

HOUSE BILL 163

C2

9lr0025

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

Introduced and read first time: January 26, 2009

Assigned to: Economic Matters

Committee Report: Favorable

House action: Adopted

Read second time: March 5, 2009

CHAPTER _____

1 AN ACT concerning

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

3 FOR the purpose of establishing certain violations involving the use of dyed diesel fuel
4 in the propulsion tanks of motor vehicles on the highways of the State; and
5 generally relating to the regulation of dyed diesel fuel in the State.

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 2008 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:

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

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

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

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

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

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

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

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

25 (c) A person may not:

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

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

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

33 (4) refuse to permit inspection of a propulsion tank in accordance with
34 § 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 (I) COMMITS A VIOLATION OF THIS SECTION;

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

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

7 (IV) AIDS ANOTHER IN THE COMMISSION OF A VIOLATION OF
8 THIS SECTION; OR

9 (V) ABETS ANOTHER IN THE COMMISSION OF A VIOLATION
10 OF THIS SECTION.

11 (2) A PERSON IS GUILTY OF A VIOLATION OF THIS SECTION IF THE
12 PERSON INTENTIONALLY:

13 (I) INDUCES ANOTHER TO COMMIT A VIOLATION OF THIS
14 SECTION;

15 (II) CAUSES ANOTHER TO COMMIT A VIOLATION OF THIS
16 SECTION;

17 (III) COERCES ANOTHER TO COMMIT A VIOLATION OF THIS
18 SECTION;

19 (IV) PERMITS ANOTHER TO COMMIT A VIOLATION OF THIS
20 SECTION; OR

21 (V) DIRECTS ANOTHER TO COMMIT A VIOLATION OF THIS
22 SECTION.

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

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

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

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

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2009.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.