

VIRGINIA ACTS OF ASSEMBLY -- 2010 SESSION

CHAPTER 868

An Act to amend the Code of Virginia by adding in Title 3.2 a chapter numbered 55.1, consisting of sections numbered 3.2-5508 through 3.2-5516, relating to waste kitchen grease; transportation; fees; penalty.

[H 1322]

Approved April 21, 2010

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 3.2 a chapter numbered 55.1, consisting of sections numbered 3.2-5508 through 3.2-5516, as follows:

CHAPTER 55.1.

WASTE KITCHEN GREASE.

§ 3.2-5508. Definitions.

As used in this chapter unless the context requires a different meaning:

"Food establishment" means those operations subject to regulation by the Virginia Department of Health as food establishments under the authority granted by § 35.1-14.

"Registrant" means any person who has registered with the Department as a transporter of waste kitchen grease.

"Renderer" means any person who commercially cooks carcasses, or parts or products of carcasses, of cattle, swine, poultry, and other animals and other waste animal by-products and waste kitchen grease into usable products.

"Transport" or "transportation" means the movement of waste kitchen grease in a motor vehicle on public roads.

"Trap grease" means waste kitchen grease that is removed from a grease trap and is principally derived from food preparation and processing.

"Usable products" means a product resulting from the processing of waste kitchen grease and shall include biofuels, lubricants, and animal feed, provided that such animal feed uses are allowed by the U.S. Food and Drug Administration.

"Waste kitchen grease" means animal fats or vegetable oils that have been used, and will not be reused, for cooking in a food establishment, including trap grease.

§ 3.2-5509. Application; registration term; fees.

A. Except as provided in § 3.2-5510, on and after September 1, 2010, any person who transports waste kitchen grease shall submit an application for registration to the Department not less than 30 days before such transportation. Registration shall be for a term no longer than one year. The application shall be submitted in accordance with a procedure established by the Department for this purpose. The application shall include:

- 1. The applicant's name and address;*
- 2. A description of the operations to be performed by the applicant;*
- 3. The make, model, license number, and vehicle identification number of any vehicle to be used for the transportation of waste kitchen grease;*
- 4. A nonrefundable application fee of \$100;*
- 5. A fee of \$100 per vehicle used to transport waste kitchen grease; and*
- 6. Proof of personal injury and property damage liability insurance in an amount not less than \$1 million.*

B. The Department shall issue each registrant a unique registration number and a registration certificate.

§ 3.2-5510. Individual use; limitations and additional requirements.

A. An individual who transports waste kitchen grease for his own conversion to biofuel shall not be required to register pursuant to § 3.2-5509 provided that he:

- 1. Transports waste kitchen grease in a container or containers with a total capacity of no more than 275 gallons on any one vehicle at any time;*
- 2. Possesses or controls no more than 1,320 gallons of waste kitchen grease, biofuel feedstock derived from waste kitchen grease, or biofuel at any time, excluding biofuel contained in vehicle fuel tanks used to power the vehicle's movement; and*
- 3. Does not obtain waste kitchen grease from (i) a container owned by a registered transporter of waste kitchen grease, (ii) a food establishment under contract with a registered transporter of waste kitchen grease, or (iii) a container owned by a renderer or collection center.*

B. An individual who transports waste kitchen grease to a facility for the purpose of conversion to biofuel shall not be required to register pursuant to § 3.2-5509 provided that:

1. He meets all the requirements of subsection A;
2. He transports waste kitchen grease to no more than one facility, other than on his own property, during a one-day period;
3. Such facility has a capacity to produce no more than 500 gallons per day of biofuel; and
4. Such facility does not possess or control more than 1,320 gallons of waste kitchen grease, biofuel feedstock derived from waste kitchen grease, or biofuel at any time, excluding biofuel contained in vehicle fuel tanks to power the vehicle's movement.

§ 3.2-5511. Recordkeeping.

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

1. The name and address of each location or person from which the registrant obtained the waste kitchen grease for transportation;
2. The quantity of material received from each location or person;
3. The date on which the waste kitchen grease was obtained from each location or person; and
4. The renderer or other processor to which the waste kitchen grease was delivered.

§ 3.2-5512. Possession of certificate; display of registration information on motor vehicle.

No person required to register under this chapter shall transport waste kitchen grease without (i) having in his possession a registration certificate and (ii) conspicuously displaying the registrant's name and the registration number in letters not less than three inches high on any vehicle used for the transportation of waste kitchen grease.

§ 3.2-5513. Suspension or revocation.

A. The Commissioner may suspend or revoke a registration at any time if, in his discretion, the registrant has:

1. Sold or offered for sale to an unregistered person any waste kitchen grease knowing such unregistered person would transport such waste kitchen grease in violation of this chapter;
2. Stolen, misappropriated, contaminated, or damaged any waste kitchen grease container or grease therein; or
3. Taken possession of waste kitchen grease from an unregistered transporter other than as allowed in subsection A of § 3.2-5515, or has knowingly taken possession of waste kitchen grease that has been stolen.

B. For purposes of this section, the term "registrant" also includes any person who holds more than a five percent equity, ownership, or debt liability in the person registered to engage in the transportation of waste kitchen grease.

§ 3.2-5514. Waste Kitchen Grease Fund established.

There is hereby created in the state treasury a special nonreverting fund to be known as the Waste Kitchen Grease Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All funds collected under this chapter shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for carrying out the purposes of this chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner.

§ 3.2-5515. Penalty.

A. Except for waste kitchen grease transported and delivered pursuant to § 3.2-5510, on and after September 1, 2010, no person shall take possession of more than 55 gallons of waste kitchen grease from an unregistered transporter unless the recipient maintains documentation for two years, which shall be made available for inspection by the Department, of the (i) name and address of the person delivering the waste kitchen grease, (ii) date of receipt of the waste kitchen grease, (iii) delivering vehicle's license plate number and state of registration, and (iv) quantity delivered.

B. The Commissioner may assess a civil penalty of not more than \$5,000 for any violation of a provision of this chapter.

C. Any person required to register with the Department pursuant to § 3.2-5509 who fails to so register is guilty of a Class 3 misdemeanor.

§ 3.2-5516. Appeals.

The Commissioner's suspension or revocation of a registration, or the imposition of a civil penalty, may be appealed in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).