

TITLE 63
REVENUE AND TAXATION

CHAPTER 24
FUELS TAX

63-2401. DEFINITIONS. In this chapter:

- (1) "Aircraft engine fuel" means:
 - (a) Aviation gasoline, defined as any mixture of volatile hydrocarbons used in aircraft reciprocating engines; and
 - (b) Jet fuel, defined as any mixture of volatile hydrocarbons used in aircraft turbojet and turboprop engines.
- (2) "Biodiesel" means any fuel that is derived in whole or in part from agricultural products or animal fats or the wastes of such products and is suitable for use as fuel in diesel engines.
- (3) "Biodiesel blend" means any fuel produced by blending biodiesel with petroleum-based diesel to produce a fuel suitable for use in diesel engines.
- (4) "Bond" means:
 - (a) A surety bond, in an amount required by this chapter, duly executed by a surety company licensed and authorized to do business in this state conditioned upon faithful performance of all requirements of this chapter, including the payment of all taxes, penalties and other obligations arising out of the provisions of this chapter; or
 - (b) A deposit with the commission by any person required to be licensed pursuant to this chapter under terms and conditions as the commission may prescribe, of a like amount of lawful money of the United States or bonds or other obligations of the United States, the state of Idaho, or any county of the state; or
 - (c) An irrevocable letter of credit issued to the commission by a bank doing business in this state payable to the state upon failure of the person on whose behalf it is issued to remit any payment due under the provisions of this chapter.
- (5) "Commercial motor boat" means any boat, equipped with a motor, which is wholly or partly used in a profit-making enterprise or in an enterprise conducted with the intent of making a profit.
- (6) "Commission" means the state tax commission of the state of Idaho.
- (7) "Distributor" means any person who receives motor fuel in this state and includes a special fuels dealer. Any person who sells or receives gaseous special fuels will not be considered a distributor unless:
 - (a) The gaseous special fuel is delivered into the fuel supply tank or tanks of a motor vehicle not then owned or controlled by him; or
 - (b) The gaseous special fuel is placed in certain gaseous special fuels bulk tanks upon which the seller may charge tax as the result of an agreement with the customer.
- (8) "Dyed fuel" means diesel fuel that is dyed pursuant to requirements of the internal revenue service, or the environmental protection agency.
- (9) "Exported" means delivered by truck or rail across the boundaries of this state by or for the seller or purchaser from a place of origin in this state.
- (10) "Gasohol" means gasoline blended with ten percent (10%) or more of anhydrous ethanol.

(11) "Gasoline" means any mixture of volatile hydrocarbons suitable as a fuel for the propulsion of motor vehicles or motor boats. "Gasoline" also means aircraft engine fuels when used for the operation or propulsion of motor vehicles or motor boats and includes gasohol, but does not include special fuels.

(12) "Highways" means every place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel which is maintained by the state of Idaho or an agency or taxing subdivision or unit thereof or the federal government or an agency or instrumentality thereof. Provided, however, if the cost of maintaining a roadway is primarily borne by a special fuels user who operates motor vehicles on that roadway pursuant to a written contract during any period of time that a special fuels tax liability accrues to the user, such a roadway shall not be considered a "highway" for any purpose related to calculating that user's special fuels' tax liability or refund.

(13) "Idling" means the period of time greater than twenty-five hundredths (.25) of an hour when a motor vehicle is stationary with the engine operating at less than one thousand two hundred (1,200) revolutions per minute (RPM), without the power take-off (PTO) unit engaged, with the transmission in the neutral or park position, and with the parking brake set.

(14) "Imported" means delivered by truck or rail across the boundaries of this state by or for the seller or purchaser from a place of origin outside this state.

(15) "International fuel tax agreement" and "IFTA" mean the international fuel tax agreement required by the intermodal surface transportation efficiency act of 1991, Public Law 102-240, 105 Stat. 1914, and referred to in 49 U.S.C. 31701, including subsequent amendments to that agreement.

(16) "Jurisdiction" means a state of the United States, the District of Columbia, a province or territory of Canada, or a state, territory or agency of Mexico in the event that the state, territory or agency participates in the international fuel tax agreement.

(17) "Licensed motor fuel distributor" means any distributor who has obtained a license under the provisions of section [63-2427A](#), Idaho Code.

(18) "Motor fuel" means gasoline, ethanol, ethanol blended fuel, gasoline blend stocks, natural gasoline, special fuels, aircraft engine fuels or any other fuels suitable for the operation or propulsion of motor vehicles, motor boats or aircraft.

(19) "Motor vehicle" means every self-propelled vehicle designed for operation, or required to be licensed for operation, upon a highway.

(20) "Person" means any individual, firm, fiduciary, copartnership, association, limited liability company, corporation, governmental instrumentality including the state and all of its agencies and political subdivisions, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intent to give a more limited meaning is disclosed by the context. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term "person" as applied to an association means the partners or members, and as applied to corporations, the officers.

(21) "Recreational vehicle" means a snowmobile as defined in section [67-7101](#), Idaho Code; a motor driven cycle or motorcycle as defined in section [49-114](#), Idaho Code; any recreational vehicle as defined in section [49-119](#), Idaho Code; and an all-terrain vehicle as defined in section [67-7101](#), Idaho Code.

(22) "Retail dealer" means any person engaged in the retail sale of motor fuels to the public or for use in the state.

(23) "Special fuels" means:

(a) All fuel suitable as fuel for diesel engines;

(b) A compressed or liquefied gas obtained as a by-product in petroleum refining or natural gasoline manufacture, such as butane, isobutane, propane, propylene, butylenes, and their mixtures; and

(c) Natural gas, either liquid or gas, and hydrogen, used for the generation of power for the operation or propulsion of motor vehicles.

(24) "Special fuels dealer" means "distributor" under subsection (7) of this section.

(25) "Special fuels user" means any person who uses or consumes special fuels for the operation or propulsion of motor vehicles owned or controlled by him upon the highways of this state.

(26) "Use" means either:

(a) The receipt, delivery or placing of fuels by a licensed distributor or a special fuels dealer into the fuel supply tank or tanks of any motor vehicle not owned or controlled by him while the vehicle is within this state; or

(b) The consumption of fuels in the operation or propulsion of a motor vehicle on the highways of this state.

[63-2401, added 1983, ch. 158, sec. 4, p. 441; am. 1984, ch. 87, sec. 1, p. 170; am. 1985, ch. 40, sec. 1, p. 81; am. 1985, ch. 242, sec. 1, p. 571; am. 1986, ch. 315, sec. 1, p. 777; am. 1987, ch. 82, sec. 1, p. 155; am. 1988, ch. 265, sec. 578, p. 872; am. 1991, ch. 306, sec. 1, p. 802; am. 1991, ch. 307, sec. 1, p. 805; am. 1992, ch. 106, sec. 1, p. 328; am. 1994, ch. 344, sec. 1, p. 1080; am. 1995, ch. 132, sec. 1, p. 566; am. 1995, ch. 348, sec. 1, p. 1143; am. 1996, ch. 223, sec. 1, p. 731; am. 1997, ch. 86, sec. 1, p. 205; am. 2001, ch. 104, sec. 1, p. 343; am. 2002, ch. 30, sec. 1, p. 37; am. 2002, ch. 174, sec. 3, p. 510; am. 2002, ch. 345, sec. 35, p. 978; am. 2004, ch. 235, sec. 1, p. 694; am. 2004, ch. 265, sec. 1, p. 745; am. 2005, ch. 293, sec. 1, p. 931; am. 2007, ch. 37, sec. 1, p. 88; am. 2010, ch. 14, sec. 1, p. 14; am. 2015, ch. 38, sec. 1, p. 79; am. 2018, ch. 80, sec. 1, p. 179.]

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 thirty-two cents (32¢) 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; or

(b) Special fuels that are gaseous special fuels, as defined in section [63-2424](#), Idaho Code, except that part thereof that is delivered into the fuel supply tank or tanks of a motor vehicle or certain gaseous special fuels bulk tanks. Upon agreement with the customer, the licensed distributor may charge tax when placing gaseous special fuels into the customer's bulk tanks; or

(c) 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 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 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 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.

[63-2402, added 1983, ch. 158, sec. 4, p. 443; am. 2002, ch. 174, sec. 2, p. 509; am. 2007, ch. 288, sec. 1, p. 817; am. 2015, ch. 38, sec. 2, p. 81; am. 2015, ch. 175, sec. 1, p. 573; am. 2015, ch. 341, sec. 4, p. 1282; am. 2018, ch. 80, sec. 2, p. 181.]

63-2403. RECEIPT OF MOTOR FUEL -- DETERMINATION. Motor fuel is received as follows:

(1) (a) Motor fuel produced, refined, manufactured, blended or compounded by any person or stored at a pipeline terminal in this state by any person is received by that person when it is loaded into tank cars, tank trucks, tank wagons or other types of transportation equipment or when it is placed into any tank or other container from which sales or deliveries not involving transportation are made.

(b) Motor fuel is received by a person other than the person designated in subsection (1) (a) of this section in the following circumstances:

(i) Motor fuel delivered from a pipeline terminal in this state to a licensed distributor is received by the licensed distributor to whom it is first delivered.

(ii) Motor fuel delivered to a person who is not a licensed distributor for the account of a person that is so licensed, is

received by the licensed distributor for whose account it is shipped.

(2) Notwithstanding the provisions of subsection (1) above, motor fuel shipped or delivered from a refinery or pipeline terminal to another refinery or pipeline terminal, is not received by reason of that shipment or delivery.

(3) Any product other than motor fuel that is blended to produce motor fuel other than at a refinery or pipeline terminal in this state is received by the person who is the owner of the blended fuel after the blending is completed.

(4) (a) Motor fuel imported into this state, other than fuel placed in storage at a refinery or pipeline terminal in this state, is received at the time the fuel arrives in this state by the person who is, at the time of arrival, the owner of the fuel.

(b) Motor fuel imported into this state by a licensed distributor and delivered directly to a person not a licensed distributor is received by the licensed distributor importing that fuel into this state at the time the fuel arrives in this state.

(c) Fuel arrives in this state at the time it crosses the border of this state.

[63-2403, added 1983, ch. 158, sec. 4, p. 443; am. 1997, ch. 85, sec. 1, p. 204; am. 2002, ch. 174, sec. 4, p. 512.]

63-2404. METHOD OF MEASUREMENT OF GALLONS RECEIVED. Motor fuels and other petroleum products received by distributors shall be reported under rules prescribed by the state tax commission, and be based upon consistent methods, generally recognized and accepted for motor fuels tax accounting purposes, in respect to gallonage, stock transfers and stock accounting records.

[63-2404, added 1983, ch. 158, sec. 4, p. 444; am. 2011, ch. 6, sec. 2, p. 16.]

63-2405. PAYMENT OF TAX. The excise tax imposed by section [63-2402](#), Idaho Code, is to be paid by the distributor, and measured by the total number of gallons of motor fuel received by him, at the rate specified in section [63-2402](#), Idaho Code. That tax, together with any penalty and/or interest due, shall be remitted with the monthly distributor's report required in section [63-2406](#), Idaho Code.

[63-2405, added 1983, ch. 158, sec. 4, p. 444; am. 1983, ch. 242, sec. 2, p. 652; am. 1983 (Ex. Sess.), ch. 1, sec. 5, p. 3; am. 1984, ch. 87, sec. 2, p. 172; am. 1984, ch. 195, sec. 34, p. 475; am. 1986, ch. 344, sec. 2, p. 852; am. 1988, ch. 198, sec. 1, p. 376; am. 1991, ch. 120, sec. 1, p. 259; am. 1994, ch. 166, sec. 1, p. 374; am. 1996, ch. 343, sec. 4, p. 1153; am. 1998, ch. 103, sec. 2, p. 355; am. 2002, ch. 30, sec. 2, p. 39; am. 2002, ch. 174, sec. 5, p. 513.]

63-2406. DISTRIBUTOR REPORTS. (1) Each distributor shall, not later than the last day of each calendar month or for such other reporting period as the commission may authorize, render to the commission an accurate report of all motor fuel received by him in this state during the preceding reporting

period. The report shall be made in the manner and on forms required by the commission.

(2) The distributor's report shall include:

- (a) An itemized statement of the total number of gallons of motor fuel received during the preceding calendar month; and
- (b) Other information as the commission may require for the proper administration of this chapter.

(3) The report shall be accompanied by a remittance of the tax shown to be due on the report together with any applicable interest and penalty, unless the amounts due are paid by electronic funds transfer in the manner provided by section [67-2026](#), Idaho Code.

(4) Any distributor required to pay the tax imposed by this chapter who fails to pay such tax shall be liable to the commission for the amount of tax not remitted plus any applicable penalty or interest. The commission may collect such amounts in the manner provided in section [63-2434](#), Idaho Code.

(5) The commission may prescribe rules providing standards consistent with section [63-115](#), Idaho Code, for determining which returns must be transmitted electronically. The commission may not require any person to transmit returns electronically unless such person is required to report on the return at least twenty-five (25) transactions involving the receipt or disbursement of motor fuel during the period to which the return relates. In promulgating such rules, the commission shall take into account, among other relevant factors, the ability of the taxpayer to comply, at a reasonable cost, with the requirements of such rules.

[63-2406, added 1983, ch. 158, sec. 4, p. 444; am. 1998, ch. 103, sec. 3, p. 356; am. 2000, ch. 155, sec. 1, p. 393; am. 2009, ch. 3, sec. 1, p. 5.]

63-2407. DEDUCTIONS AUTHORIZED. Each licensed distributor shall deduct from his monthly report:

(1) Motor fuel exported from this state other than in the supply tanks of motor vehicles, motor boats or aircraft when supported by a shipping document, an invoice signed by the purchaser, or other proper documents approved by the commission but only if:

- (a) The purchaser is not a licensed distributor and the seller can establish that any tax due in the jurisdiction to which the motor fuel is destined is paid; or
- (b) The purchaser is a licensed distributor in the jurisdiction to which the motor fuel is destined.

(2) Motor fuel returned to a licensed distributor's refinery or pipeline terminal storage when supported by proper documents approved by the commission.

(3) Motor fuel lost or destroyed by fire, lightning, flood, tornado, windstorm, explosion, or other accidental casualty, after presenting to the commission satisfactory proof of loss.

(4) The number of gallons which would be equal to two percent (2%) of the total number of gallons received during the reporting period, less the total number of gallons deducted under subsections (1) through (3) of this section, which credit is granted to the licensed distributor to reimburse him for loss from evaporation, handling, spillage and shrinkage, except losses caused by casualty as provided in subsection (3) of this section.

(5) Motor fuel sold to the Idaho national guard for use in aircraft and in vehicles used off public highways provided, however, such deduction is

supported by an exemption certificate signed by an authorized officer of the Idaho national guard.

[63-2407, added 1983, ch. 158, sec. 4, p. 445; am. 1987, ch. 209, sec. 1, p. 442; am. 1989, ch. 406, sec. 1, p. 994; am. 1995, ch. 132, sec. 2, p. 568; am. 1995, ch. 303, sec. 1, p. 1051; am. 1996, ch. 223, sec. 2, p. 733; am. 1998, ch. 103, sec. 4, p. 356; am. 2002, ch. 30, sec. 3, p. 39; am. 2007, ch. 37, sec. 2, p. 90; am. 2007, ch. 288, sec. 2, p. 818; am. 2009, ch. 332, sec. 1, p. 962.]

63-2408. AIRCRAFT ENGINE FUEL TAX. (1) An excise tax is hereby imposed on all aircraft engine fuel received in this state. The tax is to be paid by the distributor, and measured by the total number of gallons received by him, at the rate of seven cents (7¢) per gallon of aviation gasoline, and six cents (6¢) per gallon of jet fuel. The tax, together with any penalty and/or interest due, shall be remitted with the monthly distributor's report required in section [63-2406](#), Idaho Code.

(2) For gasoline, other than aircraft engine fuel, used in aircraft engines, the refund of gasoline tax provided in section [63-2410](#), Idaho Code, shall be the amount of gasoline tax paid less the aviation gasoline fuel tax required in this section.

(3) A tax is hereby imposed on fuel which is placed into the fuel supply tank of aircraft in this state on which tax is not collected under subsection (1) of this section, the tax shall be payable at the rate established in subsection (1) of this section, to the commission by the user or consumer of the fuels and shall be a debt owing to the state until it is paid. The tax shall be imposed without regard to whether the fuel is used in the performance of a government contract.

[63-2408, added 1983, ch. 158, sec. 4, p. 446; am. 1991, ch. 306, sec. 2, p. 805; am. 1995, ch. 132, sec. 3, p. 569; am. 2008, ch. 31, sec. 1, p. 63.]

63-2410. REFUND OF GASOLINE TAX PROCEDURE. (1) Any person who purchases fifty (50) gallons or more, and uses the gasoline in motor vehicles operated on highways outside of the state of Idaho where a duplicate tax is assessed for the same gasoline, will be entitled to a refund when a claim is presented to the commission in the manner required in subsection (5)(c) of this section. A claimant shall present to the commission a statement accompanied by a verification of the use determined by an audit of his operations conducted as prescribed by the state tax commission; or his claim may be verified by the filing of a receipt or proof showing the payment of tax on the gasoline used in any other state.

(2) Any person who purchases within any one (1) year fifty (50) gallons or more of gasoline used for the purposes described in this subsection shall be entitled to be refunded the amount of gasoline tax previously paid on that gasoline. Exempt uses are:

- (a) Operating stationary gasoline engines;
- (b) Propelling equipment or vehicles that are not licensed or required to be licensed for operation on a highway;
- (c) Operating commercial motor boats; and
- (d) Propelling an all-terrain vehicle that is not required to be registered pursuant to [chapter 4, title 49](#), Idaho Code, or [chapter 71, title 67](#), Idaho Code.

(3) No refund of gasoline tax shall be allowed for any gasoline that is:

(a) Used in motor vehicles required to be licensed or used in any motor vehicle exempt from registration by reason of the ownership or residence;

(b) Aircraft engine fuel placed in aircraft, provided however, if tax has been paid at the rate provided in section [63-2405](#), Idaho Code, on any motor fuel placed in the fuel supply tank of an aircraft, the user of the fuel may apply for a refund of the difference between the tax paid on the fuel and the tax imposed in section [63-2408](#), Idaho Code;

(c) Used in recreational vehicles except all-terrain vehicles exempted as provided in subsection (2) (d) of this section; or

(d) Used in noncommercial motor boats or in boats operated by a governmental entity.

(4) Any licensed distributor paying the gasoline tax and/or aircraft engine fuel tax to the state of Idaho erroneously shall be allowed a credit or refund of the amount of tax paid by him if a written claim for credit or refund is filed with the commission within three (3) years after the date those taxes were paid. Such credit or refund shall include interest at the rate established in section [63-3045](#), Idaho Code, computed from the date taxes to be refunded or credited were paid to the commission.

(5) (a) All claims for refund of gasoline taxes arising under subsection (1), (2) or (3) (b) of this section may be filed separately or in conjunction with the claimant's income tax return due pursuant to [chapter 30, title 63](#), Idaho Code. When filed in conjunction with the income tax return, the refund will be a refundable credit to income tax. The gasoline tax refund claimed must be for tax paid on gasoline actually purchased during the taxable year to which the income tax return relates. The gasoline tax refund due will be offset against any other taxes, penalties or interest due before any balance is refunded by the commission to the claimant. Subject to a limitation as to the amount of refund to be claimed as the commission may provide by rule, refund claims may be submitted and paid for any period not greater than one (1) year or less than one (1) month.

(b) If a claimant is not required to file an income tax return, the claimant will file claims using a filing cycle on forms and in the manner as the commission may provide. The refund claim must be for taxes paid on gasoline actually purchased in the year preceding the filing and the refund claim will be due according to income tax payment requirements in section [63-3085](#), Idaho Code. Refund claims may be submitted and paid for any period not greater than one (1) year or less than one (1) month.

(c) Claims for refunds under subsection (1) or (2) of this section shall be filed in the manner prescribed in section [63-3072](#), Idaho Code. Such credit or refund shall include interest at the rate established in section [63-3045](#), Idaho Code, computed from sixty (60) days following the later of the due date of the claimed refund under paragraph (a) or (b) of this subsection or the filing of the claim. No refund will be paid under this section unless a written claim for such refund has been filed with the commission within three (3) years after the due date, including extensions, of the income tax return in regard to which the claim relates or the due date of the claim established in paragraph (b) of this subsection.

(d) The commission may require that all claims be accompanied by the original signed invoice or invoices issued to the claimant, showing the

total amount of gasoline on which a refund is claimed and the reason, the amount of the tax and any additional information required by the commission. Each separate delivery shall constitute a purchase and a separate invoice shall be prepared, at least in duplicate, to cover the delivery. All invoices, except those prepared by a computer or similar machine, shall be prepared in ink, or double-spaced carbon shall be used between the original and first duplicate.

(6) (a) Should the commission find that the claim contains errors, it may correct the claim and approve it as corrected, or the commission may require the claimant to file an amended claim. The commission may require any person who makes a claim for refund to furnish a statement under oath, giving his occupation, description of the machine or equipment in which the gasoline was used, the place where used and any other information as the commission may require. If the commission determines that any claim has been fraudulently presented, or is supported by an invoice or invoices fraudulently made or altered, or that any statement in the claim or affidavit is willfully false and made for the purpose of misleading, the commission may reject the claim in full. If the claim is rejected, the commission may suspend the claimant's right to any refund for purchases made during a period not to exceed one (1) year beginning with the date the rejected claim was filed, and it shall take all other action deemed appropriate.

(b) The commission has authority, in order to establish the validity of any claim, to examine the books and records of the claimant for that purpose, and failure of the claimant to accede to the demand for the examination may constitute a waiver of all rights to the refund claimed.

(7) In the event of the loss or destruction of the original invoice or invoices, the person claiming a refund may submit a duplicate copy of the invoice certified by the vendor, but payment based on the duplicate invoice shall not be made until one (1) year after the date on which the gasoline was purchased.

[63-2410, added 1983, ch. 158, sec. 4, p. 446; am. 1986, ch. 175, sec. 1, p. 465; am. 1993, ch. 47, sec. 4, p. 123; am. 1995, ch. 132, sec. 5, p. 570; am. 1995, ch. 348, sec. 2, p. 1145; am. 1998, ch. 196, sec. 1, p. 707; am. 2001, ch. 104, sec. 2, p. 345; am. 2002, ch. 30, sec. 4, p. 41; am. 2004, ch. 235, sec. 2, p. 696; am. 2015, ch. 35, sec. 1, p. 73; am. 2018, ch. 81, sec. 1, p. 183.]

63-2412. DISTRIBUTION OF TAX REVENUES FROM TAX ON GASOLINE AND AIRCRAFT ENGINE FUEL. (1) The revenues received from the taxes imposed by sections [63-2402](#) and [63-2421](#), Idaho Code, upon the receipt or use of gasoline, and any penalties, interest, or deficiency additions, shall be distributed periodically as follows:

(a) An amount of money equal to the actual cost of collecting, administering and enforcing the gasoline tax requirements 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 gasoline tax requirements by the commission at the end of each fiscal year shall be distributed as listed in paragraph (f) of this subsection.

(b) 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 shall be paid from the state refund account and those moneys are hereby continuously appropriated for that purpose.

(c) As soon as possible after the beginning of each fiscal year, the sum of two hundred fifty thousand dollars (\$250,000) shall be distributed to the railroad grade crossing protection account in the dedicated fund, to pay the amounts from the account pursuant to the provisions of section [62-304C](#), Idaho Code.

(d) As soon as possible after the beginning of each fiscal year, the sum of one hundred seventy-five thousand dollars (\$175,000) shall be distributed to the local bridge inspection account in the dedicated fund, to pay the amounts from the account pursuant to the provisions of section [40-703](#), Idaho Code.

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

(f) From the balance remaining with the commission after distributing the amounts in paragraphs (a) through (e) of this subsection:

1. One and twenty-eight hundredths percent (1.28%) shall be distributed as follows: sixty-six percent (66%) of the one and twenty-eight hundredths percent (1.28%) shall be distributed to the waterways improvement fund, as created in [chapter 15, title 57](#), Idaho Code. Up to twenty percent (20%) of the moneys distributed to the waterways improvement account under the provisions of this paragraph may be used by the department of parks and recreation to defray administrative costs. Any moneys unused at the end of the fiscal year by the department of parks and recreation shall be returned to the state treasurer for deposit in the waterways improvement account. Thirty-three percent (33%) of the one and twenty-eight hundredths percent (1.28%) shall be distributed into the park and recreation capital improvement account as created in section [57-1801](#), Idaho Code. One percent (1%) of the one and twenty-eight hundredths percent (1.28%) shall be distributed to the search and rescue fund created in section [67-2913](#), Idaho Code;

2. One and twenty-eight hundredths percent (1.28%) shall be distributed as follows: sixty-six percent (66%) of the one and twenty-eight hundredths percent (1.28%) shall be distributed to the off-road motor vehicle account, as created in section [57-1901](#), Idaho Code. Up to twenty percent (20%) of the moneys distributed to the off-road motor vehicle account by this subparagraph may be used by the department of parks and recreation to defray administrative costs. Any moneys unused at the end of the fiscal year by the department of parks and recreation shall be returned to the state treasurer for deposit in the off-road motor vehicle account. Thirty-three percent (33%) of the one and twenty-eight hundredths percent (1.28%) shall be distributed into the park and recreation capital improvement account as created in section [57-1801](#), Idaho Code. One percent (1%) of the one and twenty-eight hundredths percent (1.28%) shall be distributed to the search and rescue fund created in section [67-2913](#), Idaho Code; and

3. Forty-four hundredths percent (.44%) shall be distributed to the park and recreation capital improvement account as created

in section [57-1801](#), Idaho Code, to be used solely to develop, construct, maintain and repair roads, bridges and parking areas within and leading to parks and recreation areas of the state.

4. The balance remaining shall be distributed to the highway distribution account created in section [40-701](#), Idaho Code.

(2) Provided however, the distribution pursuant to subsection (1) of this section of revenues received from the taxes imposed pursuant to section [63-2402](#) (2), Idaho Code, shall apply only to twenty-five cents (25¢) of every thirty-two cents (32¢) received. The remaining seven cents (7¢) of every thirty-two cents (32¢) received pursuant to the provisions of section [63-2402](#) (2), Idaho Code, shall be distributed as follows:

(a) Sixty percent (60%) to the state highway account; and

(b) Forty percent (40%) to be distributed pursuant to the provisions of section [40-709](#), Idaho Code, in the same manner as distribution of moneys appropriated from the highway distribution account to local units of government.

(3) The revenues received from the taxes imposed by section [63-2408](#), Idaho Code, and any penalties, interest, and deficiency amounts, shall be distributed as follows:

(a) 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 shall be paid from the state refund account, and those moneys are hereby continuously appropriated.

(b) The balance remaining of all the taxes collected shall be distributed to the state aeronautics fund, as provided in section [21-211](#), Idaho Code.

[63-2412, added 1983, ch. 158, sec. 4, p. 448; am. 1984, ch. 87, sec. 4, p. 173; am. 1984, ch. 195, sec. 35, p. 475; am. 1985, ch. 33, sec. 1, p. 66; am. 1985, ch. 253; sec. 9, p. 702; am. 1986, ch. 73, sec. 8, p. 208; am. 1986, ch. 99, sec. 3, p. 279; am. 1988, ch. 253, sec. 1, p. 487; am. 1990, ch. 395, sec. 1, p. 1106; am. 1991, ch. 120, sec. 2, p. 259; am. 1993, ch. 301, sec. 1, p. 1116; am. 1994, ch. 280, sec. 6, p. 872; am. 1994, ch. 315, sec. 3, p. 1006; am. 1997, ch. 50, sec. 1, p. 85; am. 2000, ch. 100, sec. 1, p. 220; am. 2000, ch. 186; sec. 3, p. 458; am. 2002, ch. 174, sec. 6, p. 513; am. 2009, ch. 332, sec. 2, p. 963; am. 2010, ch. 14, sec. 2, p. 16; am. 2015, ch. 341, sec. 5, p. 1283; am. 2016, ch. 152, sec. 1, p. 420; am. 2020, ch. 48, sec. 1, p. 114.]

63-2418. DISTRIBUTION OF TAX REVENUES FROM TAX ON SPECIAL FUELS. Unless as otherwise provided in subsection (5) of this section, 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.

(5) For those special fuels subject to tax pursuant to section [63-2402](#) or [63-2424](#), Idaho Code, twenty-five cents (25¢) of every thirty-two cents (32¢) of revenue received from such tax shall be distributed pursuant to the provisions of subsections (1), (2), (3) and (4) of this section. The remaining seven cents (7¢) of every thirty-two cents (32¢) of revenue received shall be distributed as follows:

(a) Sixty percent (60%) to the state highway account; and

(b) Forty percent (40%) to be distributed pursuant to the provisions of section [40-709](#), Idaho Code, in the same manner as distribution of moneys appropriated from the highway distribution account to local units of government.

[63-2418, added 1983, ch. 158, sec. 4, p. 449; am. 1984, ch. 87, sec. 7, p. 175; am. 1984, ch. 195, sec. 36, p. 477; am. 1985, ch. 33, sec. 2, p. 68; am. 1985, ch. 253, sec. 10, p. 704; am. 1986, ch. 73, sec. 9, p. 209; am. 2000, ch. 155, sec. 3, p. 394; am. 2002, ch. 174, sec. 8, p. 515; am. 2009, ch. 332, sec. 3, p. 964; am. 2010, ch. 14, sec. 3, p. 17; am. 2016, ch. 152, sec. 2, p. 421.]

63-2421. USE TAX -- RETURNS AND PAYMENT OF USE TAX BY CONSUMERS. (1) For the privilege of using the highways of this state, any person, including a person described in paragraph (c) of subsection (1) of section [63-2427A](#), Idaho Code, who consumes motor fuels in a motor vehicle licensed or required to be licensed by the laws of this state, or which is required to be licensed under the laws of another jurisdiction and is operated on the highways of this state upon which the tax imposed by section [63-2402](#), Idaho Code, has not been paid or is subject to credit or refund under IFTA and which fuel is not exempted from tax by this chapter, shall be liable for the tax.

(2) Except for motor vehicles licensed under IFTA or operating with a temporary permit under section [49-432](#), Idaho Code, a person liable under subsection (1) of this section shall report the amount of tax liability and pay the taxes due in conjunction with his income or franchise tax return due under the provisions of [chapter 30, title 63](#), Idaho Code, in the manner and form prescribed by the commission. Payment of motor fuels taxes shall be made in conjunction with any other taxes due on that return and motor fuels taxes due may be offset against refunds of any other taxes shown on the return to be due the taxpayer.

(3) In the case of a person liable under subsection (1) of this section other than one who consumes motor fuels in a motor vehicle described in the exception in subsection (2) of this section and not required to file a return under [chapter 30, title 63](#), Idaho Code, the tax shall be paid annually, on a calendar year basis, in the manner and form required by the commission. The return and payment for each calendar year shall be due on or before April 15 of the immediately succeeding calendar year.

(4) In the case of a person liable under subsection (1) of this section whose motor vehicles are licensed or required to be licensed under IFTA as provided in sections [63-2438](#) and [63-2439](#), Idaho Code, or operating with a temporary permit under section [49-432](#), Idaho Code, the tax shall be paid in the manner required by those provisions.

[63-2421, added 1983, ch. 158, sec. 4, p. 451; am. 1992, ch. 106, sec. 5, p. 332; am. 1995, ch. 132, sec. 7, p. 572; am. 1997, ch. 86, sec. 2, p. 207; am. 2002, ch. 30, sec. 5, p. 43; am. 2002, ch. 174, sec. 9, p. 515; am. 2005, ch. 28, sec. 2, p. 139; am. 2009, ch. 21, sec. 2, p. 50.]

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 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

(d) 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.

[63-2423, added 1983, ch. 158, sec. 4, p. 451; am. 1995, ch. 348, sec. 4, p. 1149; am. 1997, ch. 375, sec. 1, p. 1205; am. 1998, ch. 103, sec. 6, p. 357; am. 1998, ch. 196, sec. 2, p. 709; am. 2004, ch. 265, sec. 2, p. 747; am. 2011, ch. 6, sec. 4, p. 17; am. 2013, ch. 19, sec. 1, p. 29; am. 2015, ch. 175, sec. 3, p. 575.]

63-2424. GASEOUS SPECIAL FUELS. (1) In the case of gaseous special fuels, 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 special fuels having energy equal to one (1) gallon of gasoline.

(2) The commission shall use the following measurement for natural gas:

(a) When determining the tax on liquefied natural gas, a "diesel gallon equivalent" is a quantity that weighs six and six hundredths (6.06) pounds; and

(b) When determining the tax on compressed natural gas, a "gasoline gallon equivalent" is one hundred twenty-six and sixty-seven hundredths (126.67) cubic feet of natural gas at sixty (60) degrees Fahrenheit and fourteen and seven-tenths (14.7) pounds per square inch absolute or a quantity of compressed natural gas that weighs five and sixty-six hundredths (5.66) pounds.

(3) As used in this chapter, "gaseous special fuels" means a motor fuel that is a gas at standard pressure and temperature (i.e., at sixty (60) degrees Fahrenheit and fourteen and seven-tenths (14.7) pounds per square inch absolute).

[63-2424, added 1983, ch. 158, sec. 4, p. 452; am. 1991, ch. 334, sec. 1, p. 867; am. 1995, ch. 132, sec. 8, p. 572, am. 1998, ch. 103, sec. 7, p. 358; am. 2002, ch. 174, sec. 10, p. 516; am. 2011, ch. 6, sec. 5, p. 17; am. 2013, ch. 19, sec. 2, p. 30; am. 2015, ch. 175, sec. 2, p. 574.]

63-2425. DYED FUEL AND OTHER UNTAXED FUEL PROHIBITED FOR USE ON A HIGHWAY. (1) Except as provided in subsections (2) and (5) of this section, no person shall operate a motor vehicle on a highway in this state if the fuel supply tanks of the vehicle contain diesel fuel that has been dyed or marked at a refinery or terminal under the provisions of 26 U.S.C. 4082 and regulations adopted thereunder or under the clean air act and regulations adopted thereunder or if the tanks contain other motor fuel on which the tax under section [63-2402](#), Idaho Code, has not been paid.

(2) The following vehicles may use dyed fuel on the highway but are subject to the tax under section [63-2402](#), Idaho Code, unless exempt under other provisions of this chapter:

(a) State and local government vehicles; and

(b) Any vehicles that may use dyed fuel on the highway under the provisions of 26 U.S.C. 4082 or regulations adopted thereunder.

(3) For the purposes of enforcement of this section, Idaho state police officers or employees of the Idaho transportation department may conduct a visual observation of fuel to detect the presence of dye. If dye is observed, such officers or employees shall take a photograph of the dyed fuel. Such photographs shall be preserved as evidence.

(4) In the event of a change of ownership or other disposal of a motor vehicle authorized to use dyed fuel on the highway pursuant to subsection (2) of this section but that no longer falls within the provisions of that subsection, the motor vehicle's owner, before selling or disposing of such vehicle, shall remove the dyed fuel from the vehicle's fuel tanks and certify that such dyed fuel has been removed.

(5) Incidental use or crossing of public roads or highways by vehicles intended primarily for off-highway use, including as provided for in section [49-110](#)(3), Idaho Code, with respect to an implement of husbandry, shall not be considered a violation of this section.

[63-2425, added 1995, ch. 348, sec. 5, p. 1149; am. 2002, ch. 174, sec. 11, p. 517; am. 2009, ch. 150, sec. 1, p. 439; am. 2015, ch. 38, sec. 4, p. 82; am. 2020, ch. 327, sec. 3, p. 944.]

63-2427. ADMINISTRATION. The commission shall enforce the provisions of this chapter and may prescribe, adopt, and enforce reasonable rules and regulations relating to the administration and enforcement of those provisions.

[63-2427, added 1983, ch. 158, sec. 4, p. 452.]

63-2427A. MOTOR FUEL DISTRIBUTOR LICENSE. (1) It is unlawful for a person to act as a motor fuel distributor without a motor fuel distributor license. A person required to obtain such license is the first receiver of taxable motor fuel in Idaho. A person is not required to obtain a motor fuel distributor license when the person:

- (a) Only purchases motor fuel on which any tax due under this chapter has previously been imposed upon a licensed distributor; or
- (b) Only purchases dyed fuel upon which the transfer fee imposed in section [41-4909](#), Idaho Code, has been imposed upon a licensed distributor; or
- (c) Only produces five thousand (5,000) gallons or less of biodiesel in a calendar year for that person's personal consumption. Any producer who sells or transfers any quantity of biodiesel to any other person is the first receiver of the biodiesel and is required to obtain a motor fuel distributor license.

(2) Application for a license shall be made upon forms furnished and in a manner prescribed by the commission and shall contain information as it deems necessary. An application will not be accepted unless it is accompanied by a bond in the amount required in section [63-2428](#), Idaho Code. The commission shall not issue a motor fuel distributor license to any person who does not consent to be sued in Idaho district court for purposes of the state enforcing any provision of this chapter.

(3) Upon receipt of the application and bond in proper form the commission shall issue the applicant a license to act as a distributor unless the applicant:

- (a) Is a person who formerly held a license under the provisions of this chapter, any predecessor statute, under the laws of any other jurisdiction, or under the laws of the United States which license, prior to the time of filing this application, had been revoked for cause within five (5) years from the date of such application; or
- (b) Is a person who has outstanding fuel tax liabilities to or is in violation of the motor fuel laws of this state, any other jurisdiction or the United States government; or
- (c) Is a person who has been convicted, under the laws of the United States or any state or jurisdiction or subdivision thereof, of fraud, tax evasion, or a violation of the laws governing the reporting and payment of fees or taxes for petroleum products within five (5) years from the date of making such application; or
- (d) Is a person who has been convicted of a felony or been granted a withheld judgment following an adjudication of guilt of a felony within five (5) years from the date of such application; or
- (e) Who is not the real party in interest and the real party in interest is a person described in paragraph (a), (b), (c) or (d) of this subsection.

(4) Upon approval of the application, the license shall be valid until it is canceled by the licensee or revoked for cause.

(5) No license shall be transferable.

(6) The commission shall furnish each licensed distributor with a list of all distributors licensed pursuant to this section. The list shall be supplemented by the commission from time to time to reflect additions and deletions.

[63-2427A, added 1995, ch. 132, sec. 9, p. 573; am. 2003, ch. 96, sec. 52, p. 310; am. 2007, ch. 288, sec. 3, p. 820; am. 2009, ch. 21, sec. 3, p. 51; am. 2015, ch. 38, sec. 5, p. 83.]

63-2427B. LICENSED GASEOUS FUELS DISTRIBUTORS -- REPORTS. (1) In lieu of the motor fuel distributor license required by section [63-2427A](#), Idaho Code, the commission may issue a gaseous fuels distributor license to a distributor who applies for the license and who does not deal in fuel, other than gaseous fuels, except fuel which is either:

(a) Motor fuel on which any tax due under this chapter has previously been imposed upon a licensed distributor; or

(b) Dyed fuel upon which the transfer fee imposed in section [41-4909](#), Idaho Code, has been imposed upon a licensed distributor.

(2) Licensed gaseous fuels distributors shall, not later than the last day of each calendar month or for such other reporting period as the commission may authorize, render to the commission an accurate report of all gaseous fuels that are subject to tax under this chapter during the preceding reporting period. The report shall be made in the manner and on forms required by the commission and shall include such other information as the commission may require for the proper administration of this chapter.

[63-2427B, added 1998, ch. 103, sec. 8, p. 359; am. 2003, ch. 96, sec. 53, p. 311; am. 2015, ch. 38, sec. 6, p. 84.]

63-2427C. LIMITED DISTRIBUTOR LICENSE. A limited distributor license will be issued to persons only required to remit the fee imposed by [chapter 49, title 41](#), Idaho Code, and not required to obtain a license under section [63-2427A](#) or [63-2427B](#), Idaho Code. The licensee is a licensed distributor for the purposes of filing reports, paying fees and other actions necessary for the proper administration of the petroleum clean water trust fund act. A limited distributor license will not be valid for any other purpose. No bond shall be required for a limited distributor license.

[63-2427C, added 2006, ch. 60, sec. 1, p. 186; am. 2015, ch. 38, sec. 7, p. 84.]

63-2428. BONDING. (1) At the time an application for a motor fuel distributor license under section [63-2427A](#), Idaho Code, is submitted to the commission, the applicant shall file a bond with the commission conditioned upon faithful performance of all of the requirements of this chapter. The total amount of the bond shall be fixed by the commission and shall be equivalent to at least twice the estimated average tax liability for the reporting period for which the applicant will be required to file a distributor's report under section [63-2406](#), Idaho Code. The bond required by this section shall in no case be less than one thousand dollars (\$1,000) nor more than two hundred thousand dollars (\$200,000). Based on prior years' experience, the total amount required to be secured by the bond may be increased or reduced by the commission at any time. The bond will be waived if the commission is satisfied that the distributor has the financial responsibility to meet the

required bond amount. Financial responsibility may be determined by the commission upon review of all relevant public documents including appropriate county records and records of tax payments to the state of Idaho. The distributor can be required to provide a commercial credit rating, balance sheet, or income statement to demonstrate present financial solvency, i.e. ownership of real and/or personal property, the unencumbered value of which exceeds the bond amount otherwise required. If such financial solvency is established, and if the distributor has been doing business in Idaho as a licensed distributor for five (5) or more consecutive years without a default in the payment of taxes imposed in this chapter, financial responsibility shall be presumed. Any bond given in conjunction with this chapter shall be a continuing instrument, and shall cover the period during which the license in connection with which the bond is given is in effect, unless the surety on the bond is released or discharged by the commission. Any surety on any bond furnished by a licensee shall be discharged and released from any and all liability to the state accruing on the bond after the expiration of thirty (30) days from the date upon which the surety shall have lodged with the commission a written request to be released and discharged. The request shall not operate to relieve, release or discharge the surety from any liability accrued, or which will accrue, before the expiration of the thirty (30) day period. The commission shall promptly, upon receipt of the notice of the request, notify the licensee and require him to furnish a new bond. Unless the licensee files a new bond with the commission in the amount provided in this section before the expiration of the thirty (30) day period, the commission shall immediately cancel the licensee's license.

(2) In the event that any taxes due under the provisions of this chapter are not paid by a licensed distributor, and the unpaid taxes are assessed by the commission, and after all avenues for appeal of the assessment have been exhausted, the commission may apply the unpaid tax liability against the bond required by this section.

[63-2428, added 1983, ch. 158, sec. 4, p. 452; am. 1988, ch. 231, sec. 1, p. 445; am. 1995, ch. 132, sec. 10, p. 574; am. 1998, ch. 103, sec. 9, p. 359; am. 2015, ch. 38, sec. 8, p. 85.]

63-2429. REQUIRED RECORDS. (1) Every distributor and every special fuels dealer and every person reporting, manufacturing, refining, dealing, transporting or storing motor fuels in this state shall keep records, receipts, invoices and other pertinent records as the commission may require. Records required and all other relevant books and records shall be available for inspection by the commission at all times during regular record keeper's business hours.

(2) Records required in subsection (1) of this section shall be kept for a period of three (3) years from the date on which the distributor's report or special fuels dealer's return to which they relate was required to be filed with the commission.

[63-2429, added 1983, ch. 158, sec. 4, p. 453; am. 2011, ch. 6, sec. 6, p. 18.]

63-2431. TAX IN LIEU OF ALL OTHER TAXES IMPOSED. The taxes imposed by this chapter shall be in lieu of all other excise taxes, license fees or property taxes imposed upon motor fuels by this state or any political subdivision of this state.

[63-2431, added 1983, ch. 158, sec. 4, p. 454; am. 2011, ch. 6, sec. 7, p. 18.]

63-2432. CIVIL ACTION TO PREVENT DOING BUSINESS WITHOUT LICENSE -- INJUNCTION. If the commission determines that any person is engaged in business as a distributor or special fuels dealer without holding a valid license, it may proceed by injunction or other legal process to prevent the continuance of the business, and an injunction enjoining the continuance of the business by any unlicensed person may be granted without bond by any court or judge authorized by law to grant injunctions.

[63-2432, added 1983, ch. 158, sec. 4, p. 454.]

63-2434. ENFORCEMENT PROVISIONS. For the purpose of carrying out its duties to enforce or administer the provisions of this chapter, the commission shall have the powers and duties provided by sections [63-3038](#), [63-3039](#), [63-3042](#) through [63-3066](#), [63-3068](#), [63-3071](#), [63-3074](#) through [63-3078](#), and [63-217](#), Idaho Code, which sections are incorporated by reference herein as though set out verbatim.

[63-2434, added 1983, ch. 158, sec. 4, p. 454; am. 1994, ch. 344, sec. 6, p. 1085; am. 1996, ch. 322, sec. 62, p. 1091.]

63-2436. REPORTS OF IMPORTATIONS BY CARRIER -- CONTENTS. The commission may require any railroad or other common carrier, or contract carrier, or any person, other than a licensee, who makes delivery in this state of any motor fuels to report in writing to the commission, not later than the last day of each calendar month, all the deliveries for the preceding calendar month. The commission may require information in the reports to include the place of origin and place of destination of the motor fuels delivered, the names and addresses of consignors and consignees, loading ticket numbers, number of gallons delivered, and any other information the commission may require.

[63-2436, added 1983, ch. 158, sec. 4, p. 455; am. 2001, ch. 104, sec. 3, p. 347; am. 2011, ch. 6, sec. 8, p. 18.]

63-2437. INSTATE PIPELINE TERMINAL AND STORAGE REPORTS. The commission may require a monthly report from each pipeline terminal located in this state not later than the last day of the next succeeding calendar month. The commission may require information in the report to include the date of withdrawal, bill of lading number, manifest number, or loading ticket number and the origin, consignee, consignor, transportation company, and number of gallons separately indicated of gasoline, aircraft engine fuel and special fuels and any other information as the commission may require.

[63-2437, added 1983, ch. 158, sec. 4, p. 455; am. 2001, ch. 104, sec. 4, p. 347.]

63-2438. INTERNATIONAL FUEL TAX AGREEMENT (IFTA) LICENSE. (1) It shall be unlawful for any person to consume special fuels in the operation or propulsion of a motor vehicle over twenty-six thousand (26,000) pounds maximum gross weight on the highways of this state unless such motor vehicle is:

(a) Licensed under the provisions of the international fuels tax agreement; or

(b) Operating under a temporary permit under section [49-432](#), Idaho Code; or

(c) Registered solely for operation in this state under section [49-434](#), Idaho Code, and is not a vehicle proportionally registered under section [49-435](#), Idaho Code.

(2) The application for an Idaho IFTA license shall be made to the commission upon a form prepared and furnished by the commission and containing such information as the commission deems necessary. Carriers based in other IFTA jurisdictions must apply to their base jurisdiction to obtain an IFTA license.

(3) No IFTA license shall be transferable.

(4) The commission may collect a fee for issuance of the IFTA license and decal, which fee shall not exceed the cost of issuance.

[63-2438, added 1983, ch. 158, sec. 4, p. 455; am. 1984, ch. 87, sec. 9, p. 176; am. 1992, ch. 106, sec. 6, p. 332; am. 1997, ch. 86, sec. 4, p. 209; am. 1998, ch. 103, sec. 10, p. 360; am. 2002, ch. 30, sec. 6, p. 43.]

63-2439. REPORTS AND PAYMENT BY HOLDERS OF AN IDAHO INTERNATIONAL FUEL TAX AGREEMENT (IFTA) LICENSE. (1) Each person issued an Idaho IFTA license as required under section [63-2438](#), Idaho Code, shall file with the commission in the manner and form prescribed by it, the tax report required by the IFTA. Such report shall contain a declaration by the person making the same, to the effect that the statements contained therein are true and are made under penalties of perjury, which declaration shall have the same force and effect as a verification of the report and shall be in lieu of such verification. The report shall show such information as the commission may reasonably require for the proper administration and enforcement of this chapter.

(2) The tax report shall be accompanied by the remittance covering the total tax, penalty and interest due. The tax due shall be calculated by multiplying the tax rate per gallon for each IFTA jurisdiction by the number of taxable gallons of fuel taxable in each IFTA jurisdiction, less any tax already paid upon purchases of fuel in that jurisdiction. The taxable gallons consumed shall be calculated by dividing the taxable miles traveled in each jurisdiction by such motor vehicles by the fleet average miles per gallon of such motor vehicles.

[63-2439, added 1983, ch. 158, sec. 4, p. 456; am. 1987, ch. 89, sec. 1, p. 169; am. 1987, ch. 298, sec. 1, p. 634; am. 1992, ch. 106, sec. 7, p. 333; am. 1994, ch. 344, sec. 7, p. 1085; am. 1997, ch. 86, sec. 5, p. 209.]

63-2440. EXEMPTIONS FROM INTERNATIONAL FUEL TAX AGREEMENT LICENSE AND REPORTS AND TEMPORARY PERMITS. (1) In lieu of obtaining an IFTA license, any person operating a motor vehicle over twenty-six thousand (26,000) pounds maximum gross weight, propelled by special fuels in this state, shall secure a temporary permit under section [49-432](#), Idaho Code, authorizing the operation of such vehicle in the state. The temporary permit shall be obtained through the Idaho transportation department. The fees shall be those provided by section [49-432](#), Idaho Code, and the revenues shall be distributed as provided by section [40-701](#), Idaho Code.

(2) A motor vehicle owned or operated by another state of the United States or an agency or political subdivision thereof shall be exempt from

the requirements of sections [63-2438](#) and [63-2439](#), Idaho Code, if the state where the vehicle is owned grants a substantially similar exemption to vehicles owned by the state of Idaho, its agencies or political subdivisions.

(3) Recreational vehicles, as defined in section [63-2401](#), Idaho Code, and buses used exclusively for personal pleasure by an individual shall be exempt from the requirements of sections [63-2438](#) and [63-2439](#), Idaho Code. A recreational vehicle used in connection with any business or institutional endeavor shall not qualify for the exemption under this subsection.

[63-2440, added 1983, ch. 158, sec. 4, p. 456; am. 1984, ch. 87, sec. 10, p. 177; am. 1985, ch. 242, sec. 2, p. 573; am. 1985, ch. 253, sec. 11, p. 704; am. 1988, ch. 146, sec. 1, p. 267; am. 1988, ch. 265, sec. 579, p. 875; am. 1992, ch. 106, sec. 8, p. 334; am. 1994, ch. 344, sec. 8, p. 1086; am. 1995, ch. 132, sec. 11, p. 575; am. 1997, ch. 86, sec. 6, p. 210; am. 2002, ch. 30, sec. 7, p. 44.]

63-2442. EXCHANGE OF INFORMATION AGREEMENTS. For the purpose of administering the provisions of this chapter, the commission and the Idaho transportation department may enter into such written agreements for the exchange of information or delegation of authority or both as the commission and the department may find necessary to properly implement the letter and intent of the provisions of this chapter.

[63-2442, added 1984, ch. 87, sec. 12, p. 178.]

63-2442A. INTERNATIONAL FUEL TAX AGREEMENT AND OTHER AGREEMENTS BETWEEN JURISDICTIONS. (1) The commission may enter into cooperative agreements with other jurisdictions for exchange of information and auditing of distributors, dealers and users of motor fuels. The commission shall participate in the international fuel tax agreement as required by the intermodal surface transportation efficiency act of 1991, Public Law 102-240, 105 Stat. 1914, including subsequent amendments to that agreement.

(2) Any person operating a motor vehicle over twenty-six thousand (26,000) pounds maximum gross weight which is (a) based in this state and (b) operated in this state and in any other jurisdiction which is a member of the international fuels tax agreement shall report and pay all fuel use taxes due to any IFTA member jurisdiction, together with any other charges due to any such jurisdiction which are reportable on the IFTA report, in the manner required by IFTA. If the provisions set forth in the international fuel tax agreement are in conflict with any provision of this chapter, the agreement provisions shall prevail. An agreement, arrangement, declaration or amendment thereto is not effective until stated, in writing, and filed with the commission.

(3) An agreement may provide for determining the base jurisdiction for users, users records requirements, audit procedures, exchange of information, persons eligible for tax licensing, defining qualified motor vehicles, determining if bonding is required, specifying reporting requirements and periods including defining uniform penalty and interest rates for late reporting, determining methods for collecting and forwarding of motor fuels taxes, penalties or interest to another jurisdiction, and other provisions as will facilitate the administration of the agreement.

(4) The commission may, as required by the terms of an agreement, forward to officers of another jurisdiction any information in the commission's possession relative to the manufacture, receipts, sale, use, transporta-

tion, or shipment of motor fuels by any person. The commission may disclose to officers of another jurisdiction, the location of officers, motor vehicles, and other real and personal property of users of motor fuels.

(5) An agreement may provide for each jurisdiction to audit the records of persons based in the jurisdiction, to determine if the motor fuels taxes due each jurisdiction are properly reported and paid. Each jurisdiction shall forward the findings of the audits performed on persons based in the jurisdiction, to each jurisdiction in which the person has taxable use of motor fuels. For persons not based in this state and who have taxable use of motor fuels in Idaho, the commission may serve the audit findings received from another jurisdiction, in the form of an assessment, on the person as though an audit was conducted by the commission.

(6) The commission may enter into additional cooperative agreements with other jurisdictions for mutual enforcement of taxes on gasoline and special fuels not subject to collection pursuant to the international fuel tax agreement. Such agreements may provide for collection and enforcement of the motor fuels taxes of all signatory jurisdictions pursuant to the law, rules, and regulations of the jurisdiction in which a person liable for such taxes maintains his principal place of business. An agreement may provide for any or all of the following: determining the base jurisdiction of persons liable for taxes, records requirements, audit procedures, exchange of information, persons eligible for tax licensing, determining if bonding is required, specifying reporting requirements and periods including defining uniform penalty and interest rates for late reporting, determining methods for collecting and forwarding of motor fuels taxes and penalties to another jurisdiction, and other provisions as will facilitate the administration of the agreement.

(7) Any agreement entered into pursuant to this section does not preclude the commission from auditing the records of any person covered by the provisions of this chapter.

(8) The legal remedies for any person served with an order or assessment under this section are as prescribed in this chapter.

(9) If the commission enters into any agreement under the authority of this section, and the provisions set forth in the agreement are in conflict with any rules promulgated by the commission, the agreement provisions prevail.

[63-2442A, added 1986, ch. 315, sec. 2, p. 779; am. 1994, ch. 344, sec. 9, p. 1087; am. 1997, ch. 86, sec. 8, p. 211; am. 2000, ch. 155, sec. 4, p. 395.]

63-2444. EFFECT OF TRIBAL AGREEMENTS. Taxes imposed by this chapter shall not apply to motor fuel that is the subject of an agreement authorized by section [67-4002](#), Idaho Code, to the extent provided by the agreement, but only if the agreement is signed by the governor and appropriate representative of a tribe before December 1, 2007.

[63-2444, added 2007, ch. 288, sec. 5, p. 821.]

63-2450. VIOLATIONS IN GENERAL. (1) It is unlawful for any person in the state of Idaho to:

(a) Refuse or knowingly and intentionally fail to make and file any statement required by this chapter in the manner or within the time required;

(b) Fail to pay any tax due or any fee required by this chapter or any related penalties or interest;

(c) Knowingly make any false statement or conceal any material fact in any record, return or affidavit provided for in this chapter with intent to evade or to aid in the evasion of the tax imposed by this chapter;

(d) Conduct any activities requiring a license under this chapter without an active license;

(e) Fail to keep and maintain the books and records required by this chapter;

(f) Use dyed or untaxed fuel in a manner prohibited by this chapter;

(g) Violate any other provision of this chapter.

(2) It is unlawful to purchase, receive or accept any untaxed motor fuel unless authorized by this chapter.

(3) It is unlawful to sell or transfer any untaxed motor fuel unless authorized by this chapter.

[63-2450, added 2015, ch. 38, sec. 13, p. 86.]

63-2455. SPECIFIC VIOLATIONS. (1) It is unlawful for any person to operate a motor vehicle or consume any motor fuel in the propulsion of a motor vehicle over twenty-six thousand (26,000) pounds maximum gross weight on the highways of this state, except as provided in section [63-2438](#), Idaho Code, unless:

(a) Such person is exempt from such requirement under section [63-2440](#), Idaho Code, or any other provision of state or federal law; or

(b) In the case of vehicles using a gaseous special fuel, such person has complied with section [63-2424](#), Idaho Code.

(2) It is unlawful to display any international fuels tax agreement (IFTA) cab card or decal or temporary permit that:

(a) Is fictitious or counterfeit; or

(b) Is owned by a person other than the owner, operator or lessee of the vehicle on which it is displayed.

[63-2455, added 2015, ch. 38, sec. 14, p. 86.]

63-2460. PENALTIES. (1) Any person who violates any provision of this chapter or who violates any provision of Idaho law relating to the assessment and collection of any unpaid tax or fee associated with this chapter is guilty of a misdemeanor, unless the violation is declared a felony by any other law of this state. Any person so convicted of a misdemeanor shall be punished by a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000). Each day that an unlicensed person engages in the activities of a licensed distributor constitutes a separate violation.

(2) (a) Notwithstanding the provisions of subsection (1) of this section, any person operating a vehicle licensed or required to be licensed on a highway in this state with diesel fuel in violation of section [63-2425](#), Idaho Code, will be subject to the following:

(i) Upon the first violation, a civil penalty in the amount of two hundred fifty dollars (\$250);

(ii) Upon the second violation, a civil penalty in the amount of five hundred dollars (\$500); and

(iii) Upon the third or subsequent violation, a civil penalty in the amount of one thousand dollars (\$1,000) for each such violation.

(b) Except for the penalties set forth in paragraph (a) of this subsection, no additional fines or penalties shall be imposed.

(3) The commission may assess the penalties set forth in subsection (2) of this section as deficiencies in tax pursuant to sections [63-2434](#) and [63-3045](#), Idaho Code.

(4) Penalties are cumulative and each violation of the provisions of this chapter is subject to a separate penalty. The penalties provided for in this section shall be in addition to any other penalty imposed by any other provision of Idaho law.

[63-2460, added 2015, ch. 38, sec. 15, p. 87; am. 2020, ch. 327, sec. 4, p. 945.]

63-2470. ENFORCEMENT OF LICENSING PROVISIONS. (1) A licensee may cancel his license at any time without prejudice, unless the commission has issued a notice of revocation letter to the licensee. If the licensee cancels his license after receiving a notice of revocation, then the cancellation will be treated as a revocation.

(2) All licenses issued under this chapter may be held only by persons actively engaged in activities requiring a license under this chapter. Any person not so engaged shall surrender his license to the commission for cancellation. A person is actively engaged in activities requiring a license under this chapter when such person is:

(a) A distributor:

(i) Purchasing, selling or otherwise transferring motor fuel or other petroleum products or gaseous fuel decals; or

(ii) Reporting receipts, disbursements or other transactions subject to the motor fuel tax, transfer fee or gaseous fuel decals;

(b) An international fuel tax agreement (IFTA) licensee accruing reportable distance and fuel use in any IFTA jurisdiction. The IFTA licensee is not actively engaged in these activities when the requirements for cancellation or denial of renewal are met according to the IFTA articles of agreement, article III, section R345, license renewal (revised July 2013).

(3) A license authorized under this chapter may be denied, revoked or suspended when:

(a) The licensee or applicant fails to comply with the motor fuels laws of this state or any other jurisdiction; or

(b) The licensee does not maintain any required bond; or

(c) The licensee is not actively engaged in the activities identified in subsection (2) of this section for twelve (12) consecutive months.

(4) An IFTA licensee may appeal the denial, cancellation or revocation of an IFTA license following the procedure in the IFTA articles of agreement, article XIV (revised July 2013). The decision of the state tax commission is final and must be issued pursuant to section [63-3045B](#), Idaho Code, using a thirty (30) day appeal period.

(5) When the state tax commission decides to deny, cancel or revoke a distributor license, it shall immediately notify the person of that decision at the person's last known address. The notice must be accompanied by an explanation of the specific reason for the decision and the right to appeal the decision. Within sixty-three (63) days after the notice is mailed, the person may file a protest in writing requesting a review of the decision. The appeal must contain legal or factual reasons why the person disagrees with

the decision. The person may not make any proceedings at court or other action until the appeal rights relating to the decision have become final.

(6) The decision of the state tax commission is final and must be issued pursuant to section [63-3045B](#), Idaho Code.

(7) The distributor may only appeal the denial of a properly completed application. When any of the required information is not provided, the state tax commission may consider the application incomplete and request additional information, return the application or deny the application.

(8) A person will not be issued a distributor license after one has previously been revoked, unless the state tax commission is satisfied that the former holder of the license will comply with all the requirements of this chapter and correct any other violations of this chapter upon which the revocation was based. All bonding requirements for the reinstated licensee must be met. A bond waiver may not be requested for five (5) years after the reinstatement of the license. A reinstated distributor's bond is not subject to the maximum bonding limits in section [63-2428](#), Idaho Code, but may not exceed the estimated tax liability for six (6) months.

(9) When a license is revoked within one (1) year of a previous revocation, there is no right to appeal the second revocation.

[63-2470, added 2015, ch. 38, sec. 16, p. 87.]