

CHAPTER 194

**MOTOR VEHICLES AND TRAFFIC REGULATION**

**HOUSE BILL 99-1165**

BY REPRESENTATIVES Kaufman, George, Grossman, Larson, Mace, May, Saliman, Swenson, Tapia, and S. Williams;  
also SENATORS Dyer, Arnold, Evans, Hernandez, Sullivant, and Weddig.

**AN ACT**

CONCERNING THE UNLAWFUL USE OF TAX-EXEMPT FUEL, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 42-8-105, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**42-8-105. Clearance of motor vehicles at port of entry weigh stations.**

(3.5) EVERY OWNER OR OPERATOR OF A MOTOR VEHICLE SUBJECT TO THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION, WHEN STOPPED FOR A LAWFUL INSPECTION, SHALL PERMIT PERSONNEL OF A PORT OF ENTRY WEIGH STATION TO INSPECT THE FUEL TANK OF THE VEHICLE FOR THE PURPOSE OF ENSURING THAT THE VEHICLE IS NOT OPERATING ON THE PUBLIC HIGHWAYS OF THE STATE USING TAX-EXEMPT DIESEL FUEL IN VIOLATION OF SECTION 42-4-1414.

**SECTION 2.** Part 14 of article 4 of title 42, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**42-4-1414. Use of dyed fuel on highways prohibited.** (1) NO PERSON SHALL OPERATE A MOTOR VEHICLE UPON ANY HIGHWAY OF THE STATE USING DIESEL FUEL DYED TO SHOW THAT NO TAXES HAVE BEEN COLLECTED ON THE FUEL.

(2) (a) ANY PERSON WHO VIOLATES SUBSECTION (1) OF THIS SECTION COMMITS A CLASS B TRAFFIC INFRACTION.

(b) ANY PERSON WHO COMMITS A SECOND VIOLATION OF SUBSECTION (1) OF THIS SECTION WITHIN A TWELVE-MONTH PERIOD SHALL BE SUBJECT TO AN INCREASED PENALTY PURSUANT TO SECTION 42-4-1701 (4) (a) (I) (N).

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(c) ANY PERSON WHO COMMITS A THIRD OR SUBSEQUENT VIOLATION OF SUBSECTION (1) OF THIS SECTION WITHIN A TWELVE-MONTH PERIOD SHALL BE SUBJECT TO AN INCREASED PENALTY PURSUANT TO SECTION 42-4-1701 (4) (a) (I) (N).

(3) ANY PERSON VIOLATING ANY PROVISION OF THIS SECTION SHALL BE SUBJECT TO AUDIT BY THE DEPARTMENT REGARDING PAYMENT OF MOTOR FUEL TAX.

**SECTION 3.** 42-4-1701 (4) (a) (I) (N), Colorado Revised Statutes, is amended to read:

**42-4-1701. Traffic offenses and infractions classified - penalties - penalty and surcharge schedule.** (4) (a) (I) Except as provided in paragraph (c) of subsection (5) of this section, every person who is convicted of, who admits liability for, or against whom a judgment is entered for a violation of any provision of this title to which the provisions of paragraph (a) or (b) of subsection (5) of this section apply shall be fined or penalized, and have a surcharge levied thereon pursuant to section 24-4.2-104 (1) (b) (I), C.R.S., in accordance with the penalty and surcharge schedule set forth in sub-subparagraphs (A) to (P) of this subparagraph (I); or, if no penalty or surcharge is specified in the schedule, the penalty for class A and class B traffic infractions shall be fifteen dollars, and the surcharge shall be two dollars. These penalties and surcharges shall apply whether the defendant acknowledges the defendant's guilt or liability in accordance with the procedure set forth by paragraph (a) of subsection (5) of this section or is found guilty by a court of competent jurisdiction or has judgment entered against the defendant by a county court magistrate. Penalties and surcharges for violating specific sections shall be as follows:

Section Violated	Penalty	Surcharge
(N) <b>Other offenses:</b>		
42-4-1301 (2)(a.5)	\$ 50.00	\$ 6.00
42-4-1402	50.00	6.00
42-4-1403	15.00	2.00
42-4-1404	15.00	2.00
42-4-1406	35.00	4.00
42-4-1407	35.00	4.00
42-4-314	35.00	4.00
<del>42-4-1408</del>	<del>15.00</del>	<del>2.00</del>
42-4-1408	15.00	2.00

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42-4-1414 (2)(a)	500.00	60.00
42-4-1414 (2)(b)	1,000.00	120.00
42-4-1414 (2)(c)	5,000.00	600.00

**SECTION 4. Appropriation.** In addition to any other appropriation, there is hereby appropriated, out of any moneys in the highway users tax fund not otherwise appropriated, to the department of revenue, for the fiscal year beginning July 1, 1999, the sum of one hundred three thousand one hundred sixty-seven dollars (\$103,167) and 3.2 FTE, or so much thereof as may be necessary, for the implementation of this act.

**SECTION 5. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 18, 1999