

CHAPTER 377

(House Bill 163)

AN ACT concerning

Motor Fuel – Dyed Diesel Fuel – Violations

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

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 10–323.2
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – Business Regulation

10–323.2.

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

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

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

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

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

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

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

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

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

(c) A person may not:

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

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

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

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

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

(I) COMMITS A VIOLATION OF THIS SECTION;

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

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

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

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

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

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

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

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

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

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

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

[(e)](F) In addition to any other penalty provided by law, the Comptroller may assess against any person that violates any provision of this section 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.

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

Approved by the Governor, May 7, 2009.