
By: **Chairman, Finance Committee (Departmental - Comptroller)**

Introduced and read first time: January 23, 2002

Assigned to: Rules

Re-referred to: Finance, March 22, 2002

Committee Report: Favorable

Senate action: Adopted

Read second time: March 28, 2002

CHAPTER 145

1 AN ACT concerning

2 **Motor Fuel and Lubricants - Dyed Diesel Fuel**

3 FOR the purpose of prohibiting the use of dyed diesel fuel in the propulsion tanks of
4 highway vehicles; prohibiting the sale or delivery of dyed diesel fuel under
5 certain circumstances; defining certain terms; establishing certain penalties for
6 violations of this Act; authorizing the Comptroller to inspect the propulsion
7 tanks of certain vehicles; requiring the Comptroller to enforce certain provisions
8 of this Act; requiring certain persons to provide certain notice and requiring the
9 posting of a certain notice relating to dyed diesel fuel under certain
10 circumstances; and generally relating to prohibiting the use of dyed motor fuel
11 for on-highway purposes.

12 BY repealing and reenacting, with amendments,
13 Article - Business Regulation
14 Section 10-101 and 10-201
15 Annotated Code of Maryland
16 (1998 Replacement Volume and 2001 Supplement)

17 BY adding to
18 Article - Business Regulation
19 Section 10-323.2
20 Annotated Code of Maryland
21 (1998 Replacement Volume and 2001 Supplement)

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

1 **Article - Business Regulation**

2 10-101.

3 (a) In this title the following words have the meanings indicated.

4 (b) (1) "Conveyance" means a carrying or transporting device that has a
5 capacity that exceeds 1,749 gallons exclusive of the fuel supply tank for its own
6 propulsion.

7 (2) "Conveyance" includes a pipeline, tank car, vehicle, and vessel.

8 (C) "DYED DIESEL FUEL" MEANS DIESEL FUEL THAT IS DYED UNDER U.S.
9 ENVIRONMENTAL PROTECTION AGENCY RULES FOR HIGH SULFUR DIESEL FUEL OR
10 IS DYED UNDER INTERNAL REVENUE SERVICE RULES FOR NONTAXABLE USE.

11 [(c)] (D) (1) "Gasoline" means a product that:

12 (i) is used as fuel in a spark ignited, internal combustion engine; or

13 (ii) is designated as gasoline by the Comptroller.

14 (2) "Gasoline" includes:

15 (i) casing head gasoline;

16 (ii) absorption gasoline;

17 (iii) other natural gasoline; and

18 (iv) aviation gasoline, as defined in § 9-101(c) of the Tax - General

19 Article.

20 [(d)] (E) "Motor fuel" means:

21 (1) gasoline; or

22 (2) special fuel.

23 [(e)] (F) "Motor vehicle" means a vehicle that:

24 (1) is self-propelled;

25 (2) is designed to be operated on a public highway; and

26 (3) is not operated only on rails.

27 [(f)] (G) "Petroleum transporter" means a person who transports motor fuel in
28 interstate or intrastate commerce in a conveyance, whether or not the person owns
29 the conveyance.

1 [(g)] (H) "Producer" means a company, or agent, parent company, subsidiary,
2 or joint venture of a company, that extracts crude oil from the earth.

3 (I) (1) "PROPULSION TANK" MEANS A RECEPTACLE ON A MOTOR VEHICLE
4 FROM WHICH MOTOR FUEL IS SUPPLIED FOR THE PROPULSION OF THE VEHICLE.

5 (2) "PROPULSION TANK" INCLUDES A FUEL SUPPLY TANK OF A MOTOR
6 VEHICLE.

7 [(h)] (J) "Refiner" means a person who makes motor fuel from crude oil by
8 changing the physical or chemical characteristics of the crude oil.

9 [(i)] (K) "Retail service station dealer" means a person who operates a retail
10 place of business where motor fuel is sold and delivered into the fuel supply tanks of
11 motor vehicles.

12 [(j)] (L) (1) "Special fuel" means a product that is usable as fuel in an
13 internal combustion engine.

14 (2) "Special fuel" does not include gasoline.

15 [(k)] (M) "Vehicle" means a conveyance for transporting motor fuel on a public
16 highway.

17 10-201.

18 (a) (1) The Comptroller shall administer and enforce this title.

19 (2) The Comptroller may delegate any power or duty of the Comptroller
20 under this title.

21 (b) To enforce this title, the Comptroller may make investigations, hold
22 hearings, examine persons under oath, and receive evidence.

23 (c) To enforce this title, the Comptroller may issue subpoenas for the
24 attendance of witnesses to testify or to produce evidence.

25 (d) (1) For inspection or drawing samples, the Comptroller shall have
26 access, during normal business hours, to:

27 (i) each place where motor fuel is stored for sale;

28 (ii) each conveyance used to transport motor fuel; or

29 (iii) subject to the provisions of paragraph (2) of this subsection, the
30 propulsion tank of any special fuel powered motor vehicle used for business purposes.

31 (2) In the case of the propulsion tank of a vehicle described in paragraph
32 (1)(iii) of this subsection, the Comptroller shall also have access for inspection or
33 drawing samples any time the vehicle is in operation.

1 (3) A denial of access by an agent, owner, or other person who operates
2 such a place, conveyance, or motor vehicle is prima facie evidence of a violation of this
3 title.

4 (E) (1) (I) THE COMPTROLLER MAY DETAIN A MOTOR VEHICLE, VESSEL
5 OR RAILROAD TANK CAR PLACED ON A CUSTOMER'S SIDING FOR USE OR STORAGE
6 FOR THE PURPOSE OF INSPECTING THE VEHICLE'S PROPULSION TANKS.

7 (II) THE COMPTROLLER MAY REMOVE SAMPLES OF DIESEL FUEL IN
8 REASONABLE QUANTITIES NECESSARY TO DETERMINE THE COMPOSITION OF THE
9 FUEL.

10 (2) THE COMPTROLLER MAY INSPECT AND ISSUE CITATIONS TO
11 OPERATORS OF MOTOR VEHICLES FOR VIOLATIONS OF THIS SUBTITLE AT SITES
12 WHERE FUEL IS, OR MAY BE, PRODUCED, STORED, OR LOADED INTO OR CONSUMED
13 BY MOTOR VEHICLES INCLUDING:

14 (I) A TERMINAL;

15 (II) A FUEL STORAGE FACILITY OR BULK STORAGE FACILITY THAT
16 IS NOT A TERMINAL;

17 (III) A RETAIL FUEL FACILITY;

18 (IV) A HIGHWAY REST STOP; AND

19 (V) A HIGHWAY INSPECTION STATION, WEIGH STATION, MOBILE
20 INSPECTION STATION, OR OTHER SIMILAR LOCATION DESIGNATED BY THE
21 COMPTROLLER.

22 10-323.2.

23 (A) (1) A NOTICE STATING "DYED DIESEL FUEL, NONTAXABLE USE ONLY"
24 SHALL BE:

25 (I) PROVIDED BY THE TERMINAL OPERATOR OR DISTRIBUTOR TO
26 ANY PERSON THAT RECEIVES DYED DIESEL FUEL AT A TERMINAL OR DISTRIBUTOR
27 RACK;

28 (II) PROVIDED BY THE SELLER OF DYED DIESEL FUEL TO ITS
29 BUYER IF THE FUEL IS LOCATED OUTSIDE THE BULK TRANSFER OR TERMINAL
30 SYSTEM AND IS NOT SOLD FROM A RETAIL PUMP ON WHICH THE NOTICE REQUIRED
31 BY THIS SECTION HAS BEEN POSTED IN ACCORDANCE WITH ITEM (III) OF THIS
32 PARAGRAPH; AND

33 (III) POSTED BY A SELLER ON ANY RETAIL PUMP WHERE THE
34 SELLER SELLS DYED DIESEL FUEL FOR USE BY THE BUYER OF THE DYED DIESEL
35 FUEL.

1 (2) THE NOTICE REQUIRED UNDER PARAGRAPH (1)(I) OR (II) OF THIS
2 SUBSECTION SHALL BE PROVIDED AT THE TIME OF THE REMOVAL OR SALE OF THE
3 DYED DIESEL FUEL AND SHALL APPEAR ON SHIPPING PAPERS, BILLS OF LADING,
4 AND INVOICES ACCOMPANYING THE SALE OR REMOVAL OF THE DYED DIESEL FUEL.

5 (3) THE MOTOR FUEL TAX DIVISION MAY DETERMINE THAT
6 COMPLIANCE WITH A FEDERAL NOTICE PROVISION THAT IS SUBSTANTIALLY
7 SIMILAR TO A NOTICE REQUIREMENT OF THIS SUBSECTION SATISFIES THAT NOTICE
8 REQUIREMENT OF THIS SUBSECTION.

9 (B) (1) A PERSON MAY NOT OPERATE A MOTOR VEHICLE ON A HIGHWAY IN
10 THE STATE WITH FUEL SUPPLY TANKS CONTAINING DYED DIESEL FUEL UNLESS
11 PERMITTED TO DO SO UNDER A FEDERAL LAW OR REGULATION RELATING TO THE
12 USE OF DYED DIESEL FUEL ON THE HIGHWAYS.

13 (2) (I) A PERSON MAY NOT SELL OR DELIVER DYED DIESEL FUEL IF
14 THE PERSON KNOWS OR HAS REASON TO KNOW THAT THE DYED DIESEL FUEL WILL
15 BE CONSUMED FOR A PROHIBITED ON-HIGHWAY USE.

16 (II) A PERSON WHO DISPENSES DYED DIESEL FUEL FROM A RETAIL
17 PUMP THAT IS NOT PROPERLY LABELED WITH THE NOTICE REQUIRED BY
18 SUBSECTION (A)(1) OF THIS SECTION, OR WHO KNOWINGLY DELIVERS DYED DIESEL
19 FUEL INTO THE STORAGE TANK OF SUCH A PUMP, SHALL BE PRESUMED TO KNOW
20 THAT THE DYED DIESEL FUEL WILL BE CONSUMED ON THE HIGHWAY.

21 (C) A PERSON MAY NOT:

22 (1) EXCEPT AS PROVIDED IN SUBSECTION (B)(1) OF THIS SECTION,
23 OPERATE A MOTOR VEHICLE ON A HIGHWAY IN THE STATE WITH DYED DIESEL FUEL
24 IN THE PROPULSION TANK OF THE MOTOR VEHICLE;

25 (2) SELL OR DELIVER DYED DIESEL FUEL FROM A RETAIL PUMP THAT IS
26 NOT PROPERLY LABELED AS REQUIRED UNDER SUBSECTION (A) OF THIS SECTION;

27 (3) SELL OR DELIVER DYED DIESEL FUEL FROM A PETROLEUM
28 DELIVERY VEHICLE INTO A PROPULSION TANK OF A MOTOR VEHICLE; OR

29 (4) REFUSE TO PERMIT INSPECTION OF A PROPULSION TANK IN
30 ACCORDANCE WITH § 10-201(E) OF THIS TITLE.

31 (D) A PERSON THAT VIOLATES ANY PROVISIONS OF THIS SECTION IS GUILTY
32 OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING
33 \$1,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

34 (E) IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW, THE
35 COMPTROLLER MAY ASSESS AGAINST ANY PERSON THAT VIOLATES ANY PROVISION
36 OF THIS SECTION DEALING WITH THE USE, SALE, TRANSPORTATION, OR STORAGE OF
37 DYED DIESEL FUEL:

1 (1) FOR THE FIRST VIOLATION, A FINE OF \$1,000 OR \$10 PER GALLON OF
2 DYED DIESEL FUEL INVOLVED IN THE VIOLATION, WHICHEVER AMOUNT IS
3 GREATER; AND

4 (2) FOR A SECOND OR SUBSEQUENT VIOLATION, A FINE EQUAL TO THE
5 AMOUNT OF THE PENALTY ASSESSED UNDER ITEM (1) OF THIS SUBSECTION FOR THE
6 FIRST VIOLATION MULTIPLIED BY THE TOTAL NUMBER OF VIOLATIONS.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2002.