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By: **Chairman, Finance Committee (Departmental - Comptroller)**  
Introduced and read first time: January 23, 2002  
Assigned to: Rules

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A BILL ENTITLED

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:

24 **Article - Business Regulation**

25 10-101.

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

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

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

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

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

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

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

11 (2) "Gasoline" includes:

12 (i) casing head gasoline;

13 (ii) absorption gasoline;

14 (iii) other natural gasoline; and

15 (iv) aviation gasoline, as defined in § 9-101(c) of the Tax - General  
16 Article.

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

18 (1) gasoline; or

19 (2) special fuel.

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

21 (1) is self-propelled;

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

23 (3) is not operated only on rails.

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

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

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

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

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

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

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

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

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

13 10-201.

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

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

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

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

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

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

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

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

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

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

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

4 (II) THE COMPTROLLER MAY REMOVE SAMPLES OF DIESEL FUEL IN  
5 REASONABLE QUANTITIES NECESSARY TO DETERMINE THE COMPOSITION OF THE  
6 FUEL.

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

11 (I) A TERMINAL;

12 (II) A FUEL STORAGE FACILITY OR BULK STORAGE FACILITY THAT  
13 IS NOT A TERMINAL;

14 (III) A RETAIL FUEL FACILITY;

15 (IV) A HIGHWAY REST STOP; AND

16 (V) A HIGHWAY INSPECTION STATION, WEIGH STATION, MOBILE  
17 INSPECTION STATION, OR OTHER SIMILAR LOCATION DESIGNATED BY THE  
18 COMPTROLLER.

19 10-323.2.

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

22 (I) PROVIDED BY THE TERMINAL OPERATOR OR DISTRIBUTOR TO  
23 ANY PERSON THAT RECEIVES DYED DIESEL FUEL AT A TERMINAL OR DISTRIBUTOR  
24 RACK;

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

30 (III) POSTED BY A SELLER ON ANY RETAIL PUMP WHERE THE  
31 SELLER SELLS DYED DIESEL FUEL FOR USE BY THE BUYER OF THE DYED DIESEL  
32 FUEL.

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

1 (3) THE MOTOR FUEL TAX DIVISION MAY DETERMINE THAT  
2 COMPLIANCE WITH A FEDERAL NOTICE PROVISION THAT IS SUBSTANTIALLY  
3 SIMILAR TO A NOTICE REQUIREMENT OF THIS SUBSECTION SATISFIES THAT NOTICE  
4 REQUIREMENT OF THIS SUBSECTION.

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

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

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

17 (C) A PERSON MAY NOT:

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

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

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

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

27 (D) A PERSON THAT VIOLATES ANY PROVISIONS OF THIS SECTION IS GUILTY  
28 OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING  
29 \$1,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

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

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

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

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