

Chapter 262

(House Bill 881)

AN ACT concerning

Agriculture – Waste Kitchen Grease

FOR the purpose of requiring, with certain exceptions, a person to register annually with the Department of Agriculture before transporting waste kitchen grease; requiring a certain person to submit a certain application to the Department in a form required by the Department; requiring the application to include certain information and fees; requiring the Department to register certain applicants and issue each registrant certain items; requiring ~~the Department to require~~ each registrant to carry a certain certificate when transporting waste kitchen grease and display certain information in a certain manner on certain vehicles; establishing certain record-keeping requirements; ~~authorizing the Department to suspend or revoke a person's registration if the person has taken certain actions; prohibiting a person from knowingly taking certain actions relating to waste kitchen grease~~; establishing a Waste Kitchen Grease Fund; requiring the Department to administer the Fund; providing that the Fund is a special, nonlapsing fund; requiring the Treasurer to hold the Fund and the Comptroller to account for the Fund; providing for the sources of funding for the Fund; providing for the use of the Fund; requiring the Treasurer to invest and reinvest the money of the Fund in a certain manner; requiring that any investment earnings of the Fund be paid into the Fund; ~~prohibiting a person from accepting waste kitchen grease from certain unregistered transporters unless the person keeps certain records and makes the records available to the Department on request; establishing certain restrictions on the taking or carrying away of waste kitchen grease in a container with a certain label and on labeling containers of waste kitchen grease for a certain purpose~~; providing for certain criminal ~~and civil~~ penalties; ~~providing for certain appeals; providing for delayed enforcement of this Act against a certain person under a certain circumstance, expressing the intent of the General Assembly that the Department of Agriculture has no enforcement authority under certain provisions; defining certain terms; and generally relating to the regulation of waste kitchen grease.~~

BY adding to

Article – Agriculture

Section 10-1801 through ~~10-1810~~ 10-1809 to be under the new subtitle
“Subtitle 18. Waste Kitchen Grease”

Annotated Code of Maryland

(2007 Replacement Volume and 2010 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Agriculture

SUBTITLE 18. WASTE KITCHEN GREASE.

10-1801.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “FOOD ESTABLISHMENT” MEANS:

- (1) A FOOD SERVICE FACILITY; OR
- (2) A FOOD PROCESSING PLANT.

(C) (1) “REGISTRANT” MEANS A PERSON WHO HAS REGISTERED WITH THE DEPARTMENT AS A TRANSPORTER OF WASTE KITCHEN GREASE UNDER THIS SUBTITLE.

(2) “REGISTRANT” INCLUDES A PERSON WHO HOLDS AN EQUITY, OWNERSHIP, OR DEBT LIABILITY INTEREST EXCEEDING 5% IN:

(I) A VEHICLE USED BY A REGISTRANT TO TRANSPORT WASTE KITCHEN GREASE; OR

(II) A REGISTRANT THAT IS A BUSINESS OR CORPORATION.

(D) “RENDERER” MEANS A PERSON THAT COOKS ANIMAL CARCASSES, OR PARTS OR PRODUCTS OF CARCASSES, WASTE ANIMAL BY-PRODUCTS, AND WASTE KITCHEN GREASE INTO USABLE END PRODUCTS.

(E) (1) “WASTE KITCHEN GREASE” MEANS ANIMAL FATS OR VEGETABLE OILS USED IN COOKING OR GENERATED BY A FOOD ESTABLISHMENT THAT WILL NOT BE CONSUMED OR REUSED AS FOOD.

(2) “WASTE KITCHEN GREASE” INCLUDES ANIMAL FATS OR VEGETABLE OILS ~~REMOVED FROM A GREASE TRAP~~ THAT ARE PRINCIPALLY DERIVED FROM FOOD PREPARATION AND PROCESSING AND HAVE NOT BEEN PROCESSED BY A RENDERER.

10-1802.

(A) ~~(1)~~ EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PERSON SHALL REGISTER ANNUALLY WITH THE DEPARTMENT BEFORE TRANSPORTING WASTE KITCHEN GREASE.

(B) (1) A PERSON MAY TRANSPORT WASTE KITCHEN GREASE TO PROPERTY OWNED BY THE PERSON TO CONVERT THE WASTE KITCHEN GREASE TO BIOFUEL FOR THE PERSON'S OWN USE PROVIDED THAT THE PERSON:

(I) TRANSPORTS ONLY 275 GALLONS OF WASTE KITCHEN GREASE IN A SINGLE VEHICLE;

(II) POSSESSES OR CONTROLS NO MORE THAN A TOTAL OF 1,320 GALLONS OF WASTE KITCHEN GREASE, BIOFUEL FEEDSTOCK DERIVED FROM WASTE KITCHEN GREASE, OR BIOFUEL STOCK; AND

(III) HAS NOT OBTAINED ANY OF THE WASTE KITCHEN GREASE THAT WILL BE TRANSPORTED FROM:

1. A CONTAINER OWNED BY A REGISTRANT OR A COMMERCIAL RENDERER; OR

2. A FOOD ESTABLISHMENT UNDER CONTRACT WITH A REGISTRANT.

(2) A PERSON MAY TRANSPORT WASTE KITCHEN GREASE TO A FACILITY TO CONVERT THE WASTE KITCHEN GREASE TO BIOFUEL PROVIDED THAT:

(I) THE PERSON:

1. MEETS ALL OF THE REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION; AND

2. OTHER THAN TO A PROPERTY OWNED BY THE PERSON, WILL TRANSPORT THE WASTE KITCHEN GREASE TO ONLY ONE FACILITY DURING A SINGLE 24-HOUR PERIOD; AND

(II) THE RECEIVING FACILITY:

1. HAS A PRODUCTION CAPACITY NOT EXCEEDING 500 GALLONS OF BIOFUEL A DAY; AND

2. POSSESSES OR CONTROLS NO MORE THAN A TOTAL OF 1,320 GALLONS OF WASTE KITCHEN GREASE, BIOFUEL FEEDSTOCK DERIVED FROM WASTE KITCHEN GREASE, OR BIOFUEL.

(3) BIOFUEL USED TO POWER THE VEHICLE TRANSPORTING THE WASTE KITCHEN GREASE IS EXCLUDED FOR THE PURPOSES OF PARAGRAPHS (1) AND (2) OF THIS SUBSECTION.

10-1803.

(A) A PERSON REQUIRED TO REGISTER ANNUALLY WITH THE DEPARTMENT UNDER THIS SUBTITLE AS A TRANSPORTER OF WASTE KITCHEN GREASE SHALL SUBMIT AN APPLICATION FOR REGISTRATION IN THE FORM REQUIRED BY THE DEPARTMENT.

(B) AN APPLICATION TO REGISTER UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

(1) THE APPLICANT'S NAME AND ADDRESS;

(2) THE MAKE, MODEL, LICENSE NUMBER, AND VEHICLE IDENTIFICATION NUMBER OF ANY VEHICLE THAT THE APPLICANT WILL USE TO TRANSPORT WASTE KITCHEN GREASE;

(3) A DESCRIPTION OF THE OPERATIONS TO BE PERFORMED BY THE APPLICANT; AND

(4) PROOF OF VEHICLE INSURANCE WITH PERSONAL INJURY AND PROPERTY DAMAGE COMBINED SINGLE LIMIT LIABILITY LIMITS OF AT LEAST \$1,000,000.

(C) EACH APPLICATION UNDER THIS SECTION SHALL BE ACCOMPANIED BY:

(1) A \$100 APPLICATION FEE; AND

(2) A VEHICLE REGISTRATION FEE OF \$100 FOR EACH VEHICLE THAT THE APPLICANT WILL USE TO TRANSPORT WASTE KITCHEN GREASE.

(D) THE REGISTRATION REQUIRED UNDER THIS SECTION SHALL BE RENEWED ANNUALLY ON THE PAYMENT OF THE FEES REQUIRED UNDER SUBSECTION (C) OF THIS SECTION.

10-1804.

(A) THE DEPARTMENT SHALL REGISTER EACH APPLICANT WHO SUBMITS AN APPLICATION IN ACCORDANCE WITH § 10-1803 OF THIS SUBTITLE AND ISSUE EACH REGISTRANT A UNIQUE REGISTRATION NUMBER AND A CERTIFICATE CONFIRMING REGISTRATION.

(B) THE DEPARTMENT SHALL REQUIRE EACH REGISTRANT TO:

(1) CARRY THE REGISTRATION CERTIFICATE CONTAINING THE UNIQUE REGISTRATION NUMBER WHEN TRANSPORTING WASTE KITCHEN GREASE; AND

(2) CONSPICUOUSLY DISPLAY THE REGISTRANT'S NAME ~~AND REGISTRATION NUMBER IN A FONT THAT IS AT LEAST 3 INCHES HIGH~~ ON ANY VEHICLE USED TO TRANSPORT WASTE KITCHEN GREASE.

10-1805.

(A) ~~THE DEPARTMENT SHALL REQUIRE EACH~~ EACH REGISTRANT TO ~~SHALL~~ KEEP A RECORD OF THE SOURCE, DESTINATION, DATE, AND VOLUME OF WASTE KITCHEN GREASE HAULED.

(B) THE REGISTRANT SHALL KEEP THE RECORDS MAINTAINED UNDER SUBSECTION (A) OF THIS SECTION FOR 2 YEARS AND MAKE THE RECORDS AVAILABLE FOR INSPECTION BY THE ~~DEPARTMENT~~ STATE'S ATTORNEY ON REQUEST.

10-1806.

~~THE DEPARTMENT MAY SUSPEND OR REVOKE A PERSON'S REGISTRATION ISSUED UNDER § 10-1804 OF THIS SUBTITLE, IF THE PERSON HAS~~ IT SHALL BE A VIOLATION OF THIS SUBTITLE FOR ANY PERSON TO KNOWINGLY:

(1) ~~KNOWINGLY SOLD OR OFFERED~~ SELL OR OFFER FOR SALE WASTE KITCHEN GREASE TO AN UNREGISTERED PERSON FOR TRANSPORT IN VIOLATION OF THIS SUBTITLE;

(2) REMOVE WASTE KITCHEN GREASE FROM A CONTAINER OWNED BY ANOTHER PERSON;

~~(2) STOLEN, CONTAMINATED, OR KNOWINGLY DAMAGED CONTAINERS OF OR FOR WASTE KITCHEN GREASE; OR~~

(3) STEAL OR DAMAGE A WASTE KITCHEN GREASE CONTAINER OWNED BY ANOTHER PERSON, OR PLACE A LABEL ON A CONTAINER OWNED BY ANOTHER PERSON TO ASSERT OWNERSHIP OVER THE CONTAINER; OR

~~(3)~~ (4) TAKEN TAKE POSSESSION OF WASTE KITCHEN GREASE THAT WAS STOLEN OR TRANSPORTED IN VIOLATION OF THIS SUBTITLE.

10-1807.

(A) THERE IS A WASTE KITCHEN GREASE FUND.

(B) THE DEPARTMENT SHALL ADMINISTER THE FUND.

(C) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(D) THE FUND CONSISTS OF:

(1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

(2) MONEY RECEIVED FROM ANY PUBLIC OR PRIVATE SOURCE;

(3) INTEREST AND INVESTMENT EARNINGS ON THE FUND; AND

(4) FEES ~~AND PENALTIES~~ COLLECTED UNDER THIS SUBTITLE.

(E) THE FUND MAY BE USED ONLY TO IMPLEMENT THIS SUBTITLE.

(F) (1) THE STATE TREASURER SHALL INVEST AND REINVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE FUND.

10-1808.

~~A PERSON MAY NOT ACCEPT DELIVERY OR POSSESS MORE THAN 55 GALLONS OF WASTE KITCHEN GREASE FROM AN UNREGISTERED TRANSPORTER REQUIRED TO BE REGISTERED UNDER § 10-1802 OF THIS SUBTITLE UNLESS THE PERSON:~~

(1) ~~MAINTAINS A RECORD FOR 2 YEARS OF:~~

(2) ~~THE NAME AND ADDRESS OF THE UNREGISTERED TRANSPORTER;~~

(3) ~~THE DATE THAT THE PERSON RECEIVED THE WASTE KITCHEN GREASE;~~

(4) ~~THE QUANTITY OF WASTE KITCHEN GREASE THAT WAS DELIVERED; AND~~

(5) ~~THE LICENSE NUMBER AND ISSUING STATE ON THE LICENSE PLATE OF THE VEHICLE USED BY THE UNREGISTERED TRANSPORTER TO DELIVER THE WASTE KITCHEN GREASE; AND~~

(2) ~~MAKES THE RECORD REQUIRED UNDER PARAGRAPH (1) OF THIS SECTION AVAILABLE TO THE DEPARTMENT FOR INSPECTION ON REQUEST.~~

~~10-1809.~~

(A) (1) ~~EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PERSON OTHER THAN THE CONTAINER OWNER, OR THE CONTAINER OWNER'S AUTHORIZED AGENT, MAY NOT TAKE AND CARRY AWAY OR AID IN THE TAKING OR CARRYING AWAY OF WASTE KITCHEN GREASE THAT IS IN A CONTAINER THAT BEARS A NOTICE THAT UNAUTHORIZED REMOVAL IS PROHIBITED WITHOUT WRITTEN CONSENT FROM THE CONTAINER OWNER.~~

(2) ~~THE OWNER OR LESSEE OF A PROPERTY WHERE A CONTAINER OF WASTE KITCHEN GREASE HAS BEEN LAWFULLY PLACED MAY REMOVE THE CONTAINER IF:~~

(1) ~~THE OWNER OR LESSEE OF THE PROPERTY NOTIFIES THE CONTAINER OWNER BY CERTIFIED MAIL THAT THE OWNER OR LESSEE OF THE PROPERTY WOULD LIKE THE CONTAINER TO BE REMOVED; AND~~

(2) ~~30 DAYS AFTER THE DATE THAT THE NOTICE UNDER ITEM (1) OF THIS PARAGRAPH WAS SENT, THE CONTAINER OWNER HAS NOT REMOVED THE CONTAINER.~~

(B) ~~A PERSON MAY NOT PLACE A LABEL ON A CONTAINER OF KITCHEN WASTE GREASE OWNED BY ANOTHER PERSON IN ORDER TO ASSERT OWNERSHIP OVER THE CONTAINER.~~

10-1810. 10-1808.

~~(A)~~ A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO:

(1) FOR A FIRST OFFENSE, A FINE NOT EXCEEDING \$1,000 FOR EACH VIOLATION AND COURT COSTS; AND

(2) FOR A SECOND OFFENSE, A FINE NOT EXCEEDING \$10,000, IMPRISONMENT NOT EXCEEDING 1 YEAR, OR BOTH.

~~(B) IN ADDITION TO THE PENALTIES UNDER SUBSECTION (A) OF THIS SECTION, THE SECRETARY MAY ASSESS A CIVIL PENALTY NOT EXCEEDING \$5,000 FOR ANY VIOLATION OF THIS SUBTITLE.~~

~~(C) A PERSON MAY APPEAL THE SUSPENSION OR REVOCATION OF REGISTRATION, OR THE IMPOSITION OF A CIVIL PENALTY, IN ACCORDANCE WITH THE CONTESTED CASE PROVISIONS OF THE ADMINISTRATIVE PROCEDURE ACT.~~

10-1809.

THE STATE'S ATTORNEY OF A COUNTY SHALL ENFORCE THE PROVISIONS OF THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That before October 31, 2011, the Department of Agriculture may not take enforcement action under Title 10, Subtitle 18 of the Agricultural Article, as enacted by Section 1 of this Act, against a person who, on or before October 1, 2011, has submitted an application for registration in accordance with Section 10-803 of the Agriculture Article, as enacted by Section 1 of this Act. ~~it is the intent of the General Assembly that the Department of Agriculture has no enforcement responsibilities under the provisions of this Act.~~

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.