

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 384

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO MOTOR FUELS TAXES; AMENDING SECTION 63-2401, IDAHO CODE, TO
2 REVISE THE DEFINITION OF MOTOR FUEL AND TO PROVIDE A CORRECT CODE
3 REFERENCE; AMENDING SECTION 63-2412, IDAHO CODE, TO PROVIDE A CORRECT
4 CODE REFERENCE RELATING TO THE DISTRIBUTION OF REVENUES FROM THE TAX
5 ON MOTOR FUELS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION
6 63-2418, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE RELATING TO
7 THE DISTRIBUTION OF REVENUES FROM THE TAX ON SPECIAL FUELS AND TO MAKE
8 TECHNICAL CORRECTIONS; DECLARING AN EMERGENCY, PROVIDING APPLICATION
9 TO CERTAIN UNTAXED ETHANOL AND PROVIDING RETROACTIVE APPLICATION AND
10 EFFECTIVE DATES.
11

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

13 SECTION 1. That Section 63-2401, Idaho Code, be, and the same is hereby
14 amended to read as follows:

15 63-2401. DEFINITIONS. In this chapter:
16 (1) "Aircraft engine fuel" means:
17 (a) Aviation gasoline, defined as any mixture of volatile hydrocarbons
18 used in aircraft reciprocating engines; and
19 (b) Jet fuel, defined as any mixture of volatile hydrocarbons used in
20 aircraft turbojet and turboprop engines.
21 (2) "Biodiesel" means any fuel that is derived in whole or in part from
22 agricultural products or animal fats or the wastes of such products and is
23 suitable for use as fuel in diesel engines.
24 (3) "Biodiesel blend" means any fuel produced by blending biodiesel
25 with petroleum-based diesel to produce a fuel suitable for use in diesel
26 engines.
27 (4) "Bond" means:
28 (a) A surety bond, in an amount required by this chapter, duly executed
29 by a surety company licensed and authorized to do business in this
30 state conditioned upon faithful performance of all requirements of
31 this chapter, including the payment of all taxes, penalties and other
32 obligations arising out of the provisions of this chapter; or
33 (b) A deposit with the commission by any person required to be licensed
34 pursuant to this chapter under terms and conditions as the commission
35 may prescribe, of a like amount of lawful money of the United States or
36 bonds or other obligations of the United States, the state of Idaho, or
37 any county of the state; or
38 (c) An irrevocable letter of credit issued to the commission by a bank
39 doing business in this state payable to the state upon failure of the
40 person on whose behalf it is issued to remit any payment due under the
41 provisions of this chapter.

1 (5) "Commercial motor boat" means any boat, equipped with a motor,
2 which is wholly or partly used in a profit-making enterprise or in an
3 enterprise conducted with the intent of making a profit.

4 (6) "Commission" means the state tax commission of the state of Idaho.

5 (7) "Distributor" means any person who receives motor fuel in this
6 state, and includes a special fuels dealer. Any person who sells or receives
7 gaseous fuels will not be considered a distributor unless the gaseous fuel is
8 delivered into the fuel supply tank or tanks of a motor vehicle not then owned
9 or controlled by him.

10 (8) "Dyed fuel" means diesel fuel that is dyed pursuant to requirements
11 of the internal revenue service, or the environmental protection agency.

12 (9) "Exported" means delivered by truck or rail across the boundaries
13 of this state by or for the seller or purchaser from a place of origin in this
14 state.

15 (10) "Gasohol" means gasoline blended with ten percent (10%) or more of
16 anhydrous ethanol.

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

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

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

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

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

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

49 (17) "Licensed distributor" means any distributor who has obtained a
50 license under the provisions of section 63-2427A, Idaho Code.

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

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

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

16 (21) "Recreational vehicle" means a snowmobile as defined in section
 17 67-7101, Idaho Code; a motor driven cycle or motorcycle as defined in section
 18 49-114, Idaho Code; any recreational vehicle as defined in section 49-119,
 19 Idaho Code; and an all-terrain vehicle as defined in section 67-7101, Idaho
 20 Code.

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

23 (23) "Special fuels" means:

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

25 (b) A compressed or liquified gas obtained as a byproduct in petroleum
 26 refining or natural gasoline manufacture, such as butane, isobutane,
 27 propane, propylene, butylenes, and their mixtures; and

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

30 (24) "Special fuels dealer" means "distributor" under subsection (~~6~~7)
 31 of this section.

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

35 (26) "Use" means either:

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

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

42 SECTION 2. That Section 63-2412, Idaho Code, be, and the same is hereby
 43 amended to read as follows:

44 63-2412. DISTRIBUTION OF TAX REVENUES FROM TAX ON GASOLINE AND
 45 AIRCRAFT ENGINE FUEL. (1) The revenues received from the taxes imposed
 46 by sections 63-2402 and 63-2421, Idaho Code, upon the receipt or use of
 47 gasoline, and any penalties, interest, or deficiency additions, shall be
 48 distributed periodically as follows:

1 (a) An amount of money equal to the actual cost of collecting,
 2 administering and enforcing the gasoline tax requirements by the
 3 commission, as determined by it shall be retained by the commission.
 4 The amount retained by the commission shall not exceed the amount
 5 authorized to be expended by appropriation by the legislature. Any
 6 unencumbered balance in excess of the actual cost of collecting,
 7 administering and enforcing the gasoline tax requirements by the
 8 commission at the end of each fiscal year shall be distributed as listed
 9 in paragraph (e) of this subsection.

10 (b) An amount of money shall be distributed to the state refund account
 11 sufficient to pay current refund claims. All refunds authorized by the
 12 commission to be paid shall be paid from the state refund account and
 13 those moneys are hereby continuously appropriated for that purpose.

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

19 (d) As soon as possible after the beginning of each fiscal year, the
 20 sum of one hundred thousand dollars (\$100,000) shall be distributed to
 21 the local bridge inspection account in the dedicated fund, to pay the
 22 amounts from the account pursuant to the provisions of section 40-703,
 23 Idaho Code.

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

26 (f) The balance remaining with the commission after distributing the
 27 amounts in paragraphs (a) through (e) of subsection (1) of this section
 28 shall be distributed to the highway distribution account created in
 29 section 40-701, Idaho Code.

30 (2) The revenues received from the taxes imposed by section 63-2408,
 31 Idaho Code, and any penalties, interest, and deficiency amounts, shall be
 32 distributed as follows:

33 (a) An amount of money shall be distributed to the state refund account
 34 sufficient to pay current refund claims. All refunds authorized by the
 35 commission to be paid shall be paid from the state refund account, and
 36 those moneys are hereby continuously appropriated.

37 (b) The balance remaining of all the taxes collected shall be
 38 distributed to the state aeronautics account, as provided in section
 39 21-211, Idaho Code.

40 SECTION 3. That Section 63-2418, Idaho Code, be, and the same is hereby
 41 amended to read as follows:

42 63-2418. DISTRIBUTION OF TAX REVENUES FROM TAX ON SPECIAL FUELS. The
 43 revenues received from the tax imposed by this chapter upon the receipt of
 44 special fuel and any penalties, interest, or deficiency additions, or from
 45 the fees imposed by the commission under the provisions of section 63-2424 or
 46 63-2438, Idaho Code, shall be distributed as follows:

47 (1) An amount of money equal to the actual cost of collecting,
 48 administering and enforcing the special fuels tax provisions by the
 49 commission, as determined by it shall be retained by the commission. The

1 amount retained by the commission shall not exceed the amount authorized to
2 be expended by appropriation by the legislature. Any unencumbered balance
3 in excess of the actual cost of collecting, administering and enforcing the
4 special fuels tax requirements by the commission at the end of each fiscal
5 year shall be distributed to the highway distribution account.

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

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

12 (4) The balance remaining with the commission after distributing the
13 amounts specified in subsections (1), ~~and~~ (2) and (3) of this section shall
14 be distributed to the highway distribution account ~~7~~ established in section
15 40-701, Idaho Code.

16 SECTION 4. An emergency existing therefor, which emergency is hereby
17 declared to exist, Section 1 of this act shall be in full force and effect on
18 and after July 1, 2010, and untaxed ethanol held in inventory on July 1, 2010,
19 shall be deemed received on July 1, 2010; Sections 2 and 3 of this act shall be
20 in full force and effect on and after passage and approval, and retroactively
21 to July 1, 2009.