

Accompanying the thirty-seventh recommendation of the Department of Revenue (House, No. 220). Taxation.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Six.

AN ACT RELATING TO THE ADMINISTRATION AND ENFORCEMENT OF THE SPECIAL FUELS EXCISE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 3 of chapter 64E of the General Laws, as
2 appearing in the 1984 Official Edition, is hereby amended by
3 inserting after the second paragraph, the following paragraph: —

4 Every supplier or user-seller that maintains a storage facility for
5 special fuels and/or dispenses special fuels shall be required to
6 maintain an accurate and operational metering device for the
7 measurement of special fuels removed or dispensed from said
8 facility. Such metering device shall be of a type authorized or
9 prescribed by the commissioner and shall be inspected and sealed
10 as the commissioner may by regulation require. Any person who
11 willfully destroys, alters, removes or otherwise tampers with, or
12 causes to be destroyed, altered, removed or tampered with, any
13 special fuels metering device shall be punished by a fine of not more
14 than ten thousand dollars or by imprisonment for not more than
15 two years, or both.

1 SECTION 2. Said chapter 64E, as so appearing, is hereby
2 further amended by striking out section 11 and inserting in place
3 thereof the following section: —

4 Section 11. Any person who, not being a supplier, willfully
5 holds for sale, offers for sale, sells, possesses with intent to sell, or
6 otherwise disposes of within the commonwealth special fuels that is
7 subject to tax under this chapter and such tax has not been paid,
8 shall be punished by a fine of not more than ten thousand dollars or

9 by imprisonment in state prison for not more than five years, or
10 both; provided, however, that a violation involving fewer than
11 fifteen hundred gallons of special fuels shall be punished by a fine
12 of not more than ten thousand dollars or by imprisonment for not
13 more than two years, or both.

14 Any person who violates any provision of this chapter, for which
15 a penalty is not otherwise provided, shall be punished by a fine of
16 not more than ten thousand dollars or by imprisonment for not
17 more than two years, or both.

1 SECTION 3. Said chapter 64E, as so appearing, is hereby
2 further amended by adding after section 15 the following
3 sections: —

4 Section 16. Any police officer, including a state or metropolitan
5 police officer, may without a warrant arrest any person whom he
6 finds in the act of violating any provision of this chapter or chapter
7 sixty-two C and may without a warrant seize any motor vehicle,
8 including its contents, in the possession of such person and detain
9 them until a warrant for the arrest of such person and a warrant for
10 the seizure of such motor vehicle and contents can be procured.
11 Such officer shall enforce or cause to be enforced the penalties
12 provided by law against every person who is found in violation of
13 this chapter or chapter sixty-two C. Such motor vehicle and con-
14 tents shall be forfeited to the commonwealth in the manner pro-
15 vided in section eight of chapter sixty-four C in the case of
16 cigarettes and in sections fifty to fifty-five, inclusive, of chapter one
17 hundred and thirty-eight in the case of alcoholic beverages, except
18 that the sale of any such property shall be conducted by the
19 commissioner.

20 Section 17. At the request of the commissioner, the commis-
21 sioner of public safety may appoint employees of the department of
22 revenue as special police officers, each to serve subject to removal
23 by the commissioner of public safety. Such police officers shall
24 report to the commissioner of public safety as to their official acts
25 at such time and in such manner as he may require. They shall serve
26 without pay, except their regular compensation as employees of
27 the department of revenue, and shall have and exercise throughout
28 the commonwealth powers of state police officers to serve warrants
29 and other criminal processes and to arrest and detain any person
30 violating any provision of this chapter or chapter sixty-two C.