



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
SB2406

Introduced 2/3/2004, by George P. Shadid

SYNOPSIS AS INTRODUCED:

- 30 ILCS 105/5.625 new
- 415 ILCS 5/60 heading new
- 415 ILCS 5/60.5 new
- 415 ILCS 5/60.10 new
- 415 ILCS 5/60.15 new
- 415 ILCS 5/60.20 new
- 415 ILCS 5/60.25 new
- 415 ILCS 5/60.30 new
- 415 ILCS 5/60.35 new
- 415 ILCS 5/60.40 new
- 415 ILCS 5/60.45 new
- 415 ILCS 5/60.50 new
- 415 ILCS 5/60.55 new
- 415 ILCS 5/60.60 new

Amends the Environmental Protection Act. Provides that, beginning January 1, 2005, each person selling disposable oil filters for Second Division vehicles in the State must collect from the buyer a fee of \$0.75 for each disposable oil filter that is sold. Requires the seller to pay the fee, less a collection allowance, to the Department of Revenue for deposit into the Cleanable and Reusable Oil Filter Fund. Sets forth the purposes for which the moneys in the Cleanable and Reusable Oil Filter Fund may be used. Requires retailers to make a quarter-annual tax return to the Department of Revenue concerning the oil filter fee. Sets forth procedures for administrative procedures and hearings by the Department of Revenue concerning the collection of the fee and for judicial review of those decisions. Authorizes the Department of Commerce and Economic Opportunity to administer grant and loan programs concerning clean and reusable oil filters. Effective immediately.

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT in relation to the environment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The State Finance Act is amended by adding
5 Section 5.625 as follows:

6 (30 ILCS 105/5.625 new)

7 Sec. 5.625. The Clean and Reusable Oil Filter Fund.

8 Section 10. The Environmental Protection Act is amended by
9 adding Title XVIII as follows:

10 (415 ILCS 5/60 heading new)

11 Title XVIII: CLEANABLE AND REUSABLE OIL FILTERS

12 (415 ILCS 5/60.5 new)

13 Sec. 60.5. Findings and Intent.

14 (a) The General Assembly finds:

15 (1) That hundreds of thousands of used disposable oil
16 filters are generated from vehicle maintenance each year;

17 (2) That used disposable oil filters pose a threat to
18 public health and welfare and the environment if they are
19 improperly managed or disposed of;

20 (3) That the use of cleanable and reusable oil filters
21 will reduce the number of used disposable oil filters
22 generated each year; and

23 (4) That a reduction in the number of used disposable
24 oil filters generated each year will result in a reduction
25 of the threat they pose to public health and welfare and
26 the environment.

27 (b) The intent of this Title is to eliminate or reduce this
28 potential for waste generated by oil changes and disposable
29 filters by encouraging all State and local government agencies,

1 other public entities such as school districts and private
2 businesses, and citizens to convert from using disposable oil
3 filters to using cleanable and reusable oil filters over the 5
4 years following enactment of this Title.

5 (415 ILCS 5/60.10 new)

6 Sec. 60.10. Definitions. For the purposes of this Title:

7 "Cleanable and reusable oil filter" means a motor vehicle
8 engine oil filter that can be cleaned and reused as a motor
9 vehicle engine oil filter.

10 "Disposable oil filter" means a Second Division motor
11 vehicle engine oil filter that is not a cleanable and reusable
12 oil filter.

13 "Second Division motor vehicle" has the same definition as
14 set forth in Section 1-217 of the Illinois Vehicle Code.

15 (415 ILCS 5/60.15 new)

16 Sec. 60.15. Cleanable and Reusable Oil Filter Fund.

17 (a) There is hereby created in the State treasury a special
18 fund to be known as the Cleanable and Reusable Oil Filter Fund.
19 All fees collected under this Title and all penalties or
20 punitive damages for violations of this Title shall be
21 deposited into the Cleanable and Reusable Oil Filter Fund. In
22 addition, the Cleanable and Reusable Oil Filter Fund shall
23 include other moneys made available from any source for deposit
24 into the Fund.

25 (b) Subject to appropriation, moneys up to an amount of
26 \$200,000 per fiscal year from the Cleanable and Reusable Oil
27 Filter Fund shall be available to the Department of Revenue for
28 its activities relating to this Title.

29 (c) Subject to appropriation, moneys in excess of \$200,000
30 per fiscal year from the Cleanable and Reusable Oil Filter Fund
31 shall be used as follows:

32 (1) 25% shall be available to the Agency for the
33 following:

34 (A) Agency-sponsored household hazardous waste

1 collection events that include the collection of used
2 oil and other waste generated from the maintenance of
3 motor vehicles;

4 (B) Preventive, corrective, or removal action at
5 sites contaminated by petroleum or
6 petroleum-contaminated materials and the recovery
7 costs of this action; and

8 (C) The formation and operation of a committee for
9 the purposes of reviewing and approving for use those
10 cleanable and reusable filters that, at a minimum:

11 (i) have been tested successfully for at least
12 2 years in vehicles operated by one or more
13 Illinois State agencies;

14 (ii) combine both full flow and bypass (fine
15 particle) filtration in a single filter;

16 (iii) have also demonstrated a quality of
17 filtration that will enable extended oil drain
18 intervals to be realized; and

19 (iv) have a canister and full flow filter
20 element is capable of being thoroughly cleaned by
21 hand so that investment in specialized washing
22 equipment is not necessary. Filters meeting these
23 requirements and such other requirements as the
24 committee may set forth from time to time are
25 deemed to be approved cleanable and reusable
26 filters.

27 (2) 75% shall be available to the Department of
28 Commerce and Economic Opportunity for the following:

29 (A) To provide grants, loans, or other financial
30 assistance to both public and private entities for the
31 purchase of and installation of approved cleanable and
32 reusable oil filters on motor vehicles using
33 disposable oil filters;

34 (B) To provide grants, loans, or other financial
35 assistance to Illinois companies for research and
36 development pertaining to the improvement in the

1 design of, materials used in, and the fabrication of
2 cleanable and reusable oil filters;

3 (C) To provide grants or loans for the purposes of
4 demonstrating the feasibility of cleanable and
5 reusable oil filter technologies; and

6 (D) To pay the costs of administration of its
7 activities under this Title.

8 (d) Any moneys appropriated from the Cleanable and Reusable
9 Oil Filter Fund, but not obligated, shall revert to the Fund.

10 (415 ILCS 5/60.20 new)

11 Sec. 60.20. Collection of fee.

12 (a) Beginning January 1, 2005, each person selling Second
13 Division disposable oil filters at retail in this State shall
14 collect from retail customers a fee of \$0.75 for each
15 disposable oil filter that is sold and delivered in this State.
16 The seller must pay the fee, less a collection allowance of
17 \$0.25 per disposable oil filter to be retained by the retailer,
18 to the Department of Revenue for deposit into the Cleanable and
19 Reusable Oil Filter Fund.

20 (b) The retail sale of a motor vehicle shall not be
21 considered a sale of a disposable oil filter at retail or
22 offering of disposable oil filter for retail sale.

23 (c) The fee collected under subsection (a) of this Section
24 shall be stated as a distinct item separate and apart from the
25 selling price of the disposable oil filter. The fee shall not
26 be includable in the gross receipts of the retailer subject to
27 the Retailer's Occupation Tax Act, the Use Tax Act, or any
28 locally imposed retailer's occupation tax. The fee, and any
29 such fees collected by a retailer, shall constitute a debt owed
30 by the retailer to the State.

31 (415 ILCS 5/60.25 new)

32 Sec. 60.25. Tax returns by retailer.

33 (a) Each retailer of Second Division disposable oil filters
34 maintaining a place of business in this State must make a

1 return to the Department of Revenue on a quarter-annual basis,
2 with the return for January, February, and March of a given
3 year being due by April 30 of that year; with the return for
4 April, May, and June of a given year being due by July 31 of
5 that year; with the return for July, August, and September of a
6 given year being due by October 31 of that year; and with the
7 return for October, November, and December of a given year
8 being due by January 31 of the following year. Each return made
9 to the Department of Revenue must state:

10 (1) the name of the retailer;

11 (2) the address of the retailer's principal place of
12 business and the address of the principal place of business
13 (if that is a different address) from which the retailer
14 engages in the business of making retail sales of
15 disposable oil filters;

16 (3) the total number of disposable oil filters sold at
17 retail for the preceding calendar quarter;

18 (4) the amount of tax due; and

19 (5) any other reasonable information that the
20 Department of Revenue requires.

21 (b) Notwithstanding any other provision of this Act
22 concerning the time within which a retailer may file his or her
23 return, in the case of any retailer who ceases to engage in the
24 retail sale of disposable oil filters, the retailer must file a
25 final return under this Act with the Department of Revenue not
26 more than one month after discontinuing that business.

27 (415 ILCS 5/60.30 new)

28 Sec. 60.30. Application of Retailers' Occupation Tax
29 provisions. All the provisions of Sections 4, 5, 5a, 5b, 5c,
30 5d, 5e, 5f, 5g, 5i, 5j, 6, 6a, 6b, 6c, 7, 8, 9, 10, and 11 of
31 the Retailers' Occupation Tax Act that are not inconsistent
32 with this Act apply, as far as practicable, to the fee imposed
33 by subsection (a) of Section 60.15 of this Act to the same
34 extent as if those provisions were included in this Act.
35 References in the incorporated Sections of the Retailers'

1 Occupation Tax Act to retailers, to sellers, or to persons
2 engaged in the business of selling tangible personal property
3 mean retailers of disposable oil filters.

4 (415 ILCS 5/60.35 new)

5 Sec. 60.35. Hearing; notice. The Department of Revenue may
6 adopt and enforce any reasonable rules and regulations relating
7 to the administration and enforcement of the fee imposed by
8 subsection (a) of Section 60.15 of this Act that are expedient.

9 Whenever the Department of Revenue is required to provide
10 notice to a retailer under this Title, the notice may be
11 personally served or given by United States certified or
12 registered mail, addressed to the retailer or taxpayer
13 concerned at his or her last known address, and proof of this
14 mailing is sufficient for the purposes of this Title. In the
15 case of a notice of hearing, the notice must be mailed not less
16 than 7 days prior to the date fixed for the hearing.

17 All hearings provided by the Department of Revenue under
18 this Act with respect to or concerning a taxpayer having his or
19 her principal place of business in this State other than in
20 Cook County shall be held at the Department's office nearest to
21 the location of the taxpayer's principal place of business. If
22 the taxpayer has his or her principal place of business in Cook
23 County, the hearing shall be held in Cook County. If the
24 taxpayer does not have his or her principal place of business
25 in this State, the hearing shall be held in Sangamon County.

26 Whenever any proceeding provided by this Title has been
27 begun by the Department of Revenue or by a person subject
28 thereto and that person subsequently dies or becomes a person
29 under legal disability before the proceeding has been
30 concluded, the legal representative of the deceased person or
31 person under legal disability shall notify the Department of
32 Revenue of the death or legal disability. The legal
33 representative, as such, shall then be substituted by the
34 Department of Revenue in place of and for the person. Within 20
35 days after notice to the legal representative of the time fixed

1 for that purpose, the proceeding may proceed in all respects
2 and with like effect as though the person had not died or
3 become a person under legal disability.

4 (415 ILCS 5/60.40 new)

5 Sec. 60.40. Administrative procedures. The Illinois
6 Administrative Procedure Act is hereby expressly adopted and
7 applies to all administrative rules and procedures of the
8 Department of Revenue under this Title, except that: (1)
9 paragraph (b) of Section 4 of the Illinois Administrative
10 Procedure Act does not apply to final orders, decisions, and
11 opinions of the Department of Revenue; (2) subparagraph (a)(2)
12 of Section 4 of the Illinois Administrative Procedure Act does
13 not apply to forms established by the Department of Revenue for
14 use under this Act; and (3) the provisions of Section 13 of the
15 Illinois Administrative Procedure Act regarding proposals for
16 decision are excluded and not applicable to the Department of
17 Revenue under this Act.

18 (415 ILCS 5/60.45 new)

19 Sec. 60.45. Review under Administrative Review Law.

20 (a) The circuit court of any county in which a hearing is
21 held has the power to review all final administrative decisions
22 of the Department of Revenue in administering the fee imposed
23 under subsection (a) of Section 60.15 of this Act. If, however,
24 the administrative proceeding that is to be reviewed judicially
25 is a claim for refund proceeding commenced under this Act and
26 Section 2a of the State Officers and Employees Money
27 Disposition Act, the circuit court having jurisdiction over the
28 action for judicial review under this Section and under the
29 Administrative Review Law shall be the same court that entered
30 the temporary restraining order or preliminary injunction that
31 is provided for in that Section 2a, and that enables the claim
32 proceeding to be processed and disposed of as a claim for
33 refund proceeding other than as a claim for credit proceeding.

34 (b) The provisions of the Administrative Review Law, and

1 the rules adopted pursuant thereto, apply to and govern all
2 proceedings for the judicial review of final administrative
3 decisions of the Department of Revenue under this Act. The term
4 "administrative decision" is defined as in Section 3-101 of the
5 Code of Civil Procedure.

6 (c) Service of summons issued in any action to review a
7 final administrative decision upon the Director or Assistant
8 Director of Revenue shall be service upon the Department of
9 Revenue. The Department of Revenue shall certify the record of
10 its proceedings if the taxpayer pays to it the sum of \$0.75 per
11 page of testimony taken before the Department of Revenue and
12 \$0.25 per page of all other matters contained in the record,
13 except that these charges may be waived if the Department of
14 Revenue is satisfied that the aggrieved party cannot afford to
15 pay these charges.

16 (415 ILCS 5/60.50 new)

17 Sec. 60.50. Penalty.

18 Any retailer who fails to make a return or who makes a
19 fraudulent return, or who willfully violates any rule or
20 regulation of the Department of Revenue for the administration
21 and enforcement of the fee imposed by subsection (a) of Section
22 60.15 of this Act, is guilty of a Class 4 felony.

23 (415 ILCS 5/60.55 new)

24 Sec. 60.55. Grant and Loan Programs.

25 (a) The Department of Commerce and Economic Opportunity may
26 adopt rules as necessary for the administration of the grant
27 and loan programs and other financial assistance funded from
28 the Cleanable and Reusable Oil Filter Fund for the purposes set
29 forth under Sec. 60.10(c)(2), including, without limitation,
30 procedures and criteria for applying for, evaluating,
31 awarding, and terminating grants, loans, and other financial
32 assistance. The Department of Commerce and Economic
33 Opportunity may, by rule, specify criteria for providing grant
34 assistance rather than loan assistance, and this such criteria

1 must promote the marketing and development of the use of
2 cleanable and reusable oil filters and the efficient use of
3 moneys for assistance. Evaluation criteria may be established
4 by rule, considering such factors as:

5 (1) the likelihood that a proposal will lead to the
6 actual increased use of cleanable and reusable oil filters
7 and protection of the public health and welfare and the
8 environment in furtherance of the purposes of this Act;

9 (2) the feasibility of the proposal;

10 (3) the suitability of the location for the proposed
11 activity;

12 (4) the potential of the proposal for encouraging
13 recycling and reuse of resources; and

14 (5) the potential for development of new technologies
15 consistent with the purposes of this Act.

16 (415 ILCS 5/60.60 new)

17 Sec. 60.60. Severability. The provisions of this Title are
18 severable under Section 1.31 of the Statute on Statutes.

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.