

SENATE BILL 176

C2

8lr0133

By: **Chair, Finance Committee (By Request – Departmental – Comptroller)**

Introduced and read first time: January 18, 2008

Rules suspended

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 13, 2008

Returned to second reading: February 15, 2008

Senate action: Adopted with floor amendments

Read second time: February 15, 2008

CHAPTER _____

1 AN ACT concerning

2 **Motor Fuel – Use of Dyed Diesel Fuel – Violations**

3 FOR the purpose of establishing certain offenses involving the use of dyed diesel fuel
4 in the propulsion tank of a motor vehicle on State highways; and generally
5 relating to the use of dyed diesel fuel on State highways.

6 BY repealing and reenacting, with amendments,
7 Article – Business Regulation
8 Section 10–323.2
9 Annotated Code of Maryland
10 (2004 Replacement Volume and 2007 Supplement)

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

13 **Article – Business Regulation**

14 10–323.2.

15 (a) (1) A notice stating “dyed diesel fuel, nontaxable use only” shall be:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (i) provided by the terminal operator or distributor to any
2 person that receives dyed diesel fuel at a terminal or distributor rack;

3 (ii) provided by the seller of dyed diesel fuel to its buyer if the
4 fuel is located outside the bulk transfer or terminal system and is not sold from a
5 retail pump on which the notice required by this section has been posted in accordance
6 with item (iii) of this paragraph; and

7 (iii) posted by a seller on any retail pump where the seller sells
8 dyed diesel fuel for use by the buyer of the dyed diesel fuel.

9 (2) The notice required under paragraph (1)(i) or (ii) of this subsection
10 shall be provided at the time of the removal or sale of the dyed diesel fuel and shall
11 appear on shipping papers, bills of lading, and invoices accompanying the sale or
12 removal of the dyed diesel fuel.

13 (3) The Motor Fuel Tax Bureau may determine that compliance with a
14 federal notice provision that is substantially similar to a notice requirement of this
15 subsection satisfies that notice requirement of this subsection.

16 (b) (1) A person may not operate a motor vehicle on a highway in the
17 State with fuel supply tanks containing dyed diesel fuel unless permitted to do so
18 under a federal law or regulation relating to the use of dyed diesel fuel on the
19 highways.

20 (2) (i) A person may not sell or deliver dyed diesel fuel if the
21 person knows or has reason to know that the dyed diesel fuel will be consumed for a
22 prohibited on-highway use.

23 (ii) A person who dispenses dyed diesel fuel from a retail pump
24 that is not properly labeled with the notice required by subsection (a)(1) of this section,
25 or who knowingly delivers dyed diesel fuel into the storage tank of such a pump, shall
26 be presumed to know that the dyed diesel fuel will be consumed on the highway.

27 (c) A person may not:

28 (1) except as provided in subsection (b)(1) of this section, operate a
29 motor vehicle on a highway in the State with dyed diesel fuel in the propulsion tank of
30 the motor vehicle;

31 (2) sell or deliver dyed diesel fuel from a retail pump that is not
32 properly labeled as required under subsection (a) of this section;

33 (3) sell or deliver dyed diesel fuel from a petroleum delivery vehicle
34 into a propulsion tank of a motor vehicle; or

35 (4) refuse to permit inspection of a propulsion tank in accordance with
36 § 10-201(e) of this title.

1 (D) (1) A PERSON IS GUILTY OF A VIOLATION OF THIS SECTION IF THE
2 PERSON, WHETHER AS A PRINCIPAL, AN AGENT, OR AN ACCESSORY,
3 INTENTIONALLY:

4 ~~(1) COMMITS, ATTEMPTS TO COMMIT, OR CONSPIRES TO COMMIT~~
5 ~~A VIOLATION OF THIS SECTION;~~

6 ~~(2) AIDS OR ABETS ANOTHER IN THE COMMISSION OF A~~
7 ~~VIOLATION OF THIS SECTION; OR~~

8 ~~(3) INTENTIONALLY INDUCES, DIRECTS, CAUSES, COERCES, OR~~
9 ~~PERMITS ANOTHER TO COMMIT A VIOLATION OF THIS SECTION.~~

10 (I) COMMITS A VIOLATION OF THIS SECTION;

11 (II) ATTEMPTS TO COMMIT A VIOLATION OF THIS SECTION;

12 (III) CONSPIRES TO COMMIT A VIOLATION OF THIS SECTION;

13 (IV) AIDS ANOTHER IN THE COMMISSION OF A VIOLATION OF
14 THIS SECTION; OR

15 (V) ABETS ANOTHER IN THE COMMISSION OF A VIOLATION
16 OF THIS SECTION.

17 (2) A PERSON IS GUILTY OF A VIOLATION OF THIS SECTION IF THE
18 PERSON INTENTIONALLY:

19 (I) INDUCES ANOTHER TO COMMIT A VIOLATION OF THIS
20 SECTION;

21 (II) CAUSES ANOTHER TO COMMIT A VIOLATION OF THIS
22 SECTION;

23 (III) COERCES ANOTHER TO COMMIT A VIOLATION OF THIS
24 SECTION;

25 (IV) PERMITS ANOTHER TO COMMIT A VIOLATION OF THIS
26 SECTION; OR

27 (V) DIRECTS ANOTHER TO COMMIT A VIOLATION OF THIS
28 SECTION.

1 [(d)] (E) A person that violates any provisions of this section is guilty of a
2 misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or
3 imprisonment not exceeding 1 year or both.

4 [(e)] (F) In addition to any other penalty provided by law, the Comptroller
5 may assess against any person that violates any provision of this section dealing with
6 the use, sale, transportation, or storage of dyed diesel fuel:

7 (1) for the first violation, a fine of \$1,000 or \$10 per gallon of dyed
8 diesel fuel involved in the violation, whichever amount is greater; and

9 (2) for a second or subsequent violation, a fine equal to the amount of
10 the penalty assessed under item (1) of this subsection for the first violation multiplied
11 by the total number of violations.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2008.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.