(H.B. 1424)

(No. 125)

(Approved July 14, 1998)

AN ACT

To amend clause (7) of Section 6; Section 8; add a second paragraph to clause (7) and amend clauses (1) and (8) of Section 11 of Act No. 172 of August 31, 1996, known as the "Act for the Proper Management of Used Oil in Puerto Rico", in order to extend the term within which the retail buyers of lubricating oil may take their used oil to any authorized collection center, and at the same time increase the term for recovering the deposit; to eliminate the provision empowering the Department of the Treasury to extend credit for the costs of the transporting and disposing of used oil; to appropriate funds, and for other purposes.

STATEMENT OF MOTIVES

The improper disposal of used oil is a major threat to health and the environment, polluting surface and ground waters, the land and the subsoil.

In Puerto Rico it is of special interest that used oil be properly managed. To such effects, the Legislature approved Act No. 172 of August 31, 1996, known as the "Act for the Proper Management of Used Oil in Puerto Rico". Said Act establishes standards for the protection of the environment and mechanisms to ensure the proper management of used oil and render this process cost-effective.

However, the public as well as oil retailers and service station owners are greatly concerned with the difficulties encountered regarding the reimbursement of the Environmental Protection Deposit since the term

proposed is neither sufficient enough nor compatible with oil changes which are generally made every three (3) months. On the other hand, experience has shown that since the approval of the Act its implementation has faced difficulties which could be overcome to make said law more effective. Section 8 of the aforementioned Act No. 172 provides that the person who buys lubricating oil shall have a term of thirty (30) days to take the used oil to a collection center in order to claim reimbursement of the deposit within a term of ninety (90) days. One of the problems this creates is that when a person buys oil to add to the oil tank in his/her vehicle he/she does not obtain any used oil in return. It is not until a total oil change is made that the person will have used oil to take to a collection center which shall credit its receipt in order for that person to be able claim reimbursement of the deposit. The term of thirty (30) days makes it difficult to obtain the deposit since most people change the oil in their vehicles every three (3) months. By virtue of the above, the term for a person who buys lubricating oil at retail to deliver his/her used oil to a collection center and have it certified as being received in order to have the deposit thereon reimbursed, is hereby extended from thirty (30) to ninety (90) days, and the term for reimbursing the deposit once the used oil has been received and certified as such, is hereby increased to one hundred and twenty (120) days.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Clause (7) of Section 6 of Act No. 172 of August 31, 1996, is hereby amended to read as follows:

"Section 6.- Collection Centers

1. …

7. The costs of transportation and disposal of the used oil collected from the collection centers or from the industrial and private sectors shall be

defrayed by the Used Oil Collection and Management Fund established under this Act and shall be calculated by determining the cost on the basis of the experience of the local industry, provided it does not exceed sixty-five percent (65%) of the total of the collection. The Department of the Treasury shall pay the operator of the collection center or the generator, in the case of the industrial and private sectors, for the transportation and disposal of the oil. The Department of the Treasury shall determine through regulations the procedure to be followed for the payment of the costs of the transportation and disposal of the used oil.

8. …"

Section 2.- Section 8 of Act No. 172 of August 31, 1996, is hereby amended to read as follows:

"Section 8.- Environmental Protection Deposit

Every person who sells lubricating oil shall collect a deposit of fifty (50) cents for each quart (1/4) of lubricating oil sold in his/her place of business. The buyer shall return the used oil to any authorized collection center within a period of ninety (90) days. There he/she shall be asked for a voucher or sales receipt which shall indicate the number of quarts (1/4) of oil purchased as well as the amount of the deposit posted. The collection center shall be responsible for certifying on the original voucher or sales receipt, through a stamp or official seal, that the used oil was duly accepted. Said certification shall include the approximate amount of oil accepted as well as the date it was received. The buyer shall recover his/her deposit when he/she takes the certified receipt to the establishment where he/she purchased the oil within a period of one hundred and twenty (120) days from the date of purchase. The imposition, collection and administration of the Environmental Protection Deposit shall be governed by the regulations promulgated by the Department

of the Treasury for such purpose. The unclaimed deposits shall be administered by the Department of the Treasury and fifty percent (50%) percent of said unclaimed deposits shall be distributed among the agencies in charge of the education concerning this Act and its implementation and supervision, as follows: the Environmental Quality Board, twenty-two point five percent (22.5%); the Department of the Treasury, sixteen percent (16%) and the Solid Waste Authority, eleven point five percent (11.5%). The remaining fifty percent (50%) shall be deposited in the emergency account mentioned in Section 12 of this Act.

The Secretary of the Treasury is hereby empowered to impose sanctions and administrative fines for infractions of this Section or the regulations approved thereunder, which shall not exceed five thousand (5,000) dollars for each infraction, it being understood that each infraction shall be deemed as a separate violation. The Secretary of the Treasury is also empowered to impose the corresponding surcharges and interest on any amount received on account of the environmental protection deposit which has not been remitted in time, or for a lesser amount to that which should have been remitted."

Section 3.- A second paragraph is hereby added to clause (7) and clause (8) of Section 11 of Act No. 172 of August 31, 1996, is amended, to read as follows:

"Section 11.- Fee for the Disposal of Used Oil and Environmental Protection

1. …

In the case of lubricating oil imported, manufactured or sold in Puerto Rico in bulk or semi-bulk, and that having paid the fee corresponding to said type of container is then repackaged by the importer, manufacturer or any other person in containers of less than fifty-five (55) gallons to be resold in Puerto

Rico, the importer, manufacturer or person making the sale, as the case may be, shall be responsible for paying the difference between the fee corresponding to fifty-five gallon containers or more (bulk or semi-bulk) and the fee corresponding to containers of less than fifty-five (55) gallons.

7. …

The Secretary of the Treasury is also empowered to impose the corresponding surcharges and interest over any amount not received or not received on time of the fee for the disposal of used oil.

8. Every generator of used oil who reuses and recycles the used oil generated by its own machinery, equipment and motor vehicle fleet as part of its industrial process, shall receive the equivalent of the cost of transportation in Puerto Rico and the disposal of said used oil, according to the rates established in Section 10 and the provisions of Section 6(7) of this Act. The equivalent shall be granted by the Department of the Treasury through credits or payments for new purchases of lubricating oil. Only the number of reused or recycled gallons of lubricating oil for which the generator paid the disposal and environmental protection fee shall be considered for said payment. In order to grant said credit or payment, the claimant shall obtain a certification from the Environmental Quality Board to such effect."

Section 4.- The Department of the Treasury and the Environmental Quality Board are hereby authorized to amend the corresponding regulations in order to adjust them to Sections 1 and 2 of this Act and to take the necessary measures to ensure compliance with its provisions.

Section 5.- This Act shall take effect immediately after its approval.

July 28, 1999

Luis G. Hidalgo, Director of the Office of Legislative Services of the Legislature of Puerto Rico, hereby certifies to the Secretary of State that he has duly compared the English and Spanish texts of Act No. 125 (H.B. 1424) of the 3rd Session of the 13th Legislature of Puerto Rico, entitled:

AN ACT to amend clause (7) of Section 6; Section 8; add a second paragraph to clause (7) and amend clauses (1) and (8) of Section 11 of Act No. 172 of August 31, 1996, known as the "Act for the Proper Management of Used Oil in Puerto Rico", in order to extend the term within which the retail buyers of lubricating oil may take their used oil to any authorized collection center, and at the same time increase the term for recovering the deposit; etc.,

and finds the same are complete, true and correct versions of each other.

Luis G. Hidalgo