

SENATE BILL NO. 2294

Introduced by

Senators Dotzenrod, G. Lee, Luick

Representative J. Kelsh

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

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

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

7 **57-43.2-41. Dyed special fuel - Administrative fees - Inspections - Penalty - Consumer**
8 **advisory.**

- 9 1. Special fuel dyed for federal motor fuel tax exemption purposes is subject to the tax
10 imposed by section 57-43.2-03 and, unless otherwise provided in this section, may not
11 be used in the fuel supply tank of a licensed motor vehicle. The owner or operator of a
12 licensed motor vehicle found to contain dyed special fuel in the fuel supply tank of that
13 vehicle is subject to the tax imposed by section 57-43.2-02 to be determined based on
14 the capacity of the fuel supply tank of the licensed vehicle involved and is subject to
15 administrative fees as follows:
- 16 a. A ~~two hundred fifty~~one thousand five hundred dollar fee for the first violation.
 - 17 b. A ~~five hundred~~two thousand dollar fee for a second violation occurring within
18 three years of a previous violation.
 - 19 c. A ~~one~~four thousand dollar fee for a third violation occurring within three years of
20 two previous violations.
 - 21 d. A ~~five~~ten thousand dollar fee for the fourth and subsequent violations occurring
22 within three years of three or more previous violations.

- 1 2. Special fuel found in the fuel supply tank of a licensed motor vehicle shall be
2 considered dyed if the fuel contains traces of the dye in an amount sufficient to be
3 found in violation of federal laws and rules.
- 4 3. For purposes of enforcing the provisions of this section, the highway patrol, by
5 agreement with ~~and the assistance of~~ the commissioner, may:
- 6 a. Stop, detain, and inspect a licensed motor vehicle and withdraw a sample of fuel
7 from the fuel supply tank of the vehicle in a manner and in a quantity sufficient to
8 determine whether the fuel is a special fuel and to determine the dye content of
9 the fuel.
- 10 b. Physically inspect, examine, or otherwise search any tank, reservoir, or other
11 container that can or may be used for the production, storage, or transportation of
12 any type of fuel for coloration, markers, and shipping papers.
- 13 Any attempt by a person to prevent, stop, or delay an inspection of fuel or shipping
14 papers **by the highway patrol** is subject to a civil penalty of not more than one
15 thousand dollars per occurrence.
- 16 4. **The highway patrol may issue a citation covering any violation of this section, and the**~~A~~
17 person receiving a **citation**~~notice of violation of this section~~ has the right to a hearing
18 before the tax commissioner in the manner provided in chapter 28-32 if, within thirty
19 days after receiving a **citation**~~notice of violation of this section~~, the person requests a
20 hearing.
- 21 5. This section does not apply to:
- 22 a. A person who purchased dyed special fuel in another state or Canadian province
23 and imported that fuel into the state in the supply tank of a licensed motor vehicle
24 provided the state or Canadian province where the fuel was purchased does not
25 prohibit its use in that vehicle.
- 26 b. A state or local government using dyed special fuel in licensed vehicles for
27 purposes of construction, reconstruction, repair, or maintenance of public roads
28 or highways.
- 29 6. All administrative fees or civil penalties under this section may be completely or
30 partially waived by the tax commissioner for good cause shown, and any fees or

1 penalties not waived must be collected by the tax commissioner and transferred to the
2 state treasurer and deposited in the state highway fund.

3 7. The tax commissioner shall prescribe the size and contents of a sticker to be affixed to
4 pumps dispensing dyed special fuel to advise consumers of the administrative fee
5 imposed for a first violation of this section for use of dyed special fuel in the fuel supply
6 tank of a licensed motor vehicle. A retailer of dyed special fuel shall affix the
7 prescribed sticker to every pump on the retailer's premises dispensing dyed special
8 fuel.