

March 5, 2001
OPINION NO. 00-488

Mr. Wayne Hammack, President
Bossier Parish Police Jury
P. O. Box 70
Benton, Louisiana 71006

Dear Mr. Hammack:

Your request for an Attorney General's opinion has been forwarded to me for research and reply. Specifically, you ask:

Whether your parish can operate its vehicles on the highway using dyed fuel, which is fuel on which no tax has been paid?

You also forwarded a memorandum from the Louisiana Department of Revenue and Taxation which states that:

It is unlawful to operate a motor vehicle registered or required to be registered for highway use with undyed special fuel that has not been taxed or with special fuel that contains any evidence of dye or chemical marker.

This memorandum goes on to refer to particular Louisiana statutes. A review of the statutes referred to gives the answer to your question.

The pertinent parts of Louisiana Revised Statutes 47:801, 47:803 and 47:812 are as follows:

➤ **801 Definitions**

As used in this Part the following words, terms, and phrases have the meaning ascribed to them in this Section, except where the context indicates a different meaning:

(8) ASpecial Fuels≡ means and includes all combustible gases and

liquids used or suitable for use in an internal combustion engine or motor for the generation of power for motor vehicles, except such fuels as are subject to the tax imposed by Part I of Chapter 7 of Title 47 of the Louisiana Revised Statutes of 1950.

(12) ADyed fuel $\equiv$ means any fuel meeting the definition of special fuels that is required to be dyed pursuant to the requirements of the Internal Revenue Service and is destined for tax-exempt uses or other uses as specifically authorized.

§ 803. Collection and payment of tax

A. (1) The tax levied hereunder shall be collected or paid by suppliers on all special fuels sold or delivered by them, except the following:

(a) Those fuels required to be indelibly dyed and chemically marked in accordance with regulations issued by the secretary of the Treasury of the United States under 26 U.S.C. 4082 and pursuant to the regulations of the United States Environmental Protection Agency.

(b) Those fuels sold and delivered in bulk to state agencies, parish and municipal governments, and other political subdivisions of the state of Louisiana who have obtained a certificate from the Department of Revenue, and which fuels are to be used for purposes other than in a vehicle licensed or required to be licensed for highway use.

§ 812. Violations; cargo tank to carburetor connection; operation without speedometer or hub meter; operation without name and address on trucks; invoice

B. (1) It shall be unlawful for any person to operate motor vehicles registered for or required to be registered for highway use with dyed special fuel that has not been taxed or with special fuel which contains any evidence of the dye or chemical marker as required pursuant to the regulations promulgated under 26 U.S.C. 4082. Those vehicles allowed to use dyed fuel on the highway under 26 U.S.C. 4082 or regulations adopted thereunder, but which are subject to the state tax, shall not be considered in violation of this Subpart.

As is apparent from the definitions in Section 801(8) and (12), the use of the fuel you question is referred to as ADyed fuel $\equiv$ or Aspecial fuel $\equiv$. This fuel is not taxed in accordance with both state and federal law which allows it to be used for tax-exempt

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purposes.

Section 803 sets out specific exceptions for taxing fuel. As stated previously, these are fuels which are dyed in accordance with state and federal law. Also exempt are fuels delivered in bulk to state agencies, parish and municipal governments, and other political subdivisions of the state which have met other state requirements.

One particular requirement that must be met prior to fuel being exempt from being taxed is found in both Sections 803 and 812. This is the requirement that the fuel is used for purposes other than in vehicles registered for or required to be registered for highway use. For this reason, your parish vehicles cannot be operated on highways with dyed fuel.

It should be noted that Sections 803 and 812 refer to 26 U.S.C. 4082. This is a federal law which exempts diesel fuel and kerosene from taxation if it is dyed or if it is destined for nontaxable use such as off-highway business use. If diesel is used in diesel-powered highway vehicles, it must be taxed.

Therefore, the answer to your question is **no**. It is unlawful to operate a vehicle on the highway using dyed fuel. Further, stiff penalties may be imposed on individuals or entities found violating these statutes.

We trust this answers your question. However, if you should need anything further from this office, do not hesitate to contact us.

Very truly yours,

RICHARD P. IEYOUB
ATTORNEY GENERAL

BY: _____
FRANCES J. PITMAN
ASSISTANT ATTORNEY GENERAL

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119 - TAXATION - EXEMPTIONS, GENERAL

LSA-R.S. 47:801

LSA-R.S. 47:803

LSA-R.S. 47:812

26 U.S.C. 4082

It is unlawful to operate a parish vehicle on the highway using dyed fuel. Further, stiff penalties may be imposed on individuals or entities found violating these statutes.

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DATE RECEIVED: 10/30/00BR

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DATE RELEASED: March 5, 2001

FRANCES J. PITMAN
ASSISTANT ATTORNEY GENERAL