

**Sixty-third Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 8, 2013**

SENATE BILL NO. 2294
(Senators Dotzenrod, G. Lee, Luick)
(Representative J. Kelsh)

AN ACT to amend and reenact section 57-43.2-41 of the North Dakota Century Code, relating to increased fees for use of dyed special fuel in a licensed motor vehicle and display of consumer advisory information on pumps dispensing dyed special fuel.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-43.2-41 of the North Dakota Century Code is amended and reenacted as follows:

57-43.2-41. Dyed special fuel - Administrative fees - Inspections - Penalty - Consumer advisory.

1. Special fuel dyed for federal motor fuel tax exemption purposes is subject to the tax imposed by section 57-43.2-03 and, unless otherwise provided in this section, may not be used in the fuel supply tank of a licensed motor vehicle. The owner or operator of a licensed motor vehicle found to contain dyed special fuel in the fuel supply tank of that vehicle is subject to the tax imposed by section 57-43.2-02 to be determined based on the capacity of the fuel supply tank of the licensed vehicle involved and is subject to administrative fees as follows:
 - a. A ~~two hundred fifty~~ five hundred dollar fee for the first violation.
 - b. A ~~five hundred~~ two thousand dollar fee for a second violation occurring within three years of a previous violation.
 - c. A ~~one~~ four thousand dollar fee for a third violation occurring within three years of two previous violations.
 - d. A ~~five~~ ten thousand dollar fee for the fourth and subsequent violations occurring within three years of three or more previous violations.
2. Special fuel found in the fuel supply tank of a licensed motor vehicle shall be considered dyed if the fuel contains traces of the dye in an amount sufficient to be found in violation of federal laws and rules.
3. For purposes of enforcing the provisions of this section, the highway patrol, by agreement with the commissioner, may:
 - a. Stop, detain, and inspect a licensed motor vehicle and withdraw a sample of fuel from the fuel supply tank of the vehicle in a manner and in a quantity sufficient to determine whether the fuel is a special fuel and to determine the dye content of the fuel.
 - b. Physically inspect, examine, or otherwise search any tank, reservoir, or other container that can or may be used for the production, storage, or transportation of any type of fuel for coloration, markers, and shipping papers.

Any attempt by a person to prevent, stop, or delay an inspection of fuel or shipping papers by the highway patrol is subject to a civil penalty of not more than one thousand dollars per occurrence.

4. The highway patrol may issue a citation covering any violation of this section, and the person receiving a citation has the right to a hearing before the tax commissioner in the manner provided in chapter 28-32 if, within thirty days after receiving a citation, the person requests a hearing.
5. This section does not apply to:
 - a. A person who purchased dyed special fuel in another state or Canadian province and imported that fuel into the state in the supply tank of a licensed motor vehicle provided the state or Canadian province where the fuel was purchased does not prohibit its use in that vehicle.
 - b. A state or local government using dyed special fuel in licensed vehicles for purposes of construction, reconstruction, repair, or maintenance of public roads or highways.
6. All administrative fees or civil penalties under this section may be completely or partially waived by the tax commissioner for good cause shown, and any fees or penalties not waived must be collected by the tax commissioner and transferred to the state treasurer and deposited in the state highway fund.
7. The tax commissioner shall prescribe the size and contents of a sticker to be affixed to pumps dispensing dyed special fuel to advise consumers of the administrative fee imposed for a first violation of this section for use of dyed special fuel in the fuel supply tank of a licensed motor vehicle. A retailer of dyed special fuel shall affix the prescribed sticker to every pump on the retailer's premises dispensing dyed special fuel.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-third Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2294.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 64 Nays 28 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2013.

Approved at _____ M. on _____, 2013.

Governor

Filed in this office this _____ day of _____, 2013,

at _____ o'clock _____ M.

Secretary of State