

SENATE, No. 2166

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED JUNE 9, 2014

Sponsored by:

Senator RAYMOND J. LESNIAK

District 20 (Union)

SYNOPSIS

“Comprehensive Regulated Grease Recycling Act.”

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the regulation of grease recycling businesses,
2 supplementing Title 13 of the Revised Statutes, and amending
3 N.J.S.2C:20-2 and N.J.S.2C:21-3.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. (New section) This act shall be known and may be cited as
9 the “Comprehensive Regulated Grease Recycling Act.”

10
11 2. (New section) As used in this act:

12 “Business concern” means any corporation, limited liability
13 company, firm, partnership, sole proprietorship, trust, or other form
14 of commercial organization. A business concern may include one
15 or more facilities at one or more locations.

16 “Department” means the Department of Environmental
17 Protection.

18 “Facility” means an individual operating location of a registrant.

19 “Grease” means (1) used cooking oil, spent shortenings, or any
20 other inedible kitchen grease or waste vegetable oil produced in or
21 by restaurants or food facilities; and (2) residual yellow grease,
22 waste water, and debris principally derived from food preparation
23 or processing, or waste that is intercepted by and contained in
24 grease traps, in any quantity, as generated in restaurants, food
25 facilities, and wastewater treatment plants.

26 “Grease container” means a container owned or used by a
27 registrant or a registrant’s customer to store grease prior to or
28 following transport.

29 “Grease recycling business” means a commercial establishment
30 which, as one of its business purposes, accepts grease for the
31 purpose of resale or processing.

32 “Grease recycling registration” means an approval to operate a
33 business concern engaged in grease recycling services issued
34 pursuant to section 5 of P.L.1970, c.39 (C.13:1E-5).

35 “Grease recycling services” means the services provided by
36 persons engaged in the business of grease recycling, including the
37 collection, transportation, processing, storage, purchase, sale, resale
38 or disposal, or any combination thereof, of grease.

39 “Manifest” means the documents used for identifying the
40 quantity, origin, routing, and destination of grease during its
41 transportation from the point of generation to the point of
42 processing, storage, or disposal.

43 “Person” means any individual or business concern.

44 “Registrant” means any person, business concern, or vehicle
45 registered under section 3 of this act.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 3. (New section) Except as otherwise provided in this section:
- 2 a. No person shall engage in grease recycling services unless
- 3 the person is a registrant with the department, and prominently
- 4 displays a decal issued by the department.
- 5 b. No grease recycling business shall accept grease unless it is
- 6 a registrant with the department, and prominently displays a decal
- 7 issued by the department.
- 8 c. No vehicle shall be used to transport grease unless the
- 9 vehicle is a registrant with the department, and prominently
- 10 displays a decal issued by the department.
- 11 d. No less than 30 days before commencing grease recycling
- 12 services, a person shall:
- 13 (1) register with the department by submitting to the department
- 14 an annual registration application, in the form and manner specified
- 15 by the department. A registrant shall also annually update rosters of
- 16 employees, facilities, and vehicles, and shall post such information
- 17 on a publicly available website;
- 18 (2) pay an annual registration fee, as determined by the
- 19 department, which fee shall be based upon, and not exceed, the
- 20 department's cost of administering this act;
- 21 (3) at the time of registration, post with the department a surety
- 22 bond or other debt instrument or method of financial assurance, as
- 23 determined by the department, in an amount reasonably sufficient to
- 24 remediate any environmental or health harm caused by
- 25 noncompliant disposal, dumping, or other release of grease; and
- 26 (4) submit proof of vehicle insurance with personal injury and
- 27 property damage combined single liability limits of at least
- 28 \$1,000,000.
- 29 e. Each person, facility, and vehicle engaged in the collection,
- 30 transportation, processing, storage, or disposal of grease shall be
- 31 separately registered; except that, if a person so engaged employs
- 32 another person to collect, transport, process, store, or dispose of
- 33 grease, the individual so employed shall not be required to be
- 34 separately registered.
- 35 f. Upon receiving the application, fee, and bond or other debt
- 36 instrument or method of financial assurance, the department shall
- 37 register the person, facility, or vehicle. At that time, the department
- 38 shall provide to the registrant any decals required pursuant to
- 39 section 4 of this act.
- 40
- 41 4. (New section) a. Upon registration of a vehicle or facility,
- 42 the department shall issue decals to the registrant, which the
- 43 registrant shall promptly affix to the vehicle or facility.
- 44 b. The department shall number each decal and maintain
- 45 records identifying each number and registrant. A decal shall be
- 46 valid for a period determined by the department by regulation, not
- 47 to exceed five years. A decal shall contain an expiration date, the

1 decal number, and any other information the department determines
2 necessary by regulation.

3 c. Each vehicle used in the collection or transportation of
4 grease, and each facility, shall conspicuously display the name of
5 the owner of the vehicle or facility and the decal number in letters
6 not less than three inches in height.

7
8 5. (New section) a. No registrant shall accept grease for
9 transportation or recycling unless the registrant has filled out a
10 uniform manifest on a form established by the department and
11 containing such information as the department determines necessary
12 by regulation, including:

13 (1) a unique manifest number;

14 (2) the decal number of the registered vehicle used to transport
15 the grease;

16 (3) the registrant's name, address, telephone number, and a
17 signature certifying, under penalty of perjury, the accuracy of the
18 information in the manifest;

19 (4) the date on which the grease was received; the name,
20 address, and telephone number of the source of the grease; and the
21 name, address, telephone number, and decal number of the
22 registered facility to which the grease will be transported; and

23 (5) the amount of grease in the load.

24 b. The registrant transporting the grease shall retain one copy
25 of the manifest and provide one copy of the manifest to the source
26 of the grease and one copy of the manifest to the registered facility
27 to which the grease is transported.

28 c. The registrant transporting the grease and the registered
29 facility to which the grease is transported shall each keep a copy of
30 the manifest for at least five years after the date stated on the
31 manifest.

32 d. The department shall make available on its website the
33 uniform manifest required pursuant to this section in such a manner
34 that enables a person to either print a hard copy of the manifest or
35 complete, store, and submit the manifest electronically. A uniform
36 manifest shall be maintained in the same medium in which it was
37 filled out and in accordance with the requirements of this section
38 and rules promulgated by the department. To the extent practicable,
39 the department shall have registrants create, maintain, store, and
40 transmit manifests by electronic means.

41 e. A registrant shall keep and maintain, for at least five years,
42 certain records as prescribed by the department by regulation,
43 including manifests. The records shall be made available to the
44 department for inspection upon request.

45 f. On or before a date specified by the department by
46 regulation, a registrant shall submit an annual report to the
47 department regarding the registrant's collection, transportation,
48 processing, storage, and disposal of grease. The department shall

1 specify the form and manner of the report by regulation. The
2 department shall keep confidential any volumetric and proprietary
3 information contained in the report.

4
5 6. (New section) The operator of a grease recycling business
6 shall:

7 a. obtain and record the name, decal number, and copies of the
8 driver's license or other government-issued photo identification of
9 any person delivering or selling grease to the grease recycling
10 business, which the operator shall maintain for at least five years;

11 b. maintain, for at least five years, a record of all receipts of
12 purchases of grease, including, but not limited to:

13 (1) the date of receipt or purchase of the grease;

14 (2) the name and address of the person delivering or selling the
15 grease;

16 (3) the type and number of the identification presented by the
17 person delivering or selling the grease, along with a copy of the
18 driver's license or other government-issued photo identification;

19 (4) the amount of the grease received or purchased;

20 (5) the signature of the person delivering or selling the grease;
21 and

22 (6) any other information as may be required by the department
23 by regulation;

24 c. make any records maintained pursuant to subsection b. of
25 this section available, upon request, to the department and to any
26 law enforcement agency or official investigating the possible theft
27 or resale of grease.

28
29 7. (New section) The operator of a grease recycling business
30 shall immediately report to an appropriate law enforcement agency
31 or official any delivery or sale of grease under circumstances that
32 would cause a reasonable person to believe the grease may have
33 been stolen or otherwise obtained in a manner inconsistent with this
34 act.

35
36 8. (New section) Notwithstanding any other provision of law to
37 the contrary, a person who reports information to a law enforcement
38 agency or official concerning a potentially illegal delivery or sale of
39 grease shall be immune from any civil liability arising from the
40 report, unless the person has acted in bad faith or with reckless
41 disregard of the truth or falsity of the report.

42
43 9. (New section) a. It shall be a violation of this act for any
44 person to:

45 (1) sell or offer to sell grease to a person for transport or
46 recycling who is not registered pursuant to this act;

1 (2) steal or damage a grease container owned by another person,
2 or place a label on a container owned by another person with the
3 intent to assert ownership over the container;

4 (3) take possession of grease from a person who is not
5 registered pursuant to this act or take possession of grease that was
6 stolen, other than at the request of the department or a law
7 enforcement agency or officer following impoundment; or

8 (4) collect, transport, process, store, or dispose of grease in any
9 manner that violates this act.

10 b. A container in which grease has been deposited that bears a
11 name on the container shall be presumed to be owned by the person
12 named on the container.

13

14 10. (New section) a. Any person who violates this act commits
15 a disorderly persons offense.

16 b. Any person convicted of a violation of the provisions of this
17 act is subject to a civil fine of not less than \$2,500 for a first
18 offense, not more than \$5,000 for a second offense and not more
19 than \$10,000 for a third and every subsequent offense. Each day
20 during which the violation continues constitutes an additional,
21 separate, and distinct offense.

22 c. If a person is convicted of a violation of this act, the court
23 shall, in addition to the penalties provided under subsection b. of
24 this section, require the person to perform community service for a
25 term of not more than 90 days, and the person shall forthwith forfeit
26 his right to operate a motor vehicle over the highways of this State
27 for a period of not less than six months nor more than one year.

28 d. All conveyances used or intended for use in the unlawful
29 transportation or disposal of grease in violation of this act are
30 subject to forfeiture to the State pursuant to the provisions of
31 P.L.1981, c.387 (C.13:1K-1 et seq.).

32 e. Notwithstanding the provisions of P.L.1981, c.387
33 (C.13:1K-1 et seq.) or any other law to the contrary, whenever a
34 conveyance is forfeited to the State pursuant to subsection d. of this
35 section, the proceeds from the disposal and sale of the conveyance
36 shall be remitted to the chief financial officer of the municipality
37 wherein the violation occurred, to be used by the municipality to
38 help finance enforcement activities undertaken pursuant to section
39 13 of P.L.1970, c.40 (C.48:13A-12) or section 2 of P.L.1989, c.118
40 (C.13:1E-9.3).

41 f. No person charged with the theft of grease or a grease
42 container pursuant to N.J.S.2C:20-2 may be charged with or plead
43 to a lesser offense, where such charge is for a second or subsequent
44 offense.

45

46 11. (New section) In addition to any other penalties provided by
47 this act, the department may suspend or revoke a registration at any

1 time if, based upon evidence, the department determines that the
2 registrant has:

- 3 a. sold or offered for sale to a person not registered pursuant to
4 this act any grease knowing the unregistered person would transport
5 or recycle the grease in violation of this act;
6 b. stolen, misappropriated, contaminated, or damaged any
7 grease container or grease therein;
8 c. taken possession of grease from transporter not registered
9 pursuant to this act, or that has been stolen; or
10 d. otherwise failed to comply with this act.

11

12 12. N.J.S.2C:20-2 is amended to read as follows:

13 2C:20-2. a. Consolidation of Theft and Computer Criminal
14 Activity Offenses. Conduct denominated theft or computer criminal
15 activity in this chapter constitutes a single offense, but each episode or
16 transaction may be the subject of a separate prosecution and
17 conviction. A charge of theft or computer criminal activity may be
18 supported by evidence that it was committed in any manner that would
19 be theft or computer criminal activity under this chapter,
20 notwithstanding the specification of a different manner in the
21 indictment or accusation, subject only to the power of the court to
22 ensure fair trial by granting a bill of particulars, discovery, a
23 continuance, or other appropriate relief where the conduct of the
24 defense would be prejudiced by lack of fair notice or by surprise.

25 b. Grading of theft offenses.

26 (1) Theft constitutes a crime of the second degree if:

27 (a) The amount involved is \$75,000.00 or more;

28 (b) The property is taken by extortion;

29 (c) The property stolen is a controlled dangerous substance or
30 controlled substance analog as defined in N.J.S.2C:35-2 and the
31 quantity is in excess of one kilogram;

32 (d) The property stolen is a person's benefits under federal or State
33 law, or from any other source, which the Department of Human
34 Services or an agency acting on its behalf has budgeted for the
35 person's health care and the amount involved is \$75,000.00 or more;

36 (e) The property stolen is human remains or any part thereof;
37 except that, if the human remains are stolen by deception or
38 falsification of a document by which a gift of all or part of a human
39 body may be made pursuant to P.L.2008, c.50 (C.26:6-77 et al.), the
40 theft constitutes a crime of the first degree; or

41 (f) It is in breach of an obligation by a person in his capacity as a
42 fiduciary and the amount involved is \$50,000.00 or more.

43 (2) Theft constitutes a crime of the third degree if:

44 (a) The amount involved exceeds \$500.00 but is less than
45 \$75,000.00;

46 (b) The property stolen is a firearm, motor vehicle, vessel, boat,
47 horse, domestic companion animal or airplane;

1 (c) The property stolen is a controlled dangerous substance or
2 controlled substance analog as defined in N.J.S.2C:35-2 and the
3 amount involved is less than \$75,000.00 or is undetermined and the
4 quantity is one kilogram or less;

5 (d) It is from the person of the victim;

6 (e) It is in breach of an obligation by a person in his capacity as a
7 fiduciary and the amount involved is less than \$50,000.00;

8 (f) It is by threat not amounting to extortion;

9 (g) It is of a public record, writing or instrument kept, filed or
10 deposited according to law with or in the keeping of any public office
11 or public servant;

12 (h) The property stolen is a person's benefits under federal or State
13 law, or from any other source, which the Department of Human
14 Services or an agency acting on its behalf has budgeted for the
15 person's health care and the amount involved is less than \$75,000.00;

16 (i) The property stolen is any real or personal property related to,
17 necessary for, or derived from research, regardless of value, including,
18 but not limited to, any sample, specimens and components thereof,
19 research subject, including any warm-blooded or cold-blooded animals
20 being used for research or intended for use in research, supplies,
21 records, data or test results, prototypes or equipment, as well as any
22 proprietary information or other type of information related to
23 research;

24 (j) The property stolen is a New Jersey Prescription Blank as
25 referred to in R.S.45:14-14;

26 (k) The property stolen consists of an access device or a defaced
27 access device; **[or]**

28 (l) The property stolen consists of anhydrous ammonia and the
29 actor intends it to be used to manufacture methamphetamine ; or

30 (m) The property stolen is "grease" or a "grease container" as
31 defined and regulated pursuant to P.L. , c. (C.) (pending
32 before the Legislature as this bill).

33 (3) Theft constitutes a crime of the fourth degree if the amount
34 involved is at least \$200.00 but does not exceed \$500.00.

35 (4) Theft constitutes a disorderly persons offense if:

36 (a) The amount involved was less than \$200.00; or

37 (b) The property stolen is an electronic vehicle identification
38 system transponder.

39 The amount involved in a theft or computer criminal activity shall
40 be determined by the trier of fact. The amount shall include, but shall
41 not be limited to, the amount of any State tax avoided, evaded or
42 otherwise unpaid, improperly retained or disposed of. Amounts
43 involved in thefts or computer criminal activities committed pursuant
44 to one scheme or course of conduct, whether from the same person or
45 several persons, may be aggregated in determining the grade of the
46 offense.

47 c. Claim of right. It is an affirmative defense to prosecution for
48 theft that the actor:

- 1 (1) Was unaware that the property or service was that of another;
2 (2) Acted under an honest claim of right to the property or service
3 involved or that he had a right to acquire or dispose of it as he did; or
4 (3) Took property exposed for sale, intending to purchase and pay
5 for it promptly, or reasonably believing that the owner, if present,
6 would have consented.
7 d. Theft from spouse. It is no defense that theft or computer
8 criminal activity was from or committed against the actor's spouse,
9 except that misappropriation of household and personal effects, or
10 other property normally accessible to both spouses, is theft or
11 computer criminal activity only if it occurs after the parties have
12 ceased living together.
13 (cf: P.L.2013, c.58, s.2)

14

15 13. N.J.S.2C:21-3 is amended to read as follows:

16 2C:21-3 a. Fraudulent destruction, removal or concealment of
17 recordable instruments. A person commits a crime of the third degree
18 if, with purpose to deceive or injure anyone, he destroys, removes or
19 conceals any will, deed, mortgage, security instrument or other writing
20 for which the law provides public recording.

21 b. Offering a false instrument for filing. A person is guilty of a
22 disorderly persons offense when, knowing that a written instrument
23 contains a false statement or false information, he offers or presents it
24 to a public office or public servant with knowledge or belief that it will
25 be filed with, registered or recorded in or otherwise become a part of
26 the records of such public office or public servant.

27 c. False statement in a registration or manifest. A person
28 commits a crime of the third degree when he signs a manifest or
29 registration pursuant to P.L. , c. (C.) (pending before the
30 Legislature as this bill) with knowledge that the manifest or
31 registration contains a false statement.

32 (cf: N.J.S.2C:21-3)

33

34 14. (New section) a. Within 180 days after the date of enactment
35 of this act, and notwithstanding the provisions of the "Administrative
36 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
37 the Commissioner of Environmental Protection shall, immediately
38 upon filing proper notice with the Office of Administrative Law, adopt
39 the rules and regulations necessary to establish a grease recycling
40 registration program established pursuant to sections 2 through 6 of
41 this act.

42 b. The rules and regulations adopted pursuant to subsection a. of
43 this section shall be in effect for a period not to exceed one year after
44 the date of the filing. Thereafter, the commissioner shall adopt,
45 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
46 (C.52:14B-1 et seq.), rules and regulations necessary for the
47 implementation of this act.

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1 reasonable person to believe that grease may have been stolen or
2 obtained in a manner inconsistent with this bill. A person who
3 reports such information to law enforcement officials would be
4 immune from any civil liability arising from the report.

5 Under the bill, it would be a violation for any person to: (1) sell
6 or offer to sell grease to an unregistered person for transport or
7 recycling; (2) steal or damage a grease container owned by another
8 person, or place a label on a container owned by another person
9 with the intent to assert ownership over the container; (3) take
10 possession of grease from a person who is not registered or of
11 grease that was stolen; (4) collect, transport, process, store, or
12 dispose of grease in any manner that violates this bill. A container
13 in which grease has been deposited would be presumed to be owned
14 by the person named on the container. Any person who violates
15 this act commits a disorderly persons offense. In addition, a
16 violator would be subject to a fine of not less than \$2,500 for a first
17 offense, not more than \$5,000 for a second offense, and not more
18 than \$10,000 for a third or subsequent offense. No person charged
19 with theft of grease or a grease container may be charged with or
20 plead guilty to a lesser offense, where the charge is for a second or
21 subsequent offense. A person convicted of a violation of this bill
22 must also perform up to 90 days of community service.

23 In addition to these penalties, the department may suspend or
24 revoke a registration at any time if, based upon evidence, the
25 department determines that the registrant has: (1) sold or offered
26 for sale to an unregistered person any grease knowing the
27 unregistered person would transport or recycle the grease in
28 violation of the bill; (2) stolen, misappropriated, contaminated, or
29 damaged any grease container or grease therein; (3) taken
30 possession of grease from an unregistered transporter or that has
31 been stolen; or (4) otherwise failed to comply with this bill.

32 This bill also amends existing law to make theft of grease or a
33 grease container a crime of the third degree, and signing a manifest
34 or registration under this bill, with knowledge that the manifest or
35 registration contains a false statement, a crime of the third degree.