

(H.B. 2495)
(Conference)
(Reconsidered)

(No. 128)

(Approved July 20, 2006)

AN ACT

To amend Section 4 of Act No. 278 of September 14, 2004, for the purpose of postponing its effectiveness until December 31, 2006, with the exception of the last sentence of the first (1st) paragraph of Section 8 of Act No. 278 of September 14, 2004, of Act No. 172 of August 31, 1996, as amended, which is amended; and to establish that during said term the provisions of Act No. 172 of August 31, 1996, as amended, known as the “Act for the Proper Management of Used Oil in Puerto Rico” shall be in effect to September 13, 2004 and its Section 13, as amended, to September 22, 2004; to amend Section 13 of Act No. 172 of August 31, 1996, as amended, for the purpose of including as members of the Administrative Board, created by said Act, the Secretary of the Department of Consumer Affairs, the President the Puerto Rico Automotive Technicians Association and a representative of each of the Bodies of the Legislature; provide that on or before October 31, 2006, the Administrative Board shall submit a report to the Clerk of the House of Representative and to the Secretary of the Senate of Puerto Rico setting forth its recommendations for the adoption, revision or modification of the legislation needed for the proper management of used oil in Puerto Rico; and for other purposes.

STATEMENT OF MOTIVES

The improper disposal of used oil, high in heavy metal, additives and pollutant contents has disastrous effects on the environment, the health and the public welfare due to the possible pollution of surface and ground waters

and the pollution of the land and the subsoil. It is a known fact that the used oil disposed of through the sanitary sewer system destroys the bacteria in the water treatment systems and that when it is spilled into storm-water sewers or onto the land it may potentially pollute the reserves of drinking water.

That is the case of the used lubricating motor oil generated by motor vehicles. However, used lubricating motor oil constitutes a valuable resource that may be used as an additional source of safe energy in environmental terms or as a clear product once it has been re-refined. In spite of its potential value, a significant amount of used oil is disposed of improperly, thus resulting in a significant environmental risk or threat and in the waste of a renewable energy source.

As reported by the industry, Puerto Rico imports close to 54 million quarts of oil, which for consumers would represent an additional cost of \$27 million for the maintenance of their vehicles and for other uses of an industrial nature. Our working classes cannot withstand another new increase in the cost of living and even less in their means of transportation which allows them to ensure the daily sustenance of their families.

Act No. 172 of August 31, 1996, as amended, known as the “Act for the Proper Management of Used Oil in Puerto Rico,” was adopted to deal with the used oil improper disposal problem. This Act has been the object of a great many amendments, including those introduced by Act No. 278 of September 14, 2004, for the purpose of establishing better controls for the management of the deposits or charges – Environmental Protection Deposits – established in Section 8 of the aforementioned Act No. 172.

After the adoption of Act No. 278, *supra*, persistent problems in the implementation of some of the amendments introduced by the latter to Act No. 172, *supra*, have been brought before the Legislature for its

consideration. Said problems are specifically circumscribed to the procedure required by said Act and the preparation or modification of the applicable regulations whereby it has been necessary on two occasions to suspend the application of those amendments; the first suspension to be until December 31, 2005, through Act No. 109 of September 1, 2005 and the second until March 31, 2006, through Act No. 170 of September 30, 2005.

In order to seek alternatives to this situation, the entrepreneurial sector has held several meetings with representatives of the Environmental Quality Board and the Department of the Treasury without having reached an agreement that would benefit both parties regarding the implementation of Act No. 278. Due to the negative economic effects said situation would create for thousands of consumers and the industry in general, this Legislature must responsibly intervene in defense of our consumers and the business sector in general.

For all of the above, this Legislature believes it to be proper and most necessary to once more postpone the effectiveness of the amendments provided in Act No. 278, *supra*, after the second term for suspending the implementation of said amendments had concluded without the parameters having been duly agreed to for doing so, until December 31, 2006. During that term the provisions of Act No. 172 of August 31, 1996, known as the “Act for the Proper Management of Used Oil in Puerto Rico,” as amended, shall remain in effect until September 13, 2004 and its Section 13, as amended, until September 22, 2004.

It is also evident that there is a need for broadening the participation of sectors of the oil industry with specialized knowledge in this matter in the Administrative Board created through Act No. 172, *supra*, so that better controls may be established for managing and disposing of oils and creating

or modifying the legislation needed for the proper management of used oil in Puerto Rico. Thus, Section 13 of the aforementioned Act No. 172 is amended through the present Act to include the Secretary of the Department of Consumer Affairs, the President the Puerto Rico Automotive Technicians Association and a representative of each of the Bodies of the Legislature. Furthermore, we provide, in a transitory manner, that on or before October 31, 2006, this Administrative Board submit a report to the Clerk of the House of Representative and to the Secretary of the Senate of Puerto Rico setting forth its recommendations for the adoption, revision or modification of the legislation needed for the proper management of used oil in Puerto Rico.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.-Section 4 of Act No. 278 of September 14, 2004, is hereby amended to read as follows:

“Section 4.-This Act shall take effect as of December 31, 2006, it being understood that during that time the provisions of Act No. 172 of August 31, 1996, as amended, known as the “Act for the Proper Management of Used Oil in Puerto Rico,” shall remain in effect until September 13, 2004, and its Section 13, as amended, until September 22, 2004, except for the last sentence of the first (1st) paragraph of Section 8 of Act No. 172 of August 31, 1996, which is hereby amended to read as follows:

Section 8.-Environmental Protection Deposit

Every person engaged in selling lubricating oil shall collect a deposit of fifty cents (50) 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 thirty (30) day period, where he/she will be asked for a

voucher or purchase receipt, which shall indicate the number of quarts (1/4) of oil purchased, as well as the amount of the deposit posted. It shall be the responsibility of the collection center to certify on the original voucher or purchase receipt, through a stamp or official seal that the oil used was duly accepted. Said certification shall include the approximate amount of oil accepted, as well as the date of its receipt. The buyer shall recover his/her deposit upon taking the certified receipt to the establishment where he/she purchased the oil within a ninety (90) day period as of 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 to such effects.

The unclaimed deposits shall be administered by the Department of the Treasury and fifty (50) percent of said unclaimed deposits shall be distributed among the agencies charged with educating about, implementing and overseeing this Act in the following manner: the Environmental Quality Board, twenty-two point five (22.5) percent; the Department of the Treasury, sixteen (16) percent; the Solid Waste Authority, eleven point five (11.5) percent; the remaining fifty (50) percent shall be transferred and covered into, in equal parts, the Environmental Emergencies Fund and the Fund for Land Acquisition and Conservation, as provided in subsection 2, Section 12 of this Act.”

Section 2.-Section 13 of Act No. 172 of August 31, 1996, as amended, is hereby amended to read as follows:

“Section 13.-Administrative Board

(1) An Administrative Board is hereby created in the Department of Natural and Environmental Resources, which shall be constituted by the Secretary of Natural and Environmental Resources

and chaired by the latter or an official designated by the latter, the Chairperson of the Environmental Quality Board, or an official designated by the latter, the Executive Director of the Solid Waste Authority or an official designated by the latter, the Secretary of the Treasury or an official designated by the latter, the Secretary of the Department of Consumer Affairs or an official designated by the latter, the President of the Puerto Rico Automotive Technicians and Mechanics Association and three (3) representatives of the private sector, one of which shall be an importer or manufacturer of lubricating oil, one shall be from the business sector that retails lubricating oil and a representative from the used oil carrying and/or disposal industry, who shall be appointed by the Chairperson of the Environmental Quality Board every three (3) years. The lubricating oil importer or manufacturer as well as the representative of the commercial sector that retails lubricating oil to be selected, shall prove having complied with all applicable requirements stipulated in this Act. The representative of the used oil carrying and/or disposal industry must be certified by the Environmental Quality Board, comply with all applicable environmental norms, and with any other requirement stipulated in this Act. The three (3) representatives of the private sector to the Board shall be selected by drawing lots from among interested and qualified persons.

(2)”

Section 3.-Transitory provision

On or before October 31, 2006, the Administrative Board created pursuant to Act No. 172 of August 31, 1996, as amended, shall submit a report to the Clerk of the House of Representative and to the Secretary of the

Senate of Puerto Rico setting forth its recommendations for the adoption, revision or modification of the legislation needed for the proper management of used oil in Puerto Rico.

Until December 31, 2006, a representative of each of the Bodies of the Legislature to be appointed by the Speaker and President of each Body respectively shall be part of the Administrative Board referred to in Section 2 of this Act. They shall participate in all meetings of the Administrative Board and shall be entitled to be heard but not to vote.

Section 4.-Severability Clause

Should any section, subsection, part, paragraph or clause of this Act or should its application to any person or circumstance be declared unconstitutional by a court with jurisdiction, the decision issued shall neither affect nor invalidate the remaining provisions of this Act, but their effect shall be limited to the section, subsection, part, paragraph or clause of this Act or the application thereof that had been declared unconstitutional.

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

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 128 (H.B. 2495) (Conference) (Reconsidered) of the 3rd Session of the 15th Legislature of Puerto Rico:

AN ACT to amend Section 4 of Act No. 278 of September 14, 2004, for the purpose of postponing its effectiveness until December 31, 2006, with the exception of the last sentence of the first (1st) paragraph of Section 8 of Act No. 278 of September 14, 2004, of Act No. 172 of August 31, 1996, as amended, which is amended; and to establish that during said term the provisions of Act No. 172 of August 31, 1996, as amended, known as the “Act for the Proper Management of Used Oil in Puerto Rico” shall be in effect to September 13, 2004 and its Section 13, as amended, to September 22, 2004; to amend Section 13 of Act No. 172 of August 31, 1996, as amended, for the purpose of including as members of the Administrative Board, created by said Act, the Secretary of the Department of Consumer Affairs, the President the Puerto Rico Automotive Technicians Association and a representative of each of the Bodies of the Legislature; provide that on or before October 31, 2006, the Administrative Board shall submit a report to the Clerk of the House of Representative and to the Secretary of the Senate of Puerto Rico setting forth its recommendations for the adoption, revision or modification of the legislation needed for the proper management of used oil in Puerto Rico; and for other purposes,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 11th of September of 2006.

Francisco J. Domenech
Director