

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

Senate Bill 176

(Chair, Finance Committee)

(By Request – Departmental – Comptroller)

Finance

Economic Matters

Motor Fuel - Use of Dyed Diesel Fuel - Violations

This departmental bill specifies who can be charged with a violation of current offenses for using dyed diesel fuel in a motor vehicle driven on the State highways.

Fiscal Summary

State Effect: Minimal increase in Transportation Trust Fund (TTF) revenues due to an increase in fines for a dyed diesel fuel violation. Potential minimal increase in general fund revenues and expenditures due to the bill's application of existing penalty provisions.

Local Effect: The application of existing penalty provisions are not expected to materially affect local revenues or expenditures.

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

Analysis

Current Law: A person may not operate a motor vehicle on a State highway with dyed diesel fuel in the vehicle's propulsion tank, unless permitted to do so under a federal law or regulation. In addition, a person may not (1) sell or deliver dyed fuel from a retail pump that is not properly labeled; (2) sell or deliver dyed diesel fuel from a petroleum delivery vehicle into a propulsion tank of a motor vehicle; or (3) refuse to permit inspection of a propulsion tank in accordance with State law. "Dyed diesel fuel" is diesel

fuel that is dyed under U.S. Environmental Protection Agency rules for high sulfur diesel fuel or is dyed under Internal Revenue Service rules for nontaxable use.

A person that violates any of these provisions is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding one year, or both. In addition to any other penalty provided by law, the Comptroller may assess against any person that violates the provisions dealing with the use, sale, transportation, or storage of dyed diesel fuel: (1) for the first violation, a fine of \$1,000 or \$10 per gallon of dyed diesel fuel involved in the violation, whichever amount is greater; and (2) for a second or subsequent violation, a fine equal to the amount of the penalty assessed under item (1) of this subsection for the first violation multiplied by the total number of violations.

Background: The Comptroller's Office advises that the bill is intended to clarify who may be charged with violating the State's dyed fuel law which prohibits the operation of a vehicle using dyed fuel in its propulsion tank. According to the Comptroller's Office, the lack of clarity has been an issue for certain judges who have expressed concern when operators of the vehicles deny knowledge of the fuel's presence in the vehicle's supply tank.

Pursuant to this legislation, a person would be guilty of a violation if the person, whether as a principal, an agent, or an accessory: (1) commits, attempts to commit, or conspires to commit a violation; (2) aids or abets another in the commission of a violation; or (3) intentionally induces, directs, causes, coerces, or permits another to commit a violation. Investigators typically use a pipette (a long, slender plastic tube) to draw a fuel sample from the tank of a vehicle to determine whether or not the tank contains dyed, and therefore untaxed, fuel.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office, Department of Legislative Services

Fiscal Note History: First Reader - February 6, 2008
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