

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 113 (Chairman, Judicial Proceedings Committee)
(By Request – Departmental – Comptroller)

Judicial Proceedings

Economic Matters

Motor Fuel Violations - Issuance of Citation by Police Officer

This bill authorizes a police officer to issue a traffic citation for (1) the adulteration and commingling of fuels; and (2) violations of the State's dyed diesel fuel laws.

The bill takes effect July 1, 2006.

Fiscal Summary

State Effect: None. The bill codifies existing practice. Police officers have been issuing citations for the violations added by this bill for two years.

Local Effect: None.

Small Business Effect: The Comptroller's Office has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: Current law prohibits:

- the willful adulteration or commingling of gasoline with special fuel by a: (1) common carrier; (2) contract carrier; (3) manufacturer; (4) refiner; (5) special fuel seller; (6) wholesaler of motor fuel; or (7) person who buys motor fuel in bulk for resale in bulk who is engaged in the transportation of motor fuel;

- the operation of a motor vehicle on a highway in the State with fuel supply tanks or propulsion tanks containing dyed diesel fuel;
- the sale or removal of dyed diesel fuel without the posting or provision of a proper notice from the following locations: (1) terminals; (2) distributor racks; (3) retail pumps; or (4) areas outside the bulk transfer or terminal system;
- the sale or delivery of dyed diesel fuel from a petroleum delivery vehicle into a propulsion tank of a motor vehicle;
- refusal to permit inspection of a propulsion tank; or
- the sale or delivery of dyed diesel fuel by a person who knows or has reason to know that the dyed diesel fuel will be consumed for prohibited on-highway use.

A person who dispenses dyed diesel fuel from or knowingly delivers dyed diesel fuel into a retail pump that is not labeled with the proper notice is presumed to know that the dyed diesel fuel will be consumed on the highway.

There are exceptions for: (1) adulteration and commingling of gasoline with special fuel that occurs as a natural result of transit in a pipeline carrier; (2) additives placed by a petroleum transporter in motor fuel intended for the transporter's own use; and (3) persons permitted to operate a motor vehicle with dyed diesel fuel under a federal law or regulation.

Police officers and enforcement agents must issue criminal summons in order to enforce violations of the adulteration or commingling of fuels and dyed diesel fuel provisions.

Individuals who adulterate or commingle fuels, or aid or assist in the violations are guilty of a misdemeanor, and are subject to a fine not to exceed \$5,000, imprisonment not to exceed one year, or both.

Violators of the dyed diesel fuel provisions are guilty of a misdemeanor and face up to \$1,000 in fines, imprisonment up to one year, or both. In addition to these penalties, the Comptroller may assess the following fines against violators of the dyed diesel fuel provisions:

- a fine equal to the greater of \$1,000 or \$10 per gallon of dyed diesel fuel involved in the violation for the first violation; and

- a fine for subsequent violations equal to the fine assessed for the violator's first violation, multiplied by the total number of violations.

In addition to violations of vehicle and traffic laws, police officers can issue citations to drivers of moving or parked vehicles for violations of provisions governing the: (1) motor carrier tax; (2) motor fuel tax; and (3) registration of petroleum transporters. Traffic citations include a notice to appear before a judge in District Court.

“Special fuel” is defined as a product that is usable in an internal combustion engine. Gasoline is not considered special fuel.

“Motor fuel” is defined to mean gasoline or special fuel.

Background: According to the Comptroller's Office, police officers have been issuing citations for the violations added by this bill for the past two years. Prior to the issuance of citations, violators of these provisions received criminal summons. The Comptroller advises that enforcement through citation is more feasible than the issuance of a criminal summons. Enforcement agents or police officers have to apply for a statement of charges from a District Court commissioner in order to issue a criminal summons. In order to enforce these provisions against out-of-state violators, officers would have to serve them out-of-state or detain the alleged violators until a summons can be obtained.

Senate Bill 120 of 2006, assigned to the Senate Finance Committee, would prohibit the adulteration or commingling of gasoline by brand or grade and would prohibit marinas from adulterating or commingling fuels.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office, Somerset County, Montgomery County, Prince George's County, Charles County, Frederick County, Department of State Police, Maryland Department of Transportation, Department of Legislative Services

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M/jr

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