01(4) and 2.02 of Acts 1993, 73rd Leg., ch. 564, provide:

"Sec. 2.01. The following funds and accounts and revenues authorized to be deposited to these funds and accounts are exempt from the provisions of Subsection (h), Section 403.094, Government Code. Except as amended by this Act, these funds and accounts are dedicated to the purposes for which they were established under the applicable provisions of law. The comptroller may, with the concurrence of the state treasurer, establish any of the following funds as dedicated accounts in the general revenue fund, provided that such accounts maintain any attributes authorized under provisions of law:"

"(4) the used oil recycling fund authorized under Section 371.061, Health and Safety Code;"

"Sec. 2.02. The funds and accounts described in Section 2.01 of this Act are further exempt from any provision of Subsection (b), Section 403.095, Government Code, that would authorize the expenditure or transfer of dedicated revenues inconsistent with Section 2.01 of this Act. Nothing in this section shall otherwise limit the authority of the legislature to appropriate funds from any fund or account."

Acts 1993, 73rd Leg., ch. 746, §§ 9(4) and 10 provide:

"Sec. 9. The following funds and accounts, and revenues authorized to be deposited to these funds

and accounts, are exempt from the provisions of Subsection (h), Section 403.094, Government Code. Except as amended by this Act, these funds and accounts are dedicated to the purposes for which they were established under the applicable provisions of law. The comptroller may, with the concurrence of the treasurer, establish any of the following funds as dedicated accounts in the general revenue fund, provided that such accounts maintain any attributes authorized under provisions of law:

"(4) used oil recycling fund authorized under Section 371.061, Health and Safety Code;"

"Sec. 10. The funds and accounts described in Section 9 of this Act are further exempt from any provision of Subsection (b), Section 403.095, Government Code, that would authorize the expenditure or transfer of dedicated revenues inconsistent with Section 9 of this Act. Nothing in this section shall otherwise limit the authority of the legislature to appropriate funds from any fund or account."

**1995 Legislation**

This section was amended by Acts 1995, 74th Leg., ch. 76, § 11.131. However, § 1.02(b) of Acts 1995, 74th Leg., ch. 76 provides:

"If any provision of this Act conflicts with a statute enacted by the 74th Legislature, Regular Session, 1995, the statute controls."

**§ 371.062. Fee on Sale of Automotive Oil**

(a) In this section:

(1) "Distributor" means a person who maintains a distribution center or warehouse in this state and annually sells more than 25,000 gallons of automotive oil.



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(2) "First sale" means the first actual sale of automotive oil delivered to a location in this state and sold to a purchaser who is not an automotive oil manufacturer or distributor. The term does not include the sale of automotive oil:

(A) exported from this state to a location outside this state for the purpose of sale or use outside this state;

(B) for resale to or use by vessels exclusively engaged in foreign or interstate commerce;

(C) to a subsequent purchaser who maintains a do-it-yourselfer used oil collection center or used oil collection center registered by the commission at the location where the automotive oil is changed, used, consumed, or resold to do-it-yourselfers; or

(D) to the United States.

(3) "Importer" means any person who imports or causes to be imported automotive oil into this state for sale, use, or consumption.

(4) "Oil manufacturer" means any person or entity that formulates automotive oil and packages, distributes, or sells that automotive oil. The term includes any person packaging or repackaging automotive oil.

(b) An oil manufacturer or distributor who makes a first sale of automotive oil is liable for a fee.

(c) An oil importer who imports or causes to be imported automotive oil is liable for the fee at the time the oil is received.

(d) An oil distributor or retailer who exports from this state to a location outside this state oil on which the automotive oil fee has been paid may request from his supplier a refund or credit of the fee paid on the exported oil. The supplier or oil manufacturer and the importer may in turn request a refund of the fee paid to the comptroller. The amount of refund that may be claimed under this section may equal but not exceed the amount of the fee paid on the automotive oil.

(e) An oil manufacturer, importer, distributor, or retailer who makes a sale to a vessel or a sale for resale to a vessel of automotive oil on which the automotive oil fee has been paid may file with the comptroller a request for refund of the fee paid on the oil or, where applicable, may request a refund or credit from the supplier to whom the fee was paid. The supplier may in turn request a refund from the comptroller. The amount of refund that may be claimed under this section may equal but not exceed the amount of the fee paid on the automotive oil.

(f) Each oil manufacturer, distributor, or importer required to pay a fee under this section shall:

(1) prepare and maintain, on a form provided or approved by the comptroller, a report of each first sale or, in the case of an importer, the first receipt in Texas of automotive oil by the person and the price received;

(2) retain the invoice or a copy of the invoice or other appropriate record of the sale or receipt for four years from the date of sale or receipt; and

(3) on or before the 25th day of the month following the end of each calendar quarter, file a report with the comptroller and remit to the comptroller the amount of fees required to be paid for the preceding quarter.

(g) Records required to be maintained under Subsection (f) shall be available for inspection by the comptroller at all reasonable times.

(h) The comptroller shall adopt rules necessary for the administration, collection, reporting, and payment of the fees payable or collected under this section.

(i) Except as provided by this section, Chapters 101 and 111 through 113, Tax Code, apply to the administration, payment, collection, and enforcement of fees under this section in the same manner that those chapters apply to the administration, payment, collection, and enforcement of taxes under Title 2, Tax Code.

*Text of subsec. (j) effective until September 1, 1997*

(j) The fee imposed under this section is two cents per quart or eight cents per gallon of automotive oil. The commission shall monitor the unobligated balance of the used oil recycling fund and shall adjust the fee rate to meet expenditure requirements of the used oil

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recycling program and the fee rate for this section may not exceed the fee rate in effect before September 1 of each year. The effective fee rate for the recycling program and the fee rate for this section may not exceed the fee rate in effect before September 1 of each year.

(j) The fee imposed under this section for automotive oil.

(k) A person required to pay the fee under this section may not be required to pay more than the amount of the fees due from each person.

(l) The comptroller may require a person to deposit an amount sufficient to pay the fee under this section. The amount of the fee deposited to the credit of the comptroller shall be used to pay the fee under this section.

(m) A distributor may be required to submit an application form for the fee under this section.

(1) the name under which the fee is paid;

(2) the location of the sale;

(3) if the applicant is a corporation or other entity, the name of the member; and

(4) any other information required by the comptroller.

(n) The fee under this section is submitted on or before the date of sale.

(o) A permit under this section is required for the sale of automotive oil.

Amended by Acts 1993, 7 (S.B. 1101), eff. Sept. 1, 1995; Acts 1995, 7 (S.B. 1101), eff. Sept. 1, 1995.

Section 12 of Acts 1995, 7 (S.B. 1101) provides:

"(a) Except as provided by this section, this Act takes effect on the first day of the month following the date of its passage."

§ 371.063. Annual Report

The commission shall submit a detailed report of all fees collected on an annual basis.

Added by Acts 1993, 7 (S.B. 1101), eff. Sept. 1, 1995.

| Section  | Definition     |
|----------|----------------|
| 372.001. | Water Sampling |
| 372.002. | Water Sampling |
| 372.003. | Labeling       |

§ 372.001. Commission

In this chapter:

(1) "Commission" means the Texas Commission on Environmental Quality.

(2) "Executive Director" means the Executive Director of the Texas Commission on Environmental Quality.

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recycling program and to maintain an appropriate fund balance. The fee imposed under this section may not exceed five cents per quart or 20 cents per gallon of automotive oil. On or before September 1 of each year, the commission and the comptroller jointly shall issue notice of the effective fee rate for the next fiscal year.

*Text of subsec. (j) effective September 1, 1997.*

(j) The fee imposed under this section is one cent per quart or four cents per gallon of automotive oil.

(k) A person required to pay a fee under this section may retain one percent of the amount of the fees due from each quarterly payment as reimbursement for administrative costs.

(l) The comptroller may deduct a percentage of the fees collected under this section in an amount sufficient to pay the reasonable and necessary costs of administering and enforcing this section. The comptroller shall credit the amount deducted to the general revenue fund. The balance of fees and all penalties and interest collected under this section shall be deposited to the credit of the used oil recycling fund.

(m) A distributor must obtain a permit from the comptroller. The comptroller shall adopt an application form for the permit, which must include:

(1) the name under which the applicant transacts or intends to transact business;

(2) the location of the applicant's distribution center or warehouse in this state;

(3) if the applicant is a corporation or partnership, the names of the principal officers of the corporation or of the members of the partnership and the address of each officer or member; and

(4) any other information required by the comptroller.

(n) The comptroller may deny or revoke a permit under Subsection (m) if false information is submitted on the application or on a required fuels tax report or supplement.

(o) A permit under Subsection (m) may not be assigned.

Amended by Acts 1993, 73rd Leg., ch. 899, § 4.09, eff. Oct. 1, 1993; Acts 1995, 74th Leg., ch. 76, § 11.129 eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 887, § 9.

**Historical and Statutory Notes**

Section 12 of Acts 1995, 74th Leg., ch. 887 provides:

"(a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 1995.

"(b) Subsection (j), Section 371.062, Health Safety Code, as amended by this Act, takes effect September 1, 1997."

**§ 371.063. Annual Reporting Requirement**

The commission shall monitor the balance of the used oil recycling fund and shall provide detailed report of all income, expenditures, and programs funded to the Texas Legislature on an annual basis.

Added by Acts 1993, 73rd Leg., ch. 899, § 4.08, eff. Sept. 1, 1993.

**CHAPTER 372. ENVIRONMENTAL PERFORMANCE  
STANDARDS FOR PLUMBING FIXTURES**

|          |                                     |
|----------|-------------------------------------|
| Section  | Definitions.                        |
| 372.001. |                                     |
| 372.002. | Water Saving Performance Standards. |
| 372.003. | Labeling Requirements.              |

|           |                                      |
|-----------|--------------------------------------|
| Section   | Lead in Plumbing Fixtures, Pipe, and |
| 372.0035. | Pipe Fitting.                        |
| 372.004.  | Administrative Penalty.              |
| 372.005.  | Civil Penalty; Injunction.           |

**§ 372.001. Definitions**

In this chapter:

- (1) "Commission" means the Texas Natural Resource Conservation Commission.
- (2) "Executive director" means the executive director of the commission.



