

ONTARIO TAX BULLETIN

Published by the Ministry of Finance, Motor Fuels and Tobacco Tax Branch

The information in this bulletin does not replace the law found in the *Fuel Tax Act* and related regulations.

Coloured Fuel

This bulletin provides general information on the purchase, use, storage, labelling and handling of tax-exempt coloured fuel in Ontario.

What is coloured fuel?

Coloured fuel

For the purposes of this bulletin, coloured fuel is fuel to which a specific type and quantity of red dye has been added in accordance with the *Fuel Tax Act* and regulations.

Tax-exempt fuel

Coloured fuel is exempt from Ontario fuel tax and may be used for non-taxable purposes only.

What are the permissible uses of coloured fuel?

The use of coloured fuel in a licenced motor vehicle is prohibited.

Coloured fuel may be used for any purpose other than to: generate power in a licenced motor vehicle; operate a recreational vehicle, personal watercraft, boat or any other machine used or intended to be used principally for the pleasure or recreation of its owner or operator; or propel railway equipment on rails in connection with and as part of a public transportation system. (An administrative exception to the restriction on coloured fuel use in certain railway operations is outlined in *Ontario Tax Bulletin No. FT 1-99: Requirements for Railway Operators in Ontario under the Fuel Tax Act.*)

Examples of permitted coloured fuel use are:

Examples of permitted coloured fuel use

- use as fuel for heating, lighting or cooking;
- generating electricity;
- operating unlicenced construction, forestry, mining, farm and other business equipment;

- operating commercial marine vessels;
- use in the auxiliary equipment of a motor vehicle where such equipment has its own separate fuel tank;
- testing newly-constructed or reconditioned marine vessels;
- use by First Nations individuals and bands registered under the *Indian Act* (Canada) as long as the fuel is acquired on a reserve; and
- operating railway equipment provided that the operator is registered with the Ministry of Finance and pays fuel tax on all fuel used in its railway operations.

What is a licenced motor vehicle?

Licenced motor vehicle described

A licenced motor vehicle is any motor vehicle to which a number plate is attached as required under the *Highway Traffic Act*.

Prohibited use

Coloured fuel may not be placed in a licenced motor vehicle, even if the motor vehicle is operated primarily in connection with the business of farming, construction, forestry, or mining.

Who is authorized to colour fuel?

No person shall colour fuel unless the person is registered by the Minister as a dyer.

In order to colour fuel in Ontario, a person must be registered with the Minister of Finance as a dyer. Only a fuel distributor designated by the Minister as a fuel tax collector or as a distributor of special products is entitled to be registered as a dyer.

Fuel must be coloured in accordance with the Act and regulations.

Registered dyers are to colour fuel using only the dye provided by the Minister, in the manner and using the equipment, methods and procedures specified in the Act and regulations.

It is a serious offence to colour fuel in Ontario without proper authorization.

Where is coloured fuel sold?

Most bulk fuel suppliers in Ontario sell coloured fuel.

Coloured fuel may be purchased from most bulk fuel suppliers in Ontario.

It is an offence to sell coloured fuel knowing that its use will be taxable.

While no special permits or authorizations are required under the Act to purchase or sell coloured fuel, no one may place or cause to be placed coloured fuel in the fuel tank of a licenced vehicle, or sell coloured fuel knowing that it will be used for taxable purposes.

How is coloured fuel to be stored?

Coloured fuel storage requirements

Coloured fuel must be stored in separate storage facilities that are clearly marked to indicate that coloured fuel is stored therein.

Proper labelling

The Ministry of Finance issues labels and tags which are to be used by any person who owns or operates any equipment used to colour, store, transport or deliver coloured fuel, for the purposes of identifying such fuel as coloured fuel.

Label or tag visibility

Each identifying label or tag must be placed in a location where it is clearly visible under normal operating conditions.

Can coloured fuel be mixed or combined with any other fuel?

It is an offence to mix coloured fuel with any other type or grade of fuel.

Coloured fuel must not be mixed or combined with any other type or grade of fuel. Any person who does so is guilty of an offence and if convicted, is liable to fines and possible imprisonment.

Similar sanctions may be imposed on any person who destroys or removes the dye or any component of the dye in any coloured fuel.

Is fuel that has been coloured in another jurisdiction also tax-exempt fuel?

Unauthorized fuel

Even if the colouring has been carried out in accordance with the Act and regulations, tax-exempt fuel that has been coloured in the United States or in another province is considered to be unauthorized fuel, subject to fuel tax at the same rate as non-coloured or clear fuel.

Prohibition

The *Fuel Tax Act* prohibits the use of unauthorized fuel in a licenced motor vehicle in Ontario.

Exceptions

As an exception, fuel coloured in the Province of Quebec in accordance with the Act and regulations is authorized for use in Ontario as coloured fuel, pursuant to an Ontario-Quebec Reciprocal Dye Agreement.

As a further exception, the Minister may authorize a registered dyer to colour fuel outside of Ontario under certain specific conditions.

Coloured Fuel in Remote Northern Locations*Remote Northern locations*

It has been the practice of the Ministry of Finance to permit coloured fuel use for any purpose in remote Northern locations. This includes any location situated north of the 51st parallel but excludes an eighty kilometre radius of Highways #618, #125, #599, #808 and Moosonee and Moose Factory.

Inspections*Ministry of Finance authorized inspections*

Ministry of Finance inspectors are authorized to conduct roadside tests on licenced motor vehicles to verify that only clear fuel is in the fuel tank of that motor vehicle. In cases where coloured or unauthorized fuel is found in the fuel tank, the operator of the motor vehicle may be liable to penalties and fines.

In addition to roadside tests, Ministry of Finance inspectors may also inspect tank wagons, bulk fuel plants, retail stations, truck yards, farms, or any other location where business is carried on, to monitor compliance with the requirements of the Act and regulations.

Penalties and Fines*Improper use, storage, labelling, or handling of coloured fuel*

Anyone convicted of an offence relating to the improper use, storage, labelling, or handling of coloured fuel in Ontario is liable to pay a set fine amount of \$355, for an offence notice issued under the *Provincial Offences Act* (POA), or a fine amount that may range anywhere from \$200 to \$1,000,000, for an offence under the *Fuel Tax Act*. A number of offences are described below, along with the corresponding fine amounts:

Offence	Set Fine (POA)	Fine (Act)
Motor vehicle containing coloured fuel	\$355	up to \$1000
Unauthorized fuel in the fuel tank of motor vehicle	\$355	up to \$1000
Refuse to permit detention or examination of motor vehicle	\$355	up to \$1000
Refuse to permit fuel samples	\$355	up to \$1000
Deliver coloured fuel into a motor vehicle	\$355	up to \$2000
Sell coloured fuel for taxable use	\$355	up to \$2000
Remove, break or alter a coloured fuel seal or a label	\$355	up to \$100,000
Improper storing and labelling of coloured fuel	n/a	up to \$100,000
Destroy, remove or attempt to destroy or remove dye	n/a	up to \$1,000,000
Mix or combine coloured fuel with any other fuel	n/a	up to \$1,000,000
Refuse or neglect to dye fuel in accordance with the Act	n/a	up to \$1,000,000

Assessed penalties

In addition to fines, the Act provides the Minister with the authority to assess penalties for the improper use of coloured or unauthorized fuel equal to three times the tax that would be payable under the Act if the fuel were clear fuel sold to a purchaser in Ontario.

Subsequent penalties

Subsequent penalties are equal to ten times the tax that would be payable under the Act if the fuel were clear fuel sold to a purchaser in Ontario.

Payment of a fine, penalty, or both does not eliminate the liability for tax.

General Information

If this bulletin does not completely address your particular situation, please refer to the *Fuel Tax Act* and related regulations, or contact the:

Ministry of Finance
Motor Fuels and Tobacco Tax Branch
Fuel Tax Program
33 King Street West
PO Box 625
Oshawa ON L1H 8H9

FAX: (905) 436-4511 or call
(905) 433-6394

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