

Use LEGAL FUEL

**Notes for Drivers
Vehicle Owners
and the Transport Industry**



**Customs and
Excise Department**



Introduction

This pamphlet aims to provide important notes to drivers, vehicle owners and the transport industry on the use of vehicle fuel.

This pamphlet is for reference only. Should there be any discrepancies between the contents of this pamphlet and that of the Laws of Hong Kong, the ordinances shall prevail.

Purpose

- **To provide drivers, vehicle owners and the transport industry with information for :**
 - ~ Enhancing knowledge of illicit fuel;
 - ~ Enhancing understanding of relevant legislations;
 - ~ Increasing public awareness to stay away from illicit fuel activities;
 - ~ Strengthening the communication with the Customs and Excise Department; and
 - ~ Assisting the Department in suppressing illicit fuel activities.

Types of illicit vehicle fuel

- **Dutiable diesel oil and motor spirit**

Vehicle fuels of which duties have not been paid according to law, including:

- ~ Illegally imported fuel;
- ~ Fuel for export but illegally re-imported for use in the local market;
- ~ Fuel exempted from duty in the fuel tank of cross-boundary vehicles has been illegally transferred for use in other vehicles; or
- ~ Synthetic motor spirit (mixture of different light oils) .

- **Illegal use of “marked diesel oil” (commonly known as “red oil”)**

Also referred as “marked oil” in the Dutiable Commodities Ordinance. Marked diesel oil is specified by law for industrial and marine use (other than pleasure vessels). It is illegal to use marked diesel oil in motor vehicles except the vehicles specified by law.

- **Detreated oil**

Marked diesel oil from which the marker has been illegally removed. It is illegal to use detreated oil.

Related offences and penalties

Dutiable Commodities Ordinance (Chapter 109, Laws of Hong Kong)

- **Section 17: Except in accordance with the provisions of the Dutiable Commodities Ordinance, no person shall:**

- ~ import or export or have in his possession, custody or control, or in any way deal with or dispose of, any goods to which the Dutiable Commodities Ordinance applies;
- ~ on his own account or on behalf of another, sell, offer for sale or buy any dutiable goods which are in Hong Kong.





Dutiable Commodities (Marking and Colouring of Hydrocarbon Oil) Regulations (Chapter 109 Subsidiary Legislation C, Laws of Hong Kong)

• **Regulation 5B : Except for the exempted vehicles as specified in this Regulation, no person shall:**

- ~ use or permit the use of marked oil as a fuel in any motor vehicle;
- ~ sell, supply or permit the sale or supply of marked oil for the purpose of being used as a fuel in any motor vehicle;
- ~ place, cause to be placed in the fuel tank of any motor vehicle any marked oil;
- ~ drive or be in charge of any motor vehicle which has marked oil in the fuel tank of that motor vehicle.

• **Regulation 9(d):**

No person shall import, buy, sell or otherwise deal in, or have in his possession or under his control, any light diesel oil to which has been added any substance which is calculated to impede the identification of any marker or colouring substance, or from which any marker or any colouring substance has been removed.

The maximum penalty for contravention of the above provisions is a fine of \$1,000,000 and imprisonment for 2 years.

Disqualification from driving

Dutiable Commodities Ordinance (Chapter 109, Laws of Hong Kong)

• **Section 46AA:**

Any person who has committed the relevant offence twice (whether under the same provision or under different provisions), may, upon conviction, be disqualified from driving for 6 months; if being convicted for three or more times, he may be disqualified from driving for not less than 6 months.

Presumptions in Law

Dutiable Commodities Ordinance (Chapter 109, Laws of Hong Kong)

- **Section 40(c): If a person —**

(i) sells, supplies, buys, receives or otherwise deals in light diesel oil (other than marked oil) or motor spirit; or

(ii) transfers light diesel oil (other than marked oil) or motor spirit to or from a vehicle's fuel tank, and does so —

(A) at a location other than premises in respect of which a licence for the storage of diesel oils (being dangerous goods in category 5, class 3) or petrol (being dangerous goods in category 5, class 1) (as the case may be) has been issued under Part VI of the Dangerous Goods (General) Regulations (Cap 295 sub. leg.); and


(B) in circumstances that give rise to a reasonable belief that the light diesel oil or motor spirit is dutiable,

the light diesel oil or motor spirit found in or about the location is dutiable goods;

- **Section 40(ca):**

any light diesel oil found in the fuel tank of a motor vehicle and having a sulphur content in excess of that stipulated in Schedule 1 to the Air Pollution Control (Motor Vehicle Fuel) Regulation (Cap 311 sub.leg.) is dutiable goods.





Seizure and Forfeiture of things used for the commission of crimes

Dutiable Commodities Ordinance (Chapter 109, Laws of Hong Kong)

• Section 48(2):

Wherever there occurs a contravention or an attempted contravention of any provision of this Ordinance, any things (e.g. vehicles) which are made use of in such contravention or attempted contravention shall be liable to forfeiture whether or not any person is convicted of any offence.

How to avoid being incriminated in illicit fuel activities

In order to suppress the use of illicit vehicle fuel, Customs Officers frequently carry out operations and check fuel tanks of vehicles. To avoid being incriminated in illicit fuel activities by unlawful elements, drivers and owners of vehicle should:

- ~ refuel at legal filling stations;
- ~ keep the latest refuelling receipts of the vehicles as proofs of the source of the fuel;
- ~ check the fuel in fuel tank to see if there is any red color mark or residue while handing/taking over a diesel vehicle, especially a hired vehicle;
- ~ state clearly who is the responsible person for refuelling when entering into an agreement on hiring of a vehicle, and maintain a simple driving log;
- ~ pay by fuel cards issued by the oil companies or credit cards where possible to facilitate checking of transaction records;
- ~ inform a Customs Officer or report through Customs Hotline upon discovery of illicit fuel activities.

Enquiry and Report of Information

Customs and Excise Department welcomes any enquiries and information on illicit fuel activities. You are welcome to contact the Department:

- (1) by Customs Hotline : **2545 6182 (24-hour)**;
- (2) by Customs Hotline Fax : **2543 4942 (24-hour)**;
- (3) by letter to the Department at **G.P.O. Box 1166**; or
- (4) by Customs Email : **customsenquiry@customs.gov.hk**

Reward for information

To encourage reporting of illicit fuel activities, the Department offers rewards for information, and administers an “Oil Industry Reward Scheme” with several oil companies. Any person who provides information under prescribed terms and conditions may be eligible for reward payment if the information leads to seizure and forfeiture of illicit fuel, or conviction of offender.

How to lodge a complaint

Any person discontented with the actions taken or treatment given by Customs Officers during their enforcement operations can lodge a complaint to the Departmental Complaints Officer by calling:

*8100 3553 during office hours; or
3759 2288 outside office hours.*

