

**138.502 Prohibition on the sale, delivery, provision, or use of untaxed or dyed diesel fuel -- Exceptions -- Civil penalty.**

- (1) A person shall not sell or deliver untaxed diesel fuel or dyed diesel fuel when the person knows or has reason to know that the fuel will be used in a motor vehicle on any public highway.
- (2) A person shall not introduce untaxed diesel fuel or dyed diesel fuel into the supply tank of any motor vehicle licensed for highway use.
- (3) A person shall not use untaxed diesel fuel or dyed diesel fuel in any motor vehicle actually used on a public highway.
- (4) The prohibitions contained in this section shall not apply to:
  - (a) Persons operating motor vehicles that have received fuel into the fuel tank outside this state in a jurisdiction that permits introduction of untaxed diesel fuel or dyed diesel fuel into the fuel supply tank of highway vehicles; and
  - (b) Uses of untaxed fuel or dyed diesel fuel on the highway which are lawful under the Internal Revenue Code and regulations, including state and local government vehicles, and buses, unless otherwise prohibited by this chapter.
- (5) The department may assess a civil penalty as follows:
  - (a) For first offenses, one thousand dollars (\$1,000) or ten dollars (\$10) per gallon of untaxed fuel or dyed diesel fuel involved, whichever is greater, against any person who violates this section. The capacity of the fuel tank shall be assumed to be the amount of fuel involved, unless a lesser amount can be adequately verified by the violator; and
  - (b) For subsequent offenses, the penalty shall be the amount determined in paragraph (a) of this subsection, multiplied by the number of separate violations by the violator.

**Effective:** June 20, 2005

**History:** Amended 2005 Ky. Acts ch. 85, sec. 390, effective June 20, 2005. -- Amended 2002 Ky. Acts ch. 267, sec. 2, effective July 15, 2002. -- Created 2000 Ky. Acts ch. 397, sec. 3, effective July 14, 2000.