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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1854

05/18/2013 Authored by Falk, Swedzinski and Torkelson

The bill was read for the first time and referred to the Committee on Commerce and Consumer Protection Finance and Policy

1.1 A bill for an act  
1.2 relating to commerce; regulating used kitchen grease collectors, processors, and  
1.3 transporters; providing civil and criminal penalties; proposing coding for new  
1.4 law as Minnesota Statutes, chapter 45A.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. **[45A.10] PURPOSE.**

1.7 The purpose of this chapter is to: (1) provide minimum uniform statewide  
1.8 regulations for persons that collect, process, or transport used kitchen grease; (2) prevent  
1.9 the illegal collection, purchase, and sale of used kitchen grease; and (3) establish a  
1.10 commercial registry for the used kitchen grease industry.

1.11 Sec. 2. **[45A.20] DEFINITIONS.**

1.12 Subdivision 1. **Application.** The definitions in this section apply to this chapter.

1.13 Subd. 2. **Collect.** "Collect" means to accumulate used kitchen grease that is  
1.14 ultimately sold to a renderer or other person for further processing. Collect does not  
1.15 mean the accumulation of used kitchen grease at the food establishment that generates  
1.16 the used kitchen grease.

1.17 Subd. 3. **Commissioner.** "Commissioner" means the commissioner of commerce.

1.18 Subd. 4. **Emergency service.** "Emergency service" means the removal of used  
1.19 kitchen grease by a registrant from the registrant's own grease container in response to a  
1.20 service request by a food establishment at any time outside of a regularly scheduled service.

1.21 Subd. 5. **Food establishment.** "Food establishment" means a facility where food is  
1.22 manufactured, processed, or served.

2.1 Subd. 6. **Processor.** "Processor" means a person that changes or improves, no  
2.2 matter how slight, the composition or quality of used kitchen grease, but does not also  
2.3 collect or transport used kitchen grease.

2.4 Subd. 7. **Registrant.** "Registrant" means a person registered with the commissioner  
2.5 under this chapter.

2.6 Subd. 8. **Renderer.** "Renderer" means a person who commercially cooks carcasses,  
2.7 or parts or products of the carcasses of cattle, swine, poultry, or other animals or animal  
2.8 byproducts.

2.9 Subd. 9. **Transport or transportation.** "Transport" or "transportation" means the  
2.10 movement of used kitchen grease in a motor vehicle on public roads.

2.11 Subd. 10. **Trap grease.** "Trap grease" means used kitchen grease that is removed  
2.12 from a grease trap and principally derived from food preparation or processing.

2.13 Subd. 11. **Used kitchen grease.** "Used kitchen grease" means animal fats or  
2.14 vegetable oils that have been used, and will not be reused, for cooking in a food  
2.15 establishment, including but not limited to trap grease and used fryer or cooking oil.

2.16 **Sec. 3. [45A.30] APPLICATION; REGISTRATION TERM; FEES.**

2.17 Subdivision 1. **Application.** A person who collects, processes, or transports used  
2.18 kitchen grease must register with the commissioner. In addition, a person must register  
2.19 with the commissioner if the person holds an equity or debt interest exceeding five percent  
2.20 of the value of equipment used by a registrant to process or transport used kitchen grease.  
2.21 Registration shall be for a term no longer than one year.

2.22 Subd. 2. **Renderers.** A person regulated by the commissioner of agriculture as a  
2.23 renderer under chapter 31A that also collects, processes, or transports used kitchen grease  
2.24 must register with the commissioner under this section but is not required to pay the  
2.25 fees under subdivision 2.

2.26 Subd. 2. **Application; fees.** A person must submit an application on a form  
2.27 provided by the commissioner no less than 30 days before the person intends to collect,  
2.28 process, or transport used kitchen grease. The application shall include:

2.29 (1) the applicant's legal name and business address;

2.30 (2) a description of the activity or activities to be performed by the applicant;

2.31 (3) the make, model, license number, and vehicle identification number of any  
2.32 vehicle to be used for the collection or transportation of used kitchen grease;

2.33 (4) a nonrefundable application fee of \$100;

3.1 (5) a fee of \$100 per vehicle registered under clause (3), or a fee of \$100 per location  
 3.2 used to process used kitchen grease if the processor does not also collect or transport  
 3.3 used kitchen grease; and

3.4 (6) proof of personal injury, automobile and property damage liability insurance in  
 3.5 an amount totaling not less than \$1,000,000.

3.6 Subd. 3. **Registration; display.** The commissioner shall issue each registrant  
 3.7 a unique registration number and a registration certificate. Each vehicle used in the  
 3.8 collection or transportation of used kitchen grease shall conspicuously display the  
 3.9 registration number and name of the owner of the vehicle in letters not less than three  
 3.10 inches high. A processor shall conspicuously display the registration certificate at each  
 3.11 location where used kitchen grease is processed by the processor.

3.12 Sec. 4. **[45A.40] CERTAIN RENDERERS EXEMPT.**

3.13 This chapter does not apply to the premises or the rendering operations on the  
 3.14 premises of any establishment regulated by the commissioner of agriculture under chapter  
 3.15 31A. However, a renderer is not exempt from the requirements of this chapter if collecting,  
 3.16 processing, or transporting used kitchen grease.

3.17 Sec. 5. **[45A.50] INDIVIDUAL USE; LIMITATIONS AND ADDITIONAL**  
 3.18 **REQUIREMENTS.**

3.19 An individual who transports used kitchen grease for the individual's own personal,  
 3.20 noncommercial use as an alternative fuel may pay only 25 percent of the fees otherwise  
 3.21 required under section 45A.30. In addition to other requirements in this chapter, to qualify  
 3.22 for the individual-use rate the individual:

3.23 (1) must not transport more than 55 gallons of used kitchen grease per load, and  
 3.24 must have no more than 165 gallons of used kitchen grease in their possession, control,  
 3.25 or ownership at any time;

3.26 (2) while transporting used kitchen grease, must have a document in the individual's  
 3.27 possession that is signed and dated by the responsible party who willingly supplied the  
 3.28 used kitchen grease to the individual;

3.29 (3) must not obtain used kitchen grease from (i) a container owned by a registrant, or  
 3.30 (ii) a food establishment under contract with a registrant; and

3.31 (4) must specify where used kitchen grease is stored and processed as an alternative  
 3.32 fuel, if that address is different from the address included on the registration form  
 3.33 submitted by the individual pursuant to section 45A.30.

4.1       Sec. 6. **[45A.60] RECORDS REQUIRED.**

4.2             Every registrant shall record, maintain for two years, and make available for  
4.3 inspection by the commissioner the following information:

4.4             (1) the name and address of each location or person from which the registrant  
4.5 obtained used kitchen grease for transportation;

4.6             (2) the date and quantity of used kitchen grease received from each location or  
4.7 person every time used kitchen grease is removed or collected; and

4.8             (3) the renderer, processor, or purchaser to which the registrant delivered used  
4.9 kitchen grease, including the quantity of used kitchen grease delivered.

4.10       Sec. 7. **[45A.70] POSSESSION OF CERTIFICATE; DISPLAY OF**  
4.11 **REGISTRATION INFORMATION ON MOTOR VEHICLE.**

4.12             No person required to register under this chapter shall collect or transport used kitchen  
4.13 grease without (1) having in their possession a registration certificate, (2) conspicuously  
4.14 displaying the registrant's name and registration number as required under section 45A.30,  
4.15 and (3) except in the case of an emergency service, having in their possession a paper or  
4.16 electronic copy of a route list containing the name and address of each person or location  
4.17 where the registrant obtained or will obtain used kitchen grease for transport for that load.

4.18       Sec. 8. **[45A.80] PRESUMPTION OF OWNERSHIP.**

4.19             A grease container in which used kitchen grease is deposited that bears a name on  
4.20 the container shall be presumed to be owned by the person named on the container and no  
4.21 person or entity can authorize an individual other than the owner of the grease container to  
4.22 remove used kitchen grease from the container.

4.23       Sec. 9. **[45A.90] PROHIBITED ACTS.**

4.24             (a) It is a violation of this chapter for any person to:

4.25             (1) sell or offer for sale to an unregistered person any used kitchen grease for  
4.26 collection, processing, or transport;

4.27             (2) remove any volume of used kitchen grease from a container owned by another  
4.28 person;

4.29             (3) break or enter into a used kitchen grease container owned by another by fraud,  
4.30 deception, or breaking or dismantling any part of a used kitchen grease container,  
4.31 including but not limited to the lid, screens, locks, or any accessory parts such as  
4.32 connected pipes or fittings;

5.1 (4) steal, misappropriate, contaminate, lock, bind, deface, or damage a used kitchen  
 5.2 grease container owned by another person;

5.3 (5) take possession of used kitchen grease that was stolen or transported in violation  
 5.4 of this chapter;

5.5 (6) place a label on a used kitchen grease container owned by another person or  
 5.6 attempt to exercise control or ownership over a used kitchen grease container owned  
 5.7 by another; or

5.8 (7) engage in, or aid and abet another person or entity in the commission of, any  
 5.9 violation of this chapter or an order issued by the commissioner pursuant to this chapter.

5.10 (b) It is not a violation of this chapter if, at the written direction of a food  
 5.11 establishment, a person removes used kitchen grease from a used kitchen grease container  
 5.12 owned by another, provided that the food establishment provided at least 30 days' prior  
 5.13 written notice to the person via certified mail of the food establishment's intent to terminate  
 5.14 service or have used kitchen grease and a used kitchen grease container removed from  
 5.15 its premises. It is a violation of this chapter to fail to provide notice as required in this  
 5.16 paragraph.

5.17 **Sec. 10. [45A.91] ADMINISTRATIVE ACTIONS; PENALTIES.**

5.18 Subdivision 1. **Administrative remedies.** The commissioner may seek to remedy  
 5.19 violations by a written warning, administrative meeting, cease and desist, stop-use,  
 5.20 stop-sale, removal, correction order, or other special order, seizure, stipulation, agreement,  
 5.21 or administrative penalty, if the commissioner determines that the remedy is in the public  
 5.22 interest.

5.23 Subd. 2. **Revocation or suspension.** The commissioner may, after written notice  
 5.24 and hearing, revoke, suspend, or refuse to grant or renew a registration if a person violates  
 5.25 a provision of this chapter or has a history within the last three years of violations of  
 5.26 this chapter.

5.27 Subd. 3. **Penalty.** (a) In determining the amount of the administrative penalty,  
 5.28 the commissioner shall consider the economic gain received by the person allowing or  
 5.29 committing the violation, and the violator's culpability, good faith, and history of violations.

5.30 (b) The commissioner may assess an administrative penalty of no less than \$1,000  
 5.31 for a first offense. For a second offense within one year, the commissioner may assess an  
 5.32 administrative penalty of no less than \$5,000. For a third offense within a period of two  
 5.33 years, the commissioner may assess an administrative penalty of no less than \$10,000.

5.34 (c) The commissioner may assess an administrative penalty if the person subject to  
 5.35 a corrective action order or remedial action order does not comply with the order in the

6.1 time provided in the order. The commissioner must state the amount of the administrative  
6.2 penalty in the corrective action order or remedial action order.

6.3 Subd. 4. **Appeal.** (a) After service of an order or administrative penalty, a person  
6.4 has 45 days from receipt of the order to notify the commissioner in writing that the person  
6.5 intends to contest the order or penalty. If the person fails to notify the commissioner that  
6.6 the person intends to contest the order, the order is a final order of the commissioner and  
6.7 not subject to further judicial or administrative review.

6.8 (b) If a person notifies the commissioner that the person intends to contest an  
6.9 order or administrative penalty issued under this section, the Office of Administrative  
6.10 Hearings shall conduct a hearing in accordance with the applicable provisions of chapter  
6.11 14 for hearings in contested cases. For contested corrective action orders, the Office of  
6.12 Administrative Hearings shall conduct an administrative hearing not later than 14 days  
6.13 after notification that a corrective action order is contested.

6.14 (c) Judicial review of a final decision in a contested case is available as provided  
6.15 in chapter 14.

6.16 **Sec. 11. [45A.92] CIVIL PENALTIES.**

6.17 Subdivision 1. **Penalties.** A person who violates this chapter is subject to a civil  
6.18 penalty of no less than \$1,000 for a first offense. The civil penalty for a second offense  
6.19 within one year is no less than \$5,000. The civil penalty for a third offense within two  
6.20 years is no less than \$10,000.

6.21 Subd. 2. **Actions to compel performance.** In an action to compel performance of  
6.22 an order of the commissioner to enforce a provision of this chapter, the court may require  
6.23 a defendant adjudged responsible to perform the acts within the person's power that are  
6.24 reasonably necessary to accomplish the purposes of the order.

6.25 Subd. 3. **Recovery of penalties by civil action.** The civil penalties and payments  
6.26 provided for in this section may be recovered by a civil action brought by the county  
6.27 attorney or the attorney general in the name of the state.

6.28 Subd. 4. **Other remedies retained.** The provisions of this chapter do not limit  
6.29 any civil remedies available to a party, whether public or private, against a person who  
6.30 violates this chapter.

6.31 **Sec. 12. [45A.93] CRIMINAL PENALTIES.**

6.32 Subdivision 1. **Misdemeanor.** (a) Except as provided in subdivision 2, a person  
6.33 who violates this chapter is guilty of a misdemeanor.

7.1 (b) For a second offense within one year, in addition to any other punishment  
7.2 provided by law the court may order the defendant to stop engaging in business as a  
7.3 transporter for a period not to exceed 30 days.

7.4 (c) For a third offense within two years, in addition to any other punishment  
7.5 provided by law the court must order the defendant to stop engaging in business as a  
7.6 transporter for a period not to exceed six months.

7.7 Subd. 2. **Felony.** A person who violates section 45A.90 is guilty of a felony if  
7.8 the value or loss exceeds \$1,000.