

Dear Senators PATRICK, Souza, Ward-Engelking, and  
Representatives DIXON, Furniss, Berch:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the  
Grape Growers and Wine Producers Commission:

IDAPA 48.01.01 - Rules of the Grape Growers and Wine Producers Commission - Notice of Omnibus  
Rulemaking (Fee Rule) - Proposed Rule (Docket No. 48-0101-2100F).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the  
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research  
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative  
Services. The final date to call a meeting on the enclosed rules is no later than 11/12/2021. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 12/10/2021.

The germane joint subcommittee may request a statement of economic impact with respect to a  
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,  
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has  
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the  
memorandum attached below.



**Terri Kondeff**  
Director

# Legislative Services Office

## Idaho State Legislature

---

*Serving Idaho's Citizen Legislature*

### **MEMORANDUM**

**TO:** Rules Review Subcommittee of the Senate Commerce & Human Resources Committee and the House Business Committee

**FROM:** Deputy Division Manager - Katharine Gerrity

**DATE:** October 26, 2021

**SUBJECT:** Grape Growers and Wine Producers Commission

IDAPA 48.01.01 - Rules of the Grape Growers and Wine Producers Commission - Notice of Omnibus Rulemaking (Fee Rule) - Proposed Rule (Docket No. 48-0101-2100F)

#### **Summary and Stated Reasons for the Rule**

The Grape Growers and Wine Producers Commission submits notice of proposed rule at IDAPA 48.01.01 - Rules of the Grape Growers and Wine Producers Commission. According to the commission, the rulemaking publishes the rule chapter previously submitted to and reviewed by the Legislature.

#### **Negotiated Rulemaking/Fiscal Impact**

The commission states that negotiated rulemaking was not conducted "because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare." The commission notes that there is no fee or charge imposed or increased beyond what was previously submitted to and reviewed by the Legislature in prior rules. The commission states that the rule specifies the amount of grape and wine tax to be levied in accordance with statute. The rule also adopts a late payment penalty in accordance with statute.

#### **Statutory Authority**

The rulemaking appears to be authorized pursuant to sections 54-3605 and 54-3610, Idaho Code.

cc: Grape Growers and Wine Producers Commission  
Moya Dolsby

**\*\*\* PLEASE NOTE \*\*\***

---

<b>Paul Headlee, Deputy Director</b> Legislative Services Office	<b>Kristin Ford, Manager</b> Research & Legislation	<b>Keith Bybee, Manager</b> Budget & Policy Analysis	<b>April Renfro, Manager</b> Legislative Audits	<b>Glenn Harris, Manager</b> Information Technology
---	--	---	--	--

Statehouse, P.O. Box 83720  
Boise, Idaho 83720-0054

Tel: 208-334-2475  
legislature.idaho.gov

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

# **IDAPA 48 – IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION**

## **DOCKET NO. 48-0101-2100F (FEE RULE)**

### **NOTICE OF OMNIBUS RULEMAKING – PROPOSED RULEMAKING**

**AUTHORITY:** In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-3605(15) and 54-3610, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This proposed rulemaking publishes the following rule chapter previously submitted to and reviewed by the Idaho Legislature under IDAPA 48, rules of the Idaho Grape Growers and Wine Producers Commission):

#### **IDAPA 48**

- 48.01.01, *Rules of the Idaho Grape Growers and Wine Producers Commission.*

**FEE SUMMARY:** This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in the prior rules. The rule specifies the amount of grape and wine tax to be levied in accordance with statute. The rule also adopts a late payment penalty in accordance with statute. The following is a specific description of the fee or charge imposed or increased.

- Seven dollars (\$7) per ton of grapes purchased by producers in Idaho during the previous calendar year for the production of wine in Idaho.
- Seven dollars (\$7) per ton of grapes harvested by growers in Idaho during the previous calendar year for the purpose of the production of wine in Idaho.
- Seven dollars (\$7) per ton of grapes purchased by producers outside Idaho during the previous calendar year for the purpose of the production of wine in Idaho.
- Four cents (\$.04) per gallons of grape juice purchased by producers outside Idaho during the previous calendar year for the purpose of the production of wine in Idaho.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2022 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rule and fees being reauthorized by this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the proposed rule attached hereto.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Brenna Smith, (208) 332-1538, [brenna@idahowines.org](mailto:brenna@idahowines.org).

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

DATED this October 20, 2021.

Brenna Smith  
Operations & Finance Manager  
Idaho Grape Growers and Wine Producers Commission  
821 W State Street, Boise ID 83702  
Phone: (208) 332-1538  
Email: [brenna@idahowines.org](mailto:brenna@idahowines.org)

# IDAPA 48 – IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION

## 48.01.01 – RULES OF THE IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION

### 000. LEGAL AUTHORITY.

This chapter is adopted in accordance with Section 54-3605(15), Idaho Code. ( )

### 001. SCOPE.

These rules include, but are not limited to, levy of taxes and penalties as provided by Section 54-3610, Idaho Code. ( )

### 002. DEFINITIONS.

The definitions set forth in Title 54, Chapter 36, Idaho Code, apply to this chapter. ( )

### 003. -- 019. (RESERVED)

### 020. TAX AND LATE PAYMENT PENALTY.

**01. Levy and Rate of Tax.** In accordance with Section 54-3610, Idaho Code, a tax is levied and imposed on wineries, grapes grown, used, or purchased, and grape juice purchased for the production of wine in Idaho. The rate of each tax is: ( )

**a.** Seven dollars (\$7) per ton of grapes purchased by producers in Idaho during the previous calendar year for the production of wine in Idaho. ( )

**b.** Seven dollars (\$7) per ton of grapes harvested by growers in Idaho during the previous calendar year for the purpose of the production of wine in Idaho. ( )

**c.** Seven dollars (\$7) per ton of grapes purchased by producers outside Idaho during the previous calendar year for the purpose of the production of wine in Idaho. ( )

**d.** Four cents (\$.04) per gallons of grape juice purchased by producers outside Idaho during the previous calendar year for the purpose of the production of wine in Idaho. ( )

**02. Minimum Levy.** The minimum taxes paid by any grower or winery is one hundred dollars (\$100) annually. ( )

**03. Payment of Tax.** All taxes must be paid on or before June 30 of each year as follows: ( )

**a.** The grower harvesting grapes for the production of wine pays the tax levied upon the grower. ( )

**b.** Each winery pays the tax levied upon the winery for the production of wine. ( )

**c.** Purchasers of grapes grown or grape juice produced outside Idaho pay the taxes levied on such grapes and grape juice. ( )

**d.** Purchasers of grape juice produced in Idaho pay the taxes levied on such grape juice. ( )

**04. Opt Out Alternative.** A grower or producer may opt out of the levy of tax by submitting a letter to the Commission no later than June 30 of each year stating the grower or producer's name and address, and their intent to opt out of the application of the provisions of Title 54, Chapter 36, Idaho Code, for the upcoming fiscal year. ( )

### 021. -- 999. (RESERVED)

# PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

**Department or Agency:** Idaho Grape Growers and Wine Producers Commission

**Agency Contact:** Brenna Smith                      **Phone:** 208-332-1538

**Date:** September 16th, 2021

**IDAPA, Chapter and Title Number and Chapter Name:**

***IDAPA 48 – Idaho Grape Growers and Wine Producers Commission***

**Fee Rule Status:** Temporary

**Rulemaking Docket Number:** *DOCKET NO. 48-0101-2100F (FEE RULE)*

## **STATEMENT OF ECONOMIC IMPACT:**

This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in the prior rules.

The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. The rule specifies the amount of grape and wine tax to be levied in accordance with statute. The rule also adopts a late payment penalty in accordance with statute.

- Seven dollars (\$7) per ton of grapes purchased by producers in Idaho during the previous calendar year for the production of wine in Idaho.
- Seven dollars (\$7) per ton of grapes harvested by growers in Idaho during the previous calendar year for the purpose of the production of wine in Idaho.
- Seven dollars (\$7) per ton of grapes purchased by producers outside Idaho during the previous calendar year for the purpose of the production of wine in Idaho.
- Four cents (\$.04) per gallons of grape juice purchased by producers outside Idaho during the previous calendar year for the purpose of the production of wine in Idaho