

LEGISLATURE OF THE STATE OF IDAHO  
Sixty-third Legislature First Regular Session - 2015

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 54

BY TRANSPORTATION AND DEFENSE COMMITTEE

AN ACT

RELATING TO GASEOUS SPECIAL FUELS; AMENDING SECTION 63-2402, IDAHO CODE, TO REMOVE REFERENCE TO SPECIAL FUELS AND GASEOUS SPECIAL FUELS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-2418, IDAHO CODE, TO REMOVE A CODE REFERENCE; AMENDING SECTION 63-2423, IDAHO CODE, TO REMOVE REFERENCE TO A VALID GASEOUS SPECIAL FUELS PERMIT; AND AMENDING SECTION 63-2424, IDAHO CODE, TO REMOVE CERTAIN FEES AND TO REMOVE A GASEOUS SPECIAL FUELS PERMIT.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 63-2402, Idaho Code, be, and the same is hereby amended to read as follows:

63-2402. IMPOSITION OF TAX UPON MOTOR FUEL. (1) A tax is hereby imposed upon the distributor who receives motor fuel in this state. The legal incidence of the tax imposed under this section is borne by the distributor. The tax becomes due and payable upon receipt of the motor fuel in this state by the distributor unless such tax liability has previously accrued to another distributor pursuant to this section. The tax shall be imposed without regard to whether use is on a governmental basis or otherwise, unless exempted by this chapter.

(2) The tax imposed in this section shall be at the rate of twenty-five cents (25¢) per gallon of motor fuel received. This tax shall be subject to the exemptions, deductions and refunds set forth in this chapter.

(3) Nothing in this chapter shall prohibit the distributor who is liable for payment of the tax imposed under subsection (1) of this section from including as part of the selling price an amount equal to such tax on motor fuels sold or delivered by such distributor; provided however, that nothing in this chapter shall be deemed to impose tax liability on any person to whom such fuel is sold or delivered except as provided in subsection (6) of this section.

(4) Any person coming into this state in a motor vehicle may transport in the manufacturer's original tank of that vehicle, for his own use only, not more than thirty (30) gallons of motor fuel for the purpose of operating that motor vehicle, without complying with the provisions of this chapter.

(5) The tax imposed in this section does not apply to:

(a) Special fuels that have been dyed at a refinery or terminal under the provisions of 26 U.S.C. section 4082 and regulations adopted thereunder, or under the clean air act and regulations adopted thereunder except as provided in section 63-2425, Idaho Code; or

~~(b) Special fuel dispensed into a motor vehicle which uses gaseous special fuels and which displays a valid gaseous special fuels permit under section 63-2424, Idaho Code; or~~

~~(c) Special fuels that are gaseous special fuels, as defined in section 63-2401, Idaho Code, except that part thereof that is delivered into the fuel supply tank or tanks of a motor vehicle; or~~

(db) Aircraft engine fuel subject to tax under section 63-2408, Idaho Code.

(6) Should the distributor of first receipt be exempt from imposition of the tax as a matter of federal law, by virtue of its status as a ~~federally-recognized~~ federally recognized Indian tribe or member of such tribe, such distributor shall not bear the tax's legal incidence and must pass the tax through as part of the selling price of the fuel. Such distributor shall retain the administrative obligation to remit the tax, and such obligation shall accrue upon receipt in accordance with subsection (1) of this section. Should a retailer otherwise subject to the tax be exempt from imposition of the tax as a matter of federal law, by virtue of its status as a ~~federally-recognized~~ federally recognized Indian tribe or member of such tribe, the retailer shall not bear the tax's legal incidence and must pass the tax through as part of the selling price of the fuel to the consumer, unless such consumer is exempt from imposition of the tax as a matter of federal law, by virtue of its status as a ~~federally-recognized~~ federally recognized Indian tribe or membership in such tribe, and the retailer shall be entitled to claim a credit against taxes otherwise due and owing under this chapter or a tax refund, together with interest, attributable to the fuel purchased by such consumer.

SECTION 2. That Section 63-2418, Idaho Code, be, and the same is hereby amended to read as follows:

63-2418. DISTRIBUTION OF TAX REVENUES FROM TAX ON SPECIAL FUELS. The revenues received from the tax imposed by this chapter upon the receipt of special fuel and any penalties, interest or deficiency additions, or from the fees imposed by the commission under the provisions of section ~~63-2424 or~~ 63-2438, Idaho Code, shall be distributed as follows:

(1) An amount of money equal to the actual cost of collecting, administering and enforcing the special fuels tax provisions by the commission, as determined by it shall be retained by the commission. The amount retained by the commission shall not exceed the amount authorized to be expended by appropriation by the legislature. Any unencumbered balance in excess of the actual cost of collecting, administering and enforcing the special fuels tax requirements by the commission at the end of each fiscal year shall be distributed to the highway distribution account.

(2) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized by the commission to be paid under this chapter shall be paid from the state refund account, those moneys being hereby continuously appropriated.

(3) An amount of money equal to seven percent (7%) shall be distributed to the state highway account as established in section 40-702, Idaho Code.

(4) The balance remaining with the commission after distributing the amounts specified in subsections (1), (2) and (3) of this section shall be distributed to the highway distribution account established in section 40-701, Idaho Code.

SECTION 3. That Section 63-2423, Idaho Code, be, and the same is hereby amended to read as follows:

63-2423. CREDITS AND REFUNDS TO CONSUMERS. (1) Any person who has paid his special fuels tax directly to the distributor from whom it was purchased shall be refunded the amount of:

(a) Except as provided in subsection (2) of this section, any special fuels tax paid on special fuels used for purposes other than operation or propulsion of motor vehicles upon the highways in the state of Idaho;

(b) Any tax paid on special fuels used in motor vehicles owned or leased and operated by an instrumentality of the federal government or of the state of Idaho, including the state and all of its political subdivisions;

~~(c) Any tax paid on gaseous special fuels placed into the main supply tank of a vehicle displaying a valid gaseous special fuels permit under section 63-2424, Idaho Code;~~

~~(d)~~ Any special fuels tax paid on special fuels exported for use outside the state of Idaho. Special fuels carried from the state in the fuel tank of a motor vehicle will not be deemed to be exported from the state unless it is subject to a like or similar tax in the jurisdiction to which it is taken and that tax is actually paid to the other jurisdiction; and

(ed) Any tax, penalty or interest erroneously or illegally paid or collected.

(2) No refund of special fuels tax shall be paid on:

(a) Special fuels used in a recreational vehicle; or

(b) Special fuels used in noncommercial motor boats or in motor boats operated by a governmental entity; or

(c) Special fuels used while idling a registered motor vehicle, pursuant to the definition of "idling" as provided in section 63-2401, Idaho Code.

(3) Refunds authorized in this section shall be claimed in the same manner as applies to refunds of gasoline tax under section 63-2410, Idaho Code, and shall be subject to interest computed pursuant to subsection (5) of that section.

SECTION 4. That Section 63-2424, Idaho Code, be, and the same is hereby amended to read as follows:

63-2424. GASEOUS FUELS. ~~(1)~~ In the case of special fuels which are in a gaseous form, the commission shall provide by rule the method to be used for converting the measurement of the fuel to the equivalent of gallons for the purpose of applying tax rates. The method provided shall cause the tax rate provided in section 63-2402, Idaho Code, to apply to an amount of gaseous fuels having energy equal to one (1) gallon of gasoline.

~~(2) As an alternative to the provisions of subsection (1) of this section, an annual fee in lieu of the excise tax may be collected on a vehicle powered by gaseous fuels. The rate of the fee shall be based on the following schedule for all types of gaseous fuels as adjusted by the formula for proration set out below. The permits shall be sold by the state tax commission and gaseous fuels distributors dispensing gaseous fuels into motor vehicles.~~

1	<del>—VEHICLE TONNAGE (GVW)—</del>	<del>FEE</del>
2	0 <del>—</del> 8,000	\$ <del>60.00</del>
3	8,001 <del>—</del> 16,000	\$ <del>89.00</del>
4	16,001 <del>—</del> 26,000	\$ <del>179.00</del>
5	26,001 and above	\$ <del>208.00</del>

6 ~~Permits for vehicles which are converted to gaseous fuels after the first of~~  
 7 ~~July in any year shall have the fee prorated for the appropriate number of~~  
 8 ~~months until renewal. The commission shall provide by rule the method to be~~  
 9 ~~used for converting the measurement of fuel to the equivalent of gallons for~~  
 10 ~~the purpose of applying increases in tax rates after this law becomes effec-~~  
 11 ~~tive. A decal issued by the commission shall be displayed in any vehicle for~~  
 12 ~~which a permit is issued hereunder as evidence that the annual fee has been~~  
 13 ~~paid in lieu of the fuel tax. This decal shall be displayed in a conspicuous~~  
 14 ~~place.~~