

452A.74A Additional penalty and enforcement provisions.

In addition to the tax or additional tax, the following fines and penalties shall apply:

1. *Illegal use of dyed fuel.* The illegal use of dyed fuel in the supply tank of a motor vehicle shall result in a civil penalty assessed against the owner or operator of the motor vehicle as follows:

a. A five hundred dollar penalty for the first violation.

b. A one thousand dollar penalty for a second violation within three years of the first violation.

c. A two thousand dollar penalty for third and subsequent violations within three years of the first violation.

2. *Illegal importation of untaxed fuel.* A person who imports motor fuel or undyed special fuel without a valid importer's license or supplier's license shall be assessed a civil penalty as provided in this subsection. However, the owner or operator of the importing vehicle shall not be guilty of violating this subsection if it is shown by the owner or operator that the owner or operator reasonably did not know or reasonably should not have known of the illegal importation.

a. For a first violation, the importing vehicle shall be detained and a penalty of four thousand dollars shall be paid before the vehicle will be released. The owner or operator of the importing vehicle or the owner of the fuel may be held liable for payment of the penalty.

b. For a second violation, the importing vehicle shall be detained and a penalty of ten thousand dollars shall be paid before the vehicle will be released. The owner or operator of the importing vehicle or the owner of the fuel may be held liable to pay the penalty.

c. For third and subsequent violations, the importing vehicle and the fuel shall be seized and a penalty of twenty thousand dollars shall be paid before the vehicle will be released. The owner or operator of the importing vehicle or the owner of the fuel may be held liable to pay the penalty.

d. If the owner or operator of the importing vehicle or the owner of the fuel fails to pay the tax and penalty for a first or second offense, the importing vehicle and the fuel may be seized. The department of revenue, the state department of transportation, or any peace officer, at the request of either department, may seize the vehicle and the fuel.

e. If the operator or owner of the importing vehicle or the owner of the fuel moves the vehicle or the fuel after the vehicle has been detained and a sticker has been placed on the vehicle stating that "This vehicle cannot be moved until the tax, penalty, and interest have been paid to the Department of Revenue", an additional penalty of ten thousand dollars shall be assessed against the operator or owner of the importing vehicle or the owner of the fuel.

f. For purposes of this subsection, "vehicle" means as defined in section 321.1.

3. *Improper receipt of refund.* If a person files an incorrect refund claim, in addition to the excess amount of the claim, a penalty of ten percent shall be added to the amount by which the amount claimed and refunded exceeds the amount actually due and shall be paid to the department. If a person knowingly files a fraudulent refund claim with the intent to evade the tax, the penalty shall be seventy-five percent in lieu of the ten percent. The person shall also pay interest on the excess refunded at the rate per month specified in section 421.7, counting each fraction of a month as an entire month, computed from the date the refund was issued to the date the excess refund is repaid to the state.

4. *Illegal heating of fuel.* The deliberate heating of taxable motor fuel or special fuel by dealers prior to consumer sale is a simple misdemeanor.

5. *Prevention of inspection.* The department of revenue or the state department of transportation may conduct inspections for coloration, markers, and shipping papers at any place where taxable fuel is or may be loaded into transport vehicles, produced, or stored. Any attempts by a person to prevent, stop, or delay an inspection of fuel or shipping papers by authorized personnel shall be subject to a civil penalty of not more than two thousand dollars per occurrence. Any law enforcement officer or department of revenue or state department of transportation employee may 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.

6. *Failure to conspicuously label a fuel pump.* A retailer who does not conspicuously

label a fuel pump or other delivery facility as required by the internal revenue service, that dispenses dyed diesel fuel so as to notify customers that it contains dyed diesel fuel, shall pay to the department a penalty of one hundred dollars per occurrence.

7. *False or fraudulent report or return.* Any person, including an officer of a corporation or a manager of a limited liability company, who is required to make, render, sign, or verify any report or return required by this chapter and who makes a false or fraudulent report or return, or who fails to file a report or return with the intent to evade the tax, shall be guilty of a fraudulent practice. Any person who aids, abets, or assists another person in making any false or fraudulent report or return or false statement in any report or return with the intent to evade payment of tax shall be guilty of a fraudulent practice.

95 Acts, ch 155, §36, 44; 96 Acts, ch 1066, §19 – 21; 99 Acts, ch 151, §72, 89; 2003 Acts, ch 145, §286; 2009 Acts, ch 179, §141

Referred to in §321.56, 452A.76

[P] Fraudulent practices, see §714.8 – 714.14