

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 163

(Chair, Economic Matters Committee)(By Request -
Departmental - Comptroller)

Economic Matters

Finance

Motor Fuel - 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 State highways. A person is guilty of a violation if he or she commits, attempts to commit, or conspires to commit a violation; aids or abets another in the commission of a violation; or intentionally induces, directs, causes, coerces, or permits another to commit a violation. A party may be charged as a principal, an agent, or an accessory.

Fiscal Summary

State Effect: Potential minimal increase in special fund revenues and in general fund revenues and expenditures due to the bill's expansion of the application of existing penalty provisions.

Local Effect: Potential minimal increase in expenditures due to the expansion of the application of existing penalty provisions.

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: A person may not operate a motor vehicle on a State highway with dyed diesel fuel in the vehicle's propulsion tank, unless allowed to do so under federal law or regulation. In addition, a person may not sell or deliver dyed fuel from a retail pump that is not properly labeled; sell or deliver dyed diesel fuel from a petroleum delivery vehicle

into a propulsion tank of a motor vehicle; or refuse to allow inspection of a propulsion tank in accordance with State law.

A person who violates any of these provisions is guilty of a misdemeanor and is subject to a fine of up to \$1,000, imprisonment for up to one year, or both. In addition, the Comptroller's Office may assess against any person who violates these provisions a fine of \$1,000 or \$10 per gallon of dyed diesel fuel involved in the violation, whichever is greater.

Background: The U.S. Environmental Protection Agency requires that high sulfur diesel fuel be dyed red, indicating that it is for nonhighway use. The Internal Revenue Service also requires that diesel for tax-exempt use, such as heating oil, be dyed red.

In some cases, the vehicle owner or agent (but not the operator) may be responsible for the illicit use of dyed fuel, but no statute is in place to hold these parties accountable. Instead, currently, only the operator of the motor vehicle may be charged in such cases. According to the Comptroller's Office, the lack of accountability has been an issue for some judges who have acquitted vehicle operators who deny awareness of the inappropriate use of dyed fuel. Of the 38 dyed diesel fuel investigations by the Comptroller's Office in fiscal 2008, one involved the driver of a vehicle engaging in prohibited on-highway use. The owner of the vehicle was aware of the prohibited use but could not be charged because the owner was not selling or delivering dyed diesel fuel. The dyed diesel fuel was used in the vehicle, which does not come under the current language of the statute.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office, Judiciary (Administrative Office of the Courts), Department of Legislative Services

Fiscal Note History: First Reader - February 11, 2009
ncs/mcr

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Motor Fuel – Dyed Diesel Fuel - Violations

BILL NUMBER: HB 163

PREPARED BY: Comptroller of Maryland

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.