

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 43

BY TRANSPORTATION AND DEFENSE COMMITTEE

AN ACT

1 RELATING TO FUELS TAX; AMENDING SECTION 63-2401, IDAHO CODE, TO PROVIDE  
2 CORRECT TERMINOLOGY; AMENDING SECTION 63-2402, IDAHO CODE, TO REMOVE  
3 A CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SEC-  
4 TION 63-2411, IDAHO CODE, RELATING TO PURCHASE OF MOTOR FUEL BY RETAIL  
5 DEALERS; AMENDING SECTION 63-2425, IDAHO CODE, TO CLARIFY PROVISIONS  
6 RELATING TO THE PROHIBITION OF DYED OR MARKED DIESEL FUEL USE ON STATE  
7 HIGHWAYS, TO REMOVE PENALTY PROVISIONS AND TO MAKE TECHNICAL COR-  
8 RECTIONS; AMENDING SECTION 63-2427A, IDAHO CODE, TO RENAME A CERTAIN  
9 LICENSE, TO REVISE AND PROVIDE ADDITIONAL REQUIREMENTS RELATING TO THE  
10 LICENSE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-2427B,  
11 IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 63-2427C,  
12 IDAHO CODE, TO PROVIDE FOR A LIMITED DISTRIBUTOR LICENSE AND RELATED  
13 REQUIREMENTS AND TO REMOVE REVOCATION AND SUSPENSION PROVISIONS;  
14 AMENDING SECTION 63-2428, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY;  
15 REPEALING SECTION 63-2430, IDAHO CODE, RELATING TO REVOCATION OR CAN-  
16 CELLATION OF LICENSE; REPEALING SECTION 63-2433, IDAHO CODE, RELATING  
17 TO DOING BUSINESS WITHOUT A LICENSE AND PENALTIES; REPEALING SECTION  
18 63-2441, IDAHO CODE, RELATING TO PENALTIES; REPEALING SECTION 63-2443,  
19 IDAHO CODE, RELATING TO VIOLATIONS AND PENALTIES; AMENDING CHAPTER 24,  
20 TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-2450, IDAHO  
21 CODE, TO PROVIDE FOR VIOLATIONS IN GENERAL; AMENDING CHAPTER 24, TITLE  
22 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-2455, IDAHO CODE, TO  
23 PROVIDE FOR SPECIFIC VIOLATIONS; AMENDING CHAPTER 24, TITLE 63, IDAHO  
24 CODE, BY THE ADDITION OF A NEW SECTION 63-2460, IDAHO CODE, TO PROVIDE  
25 FOR PENALTIES; AMENDING CHAPTER 24, TITLE 63, IDAHO CODE, BY THE ADDI-  
26 TION OF A NEW SECTION 63-2470, IDAHO CODE, TO PROVIDE FOR ENFORCEMENT  
27 OF LICENSING PROVISIONS; AND AMENDING SECTION 40-510, IDAHO CODE, TO  
28 REMOVE CODE REFERENCES AND TO PROVIDE A CHAPTER REFERENCE.  
29

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

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

33 63-2401. DEFINITIONS. In this chapter:

34 (1) "Aircraft engine fuel" means:

35 (a) Aviation gasoline, defined as any mixture of volatile hydrocarbons  
36 used in aircraft reciprocating engines; and

37 (b) Jet fuel, defined as any mixture of volatile hydrocarbons used in  
38 aircraft turbojet and turboprop engines.

39 (2) "Biodiesel" means any fuel that is derived in whole or in part from  
40 agricultural products or animal fats or the wastes of such products and is  
41 suitable for use as fuel in diesel engines.

1 (3) "Biodiesel blend" means any fuel produced by blending biodiesel  
2 with petroleum-based diesel to produce a fuel suitable for use in diesel  
3 engines.

4 (4) "Bond" means:

5 (a) A surety bond, in an amount required by this chapter, duly executed  
6 by a surety company licensed and authorized to do business in this state  
7 conditioned upon faithful performance of all requirements of this chap-  
8 ter, including the payment of all taxes, penalties and other obliga-  
9 tions arising out of the provisions of this chapter; or

10 (b) A deposit with the commission by any person required to be licensed  
11 pursuant to this chapter under terms and conditions as the commission  
12 may prescribe, of a like amount of lawful money of the United States or  
13 bonds or other obligations of the United States, the state of Idaho, or  
14 any county of the state; or

15 (c) An irrevocable letter of credit issued to the commission by a bank  
16 doing business in this state payable to the state upon failure of the  
17 person on whose behalf it is issued to remit any payment due under the  
18 provisions of this chapter.

19 (5) "Commercial motor boat" means any boat, equipped with a motor,  
20 which is wholly or partly used in a profit-making enterprise or in an enter-  
21 prise conducted with the intent of making a profit.

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

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

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

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

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

35 (11) "Gasoline" means any mixture of volatile hydrocarbons suitable as  
36 a fuel for the propulsion of motor vehicles or motor boats. "Gasoline" also  
37 means aircraft engine fuels when used for the operation or propulsion of mo-  
38 tor vehicles or motor boats and includes gasohol, but does not include spe-  
39 cial fuels.

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

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

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

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

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

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

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

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

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

35 (21) "Recreational vehicle" means a snowmobile as defined in section  
36 67-7101, Idaho Code; a motor driven cycle or motorcycle as defined in section  
37 49-114, Idaho Code; any recreational vehicle as defined in section 49-119,  
38 Idaho Code; and an all-terrain vehicle as defined in section 67-7101, Idaho  
39 Code.

40 (22) "Retail dealer" means any person engaged in the retail sale of mo-  
41 tor fuels to the public or for use in the state.

42 (23) "Special fuels" means:

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

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

47 (c) Natural gas, either liquid or gas, and hydrogen, used for the gener-  
48 ation of power for the operation or propulsion of motor vehicles.

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

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

4 (26) "Use" means either:

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

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

11 SECTION 2. That Section 63-2402, Idaho Code, be, and the same is hereby  
12 amended to read as follows:

13 63-2402. IMPOSITION OF TAX UPON MOTOR FUEL. (1) A tax is hereby imposed  
14 upon the distributor who receives motor fuel in this state. The legal inci-  
15 dence of the tax imposed under this section is borne by the distributor. The  
16 tax becomes due and payable upon receipt of the motor fuel in this state by  
17 the distributor unless such tax liability has previously accrued to another  
18 distributor pursuant to this section. The tax shall be imposed without re-  
19 gard to whether use is on a governmental basis or otherwise, unless exempted  
20 by this chapter.

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

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

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

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

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

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

43 (c) Special fuels that are gaseous special fuels, as defined in section  
44 63-2401, Idaho Code, except that part thereof that is delivered into the  
45 fuel supply tank or tanks of a motor vehicle; or

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

48 (6) Should the distributor of first receipt be exempt from imposi-  
49 tion of the tax as a matter of federal law, by virtue of its status as a

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

17 SECTION 3. That Section 63-2411, Idaho Code, be, and the same is hereby  
 18 repealed.

19 SECTION 4. That Section 63-2425, Idaho Code, be, and the same is hereby  
 20 amended to read as follows:

21 63-2425. DYED FUEL AND OTHER UNTAXED FUEL PROHIBITED FOR USE ON A HIGH-  
 22 WAY ~~---PENALTIES~~. (1) Except as provided in subsection (2) of this section,  
 23 no person shall operate a motor vehicle on a highway in this state if the fuel  
 24 supply tanks of the vehicle contain diesel fuel which has been dyed or marked  
 25 at a refinery or terminal under the provisions of 26 U.S.C. section 4082 and  
 26 regulations adopted thereunder, or under the clean air act and regulations  
 27 adopted thereunder, or contain other motor fuel on which the tax under sec-  
 28 tion 63-2402, Idaho Code, has not been paid.

29 (2) The following vehicles may use dyed fuel on the highway but are sub-  
 30 ject to the tax under section 63-2402, Idaho Code, unless exempt under other  
 31 provisions of this chapter:

32 (a) State and local government vehicles;

33 (b) Any vehicles which may use dyed fuel on the highway under the provi-  
 34 sions of 26 U.S.C. section 4082 or regulations adopted thereunder.

35 ~~(3) In addition to the provisions of section 63-2443, Idaho Code, any~~  
 36 ~~person violating the provisions of this section shall:~~

37 ~~(a) Upon the first violation, be subject to a civil penalty in the~~  
 38 ~~amount of two hundred fifty dollars (\$250);~~

39 ~~(b) Upon the second violation, be subject to a civil penalty in the~~  
 40 ~~amount of five hundred dollars (\$500); and~~

41 ~~(c) Upon the third or subsequent violation, be subject to a civil~~  
 42 ~~penalty in the amount of one thousand dollars (\$1,000) for each such~~  
 43 ~~violation.~~

44 ~~The commission may assess penalties under this subsection (3) as a defi-~~  
 45 ~~ciency in tax pursuant to sections 63-2434 and 63-3045, Idaho Code.~~

46 SECTION 5. That Section 63-2427A, Idaho Code, be, and the same is hereby  
 47 amended to read as follows:

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

6           (a) Only purchases motor fuel on which any tax due under this chapter  
 7 has previously been imposed upon a licensed distributor; or

8           (b) Only purchases dyed fuel upon which the transfer fee imposed in sec-  
 9 tion 41-4909, Idaho Code, has been imposed upon a licensed distributor;  
 10 or

11           (c) Only produces five thousand (5,000) gallons or less of biodiesel in  
 12 a calendar year for that person's personal consumption. Any producer  
 13 who sells or transfers any quantity of biodiesel to any other person is  
 14 the first receiver of the biodiesel and is required to obtain a motor  
 15 fuel distributor license.

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

23           (3) Upon receipt of the application and bond in proper form the commis-  
 24 sion shall issue the applicant a license to act as a distributor unless the  
 25 applicant:

26           (a) Is a person who formerly held a license under the provisions of this  
 27 chapter, any predecessor statute, under the laws of any other jurisdic-  
 28 tion, or under the laws of the United States which license, prior to the  
 29 time of filing this application, had been revoked for cause within five  
 30 (5) years from the date of such application; or

31           (b) Is a person who has outstanding fuel tax liabilities to or is in vi-  
 32 olation of the motor fuel laws of this state, any other jurisdiction or  
 33 the United States government; or

34           (c) Is a person who has been convicted, under the laws of the United  
 35 States or any state or jurisdiction or subdivision thereof, of fraud,  
 36 tax evasion, or a violation of the laws governing the reporting and pay-  
 37 ment of fees or taxes for petroleum products within five (5) years from  
 38 the date of making such application; or

39           (d) Is a person who has been convicted of a felony or been granted a  
 40 withheld judgment following an adjudication of guilt of a felony within  
 41 five (5) years from the date of such application; or

42           (e) Who is not the real party in interest and the real party in interest  
 43 is a person described in subsection paragraph (3)(a), (3)(b), (3)(c) or  
 44 (3)(d) of this subsection.

45           (4) ~~The commission shall not issue a distributor's license to any per-~~  
 46 ~~son until that person has submitted to the commission a consent to be sued~~  
 47 ~~in Idaho district court for purposes of the state enforcing any provision of~~  
 48 ~~this chapter. The consent shall be submitted in such form and include such~~  
 49 ~~information as the commission may by rule require.~~

1       ~~(5) Upon approval of the application, the distributor's license shall~~  
 2 ~~be valid until it is suspended canceled by the licensee or revoked for cause,~~  
 3 ~~for failure to maintain the bond required in section 63-2428, Idaho Code,~~  
 4 ~~for failure to file returns required in this chapter, for failure to pay all~~  
 5 ~~taxes and fees due with a return required in this chapter, or is otherwise~~  
 6 ~~canceled.~~

7       (65) No distributor's license shall be transferable.

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

12       SECTION 6. That Section 63-2427B, Idaho Code, be, and the same is hereby  
 13 amended to read as follows:

14       63-2427B. LICENSED GASEOUS FUELS DISTRIBUTORS -- REPORTS. (1) In lieu  
 15 of the motor fuel distributor's license required by section 63-2427A, Idaho  
 16 Code, the commission may issue a gaseous fuels distributor's license to a  
 17 distributor who applies for the license and who does not deal in fuel, other  
 18 than gaseous fuels, except fuel which is either:

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

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

23       (2) Licensed gaseous fuels distributors shall, not later than the last  
 24 day of each calendar month or for such other reporting period as the com-  
 25 mission may authorize, render to the commission an accurate report of all  
 26 gaseous fuels that are subject to tax under this chapter during the preced-  
 27 ing reporting period. The report shall be made in the manner and on forms re-  
 28 quired by the commission and shall include such other information as the com-  
 29 mission may require for the proper administration of this chapter.

30       SECTION 7. That Section 63-2427C, Idaho Code, be, and the same is hereby  
 31 amended to read as follows:

32       63-2427C. REVOCATION AND SUSPENSION OF LIMITED DISTRIBUTOR LICENSE --  
 33 PENALTIES. (1) A limited distributor license will be issued under section  
 34 63-2427A or 63-2427B, Idaho Code, shall be held only by to persons actively  
 35 engaged in activities requiring a license under this chapter. Any person  
 36 not so engaged shall forthwith surrender his license to the commission for  
 37 cancellation only required to remit the fee imposed by chapter 49, title  
 38 41, Idaho Code, and not required to obtain a license under section 63-2427A  
 39 or 63-2427B, Idaho Code. The licensee is a licensed distributor for the  
 40 purposes of filing reports, paying fees and other actions necessary for the  
 41 proper administration of the petroleum clean water trust fund act. A limited  
 42 distributor license will not be valid for any other purpose. No bond shall be  
 43 required for a limited distributor license.

44       ~~(2) Whenever any person fails to comply with any provision of this chap-~~  
 45 ~~ter relating to the receipt, purchase, sale or offering for sale or distri-~~  
 46 ~~bution of motor fuel or any rules of the commission relating to motor fuels~~  
 47 ~~taxes prescribed and adopted under this chapter, the commission may revoke~~

1 ~~or suspend any license held by the person or may deny a new license to such~~  
2 ~~person.~~

3 ~~(3) The commission may revoke the license of a person not actively en-~~  
4 ~~gaged in activities requiring a license under this section.~~

5 ~~(4) Notice of revocation shall be given in the manner provided for defi-~~  
6 ~~ciencies in taxes in section 63-3629, Idaho Code, which shall be subject to~~  
7 ~~review as provided in section 63-3631, Idaho Code.~~

8 ~~(5) A license, held by a person who for a period of twelve (12) consec-~~  
9 ~~utive months reports no motor fuels activity under this chapter, shall expire~~  
10 ~~automatically upon the state tax commission providing notice of the expira-~~  
11 ~~tion to the last known address of the person to whom the license was issued.~~

12 ~~(6) A person who engaged in activities requiring a license under this~~  
13 ~~chapter without such license or after a license has been revoked or sus-~~  
14 ~~pended, and any person who is a responsible person, as defined in section~~  
15 ~~63-3627, Idaho Code, of such a business shall, after receiving written~~  
16 ~~notice from the state tax commission, be subject to a civil penalty not in ex-~~  
17 ~~cess of one hundred dollars (\$100), and each day shall constitute a separate~~  
18 ~~offense, which the state tax commission may assess as a deficiency pursuant~~  
19 ~~to section 63-2434, Idaho Code.~~

20 SECTION 8. That Section 63-2428, Idaho Code, be, and the same is hereby  
21 amended to read as follows:

22 63-2428. BONDING. (1) At the time an application for a motor fuel dis-  
23 tributor's license under section 63-2427A, Idaho Code, is submitted to the  
24 commission, the applicant shall file a bond with the commission conditioned  
25 upon faithful performance of all of the requirements of this chapter. The  
26 total amount of the bond shall be fixed by the commission and shall be equiv-  
27 alent to at least twice the estimated average tax liability for the reporting  
28 period for which the applicant will be required to file a distributor's re-  
29 port under section 63-2406, Idaho Code. The bond required by this section  
30 shall in no case be less than one thousand dollars (\$1,000) nor more than two  
31 hundred thousand dollars (\$200,000). Based on prior years' experience, the  
32 total amount required to be secured by the bond may be increased or reduced  
33 by the commission at any time. The bond will be waived if the commission  
34 is satisfied that the distributor has the financial responsibility to meet  
35 the required bond amount. Financial responsibility may be determined by the  
36 commission upon review of all relevant public documents including appropri-  
37 ate county records and records of tax payments to the state of Idaho. The  
38 distributor can be required to provide a commercial credit rating, balance  
39 sheet, or income statement to demonstrate present financial solvency, i.e.  
40 ownership of real and/or personal property, the unencumbered value of which  
41 exceeds the bond amount otherwise required. If such financial solvency is  
42 established, and if the distributor has been doing business in Idaho as a li-  
43 censed distributor for five (5) or more consecutive years without a default  
44 in the payment of taxes imposed in this chapter, financial responsibility  
45 shall be presumed. Any bond given in conjunction with this chapter shall be  
46 a continuing instrument, and shall cover the period during which the license  
47 in connection with which the bond is given is in effect, unless the surety on  
48 the bond is released or discharged by the commission. Any surety on any bond  
49 furnished by a licensee shall be discharged and released from any and all li-



1 ability to the state accruing on the bond after the expiration of thirty (30)  
2 days from the date upon which the surety shall have lodged with the commis-  
3 sion a written request to be released and discharged. The request shall not  
4 operate to relieve, release or discharge the surety from any liability ac-  
5 crued, or which will accrue, before the expiration of the thirty (30) day pe-  
6 riod. The commission shall promptly, upon receipt of the notice of the re-  
7 quest, notify the licensee and require him to furnish a new bond. Unless the  
8 licensee files a new bond with the commission in the amount provided in this  
9 section before the expiration of the thirty (30) day period, the commission  
10 shall immediately cancel the licensee's license.

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

16 SECTION 9. That Section [63-2430](#), Idaho Code, be, and the same is hereby  
17 repealed.

18 SECTION 10. That Section [63-2433](#), Idaho Code, be, and the same is hereby  
19 repealed.

20 SECTION 11. That Section [63-2441](#), Idaho Code, be, and the same is hereby  
21 repealed.

22 SECTION 12. That Section [63-2443](#), Idaho Code, be, and the same is hereby  
23 repealed.

24 SECTION 13. That Chapter 24, Title 63, Idaho Code, be, and the same is  
25 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
26 ignated as Section 63-2450, Idaho Code, and to read as follows:

27 63-2450. VIOLATIONS IN GENERAL. (1) It is unlawful for any person in  
28 the state of Idaho to:

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

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

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

37 (d) Conduct any activities requiring a license under this chapter with-  
38 out an active license;

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

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

42 (g) Violate any other provision of this chapter.

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

1 (3) It is unlawful to sell or transfer any untaxed motor fuel unless au-  
2 thorized by this chapter.

3 SECTION 14. That Chapter 24, Title 63, Idaho Code, be, and the same is  
4 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
5 ignated as Section 63-2455, Idaho Code, and to read as follows:

6 63-2455. SPECIFIC VIOLATIONS. (1) It is unlawful for any person to op-  
7 erate a motor vehicle or consume any motor fuel in the propulsion of a motor  
8 vehicle over twenty-six thousand (26,000) pounds maximum gross weight on the  
9 highways of this state, except as provided in section 63-2438, Idaho Code,  
10 unless:

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

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

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

17 (a) Is fictitious or counterfeit; or

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

20 SECTION 15. That Chapter 24, Title 63, Idaho Code, be, and the same is  
21 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
22 ignated as Section 63-2460, Idaho Code, and to read as follows:

23 63-2460. PENALTIES. (1) Any person who violates any provision of this  
24 chapter or who violates any provision of Idaho law relating to the assess-  
25 ment and collection of any unpaid tax or fee associated with this chapter is  
26 guilty of a misdemeanor, unless the violation is declared a felony by any  
27 other law of this state. Any person so convicted of a misdemeanor shall be  
28 punished by a fine of not less than one hundred dollars (\$100) nor more than  
29 one thousand dollars (\$1,000). Each day that an unlicensed person engages in  
30 the activities of a licensed distributor constitutes a separate violation.

31 (2) In addition to the provisions of subsection (1) of this section, any  
32 person operating a vehicle licensed or required to be licensed on a highway  
33 in this state with diesel fuel in violation of section 63-2425, Idaho Code,  
34 will be subject to the following:

35 (a) Upon the first violation, a civil penalty in the amount of two hun-  
36 dred fifty dollars (\$250);

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

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

41 (3) The commission may assess the penalties set forth in subsection  
42 (2) of this section as deficiencies in tax pursuant to sections 63-2434 and  
43 63-3045, Idaho Code.

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

1 SECTION 16. That Chapter 24, Title 63, Idaho Code, be, and the same is  
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
3 ignated as Section 63-2470, Idaho Code, and to read as follows:

4 63-2470. ENFORCEMENT OF LICENSING PROVISIONS. (1) A licensee may can-  
5 cel his license at any time without prejudice, unless the commission has is-  
6 sued a notice of revocation letter to the licensee. If the licensee cancels  
7 his license after receiving a notice of revocation, then the cancellation  
8 will be treated as a revocation.

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

14 (a) A distributor:

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

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

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

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

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

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

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

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

37 (5) When the state tax commission decides to deny, cancel or revoke a  
38 distributor license, it shall immediately notify the person of that decision  
39 at the person's last known address. The notice must be accompanied by an ex-  
40 planation of the specific reason for the decision and the right to appeal the  
41 decision. Within sixty-three (63) days after the notice is mailed, the per-  
42 son may file a protest in writing requesting a review of the decision. The  
43 appeal must contain legal or factual reasons why the person disagrees with  
44 the decision. The person may not make any proceedings at court or other ac-  
45 tion until the appeal rights relating to the decision have become final.

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

48 (7) The distributor may only appeal the denial of a properly completed  
49 application. When any of the required information is not provided, the state

1 tax commission may consider the application incomplete and request addi-  
2 tional information, return the application or deny the application.

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

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

14 SECTION 17. That Section 40-510, Idaho Code, be, and the same is hereby  
15 amended to read as follows:

16 40-510. PORTS OF ENTRY OR CHECKING STATIONS ESTABLISHED -- MOTOR VE-  
17 HICLE INVESTIGATOR ACTIVITIES -- AUTHORITY OF THE BOARD TO EMPLOY INDIVIDU-  
18 ALS. (1) To augment and help make more efficient and effective the enforce-  
19 ment of certain laws of the state of Idaho, the Idaho transportation depart-  
20 ment is hereby authorized and directed to establish from time to time tem-  
21 porary or permanent ports of entry or checking stations upon any highways in  
22 the state of Idaho, at such places as the Idaho transportation department  
23 shall deem necessary and advisable.

24 (2) The board is authorized to appoint and employ individuals who shall  
25 have limited peace officer authority for the enforcement of such motor vehi-  
26 cle related laws as are herein specified:

27 (a) Sections 18-3906 and 18-8001, Idaho Code;

28 (b) Sections 25-1105 and 25-1182(2), Idaho Code;

29 (c) Sections 40-510 through 40-512, Idaho Code;

30 (d) Chapters 1 through 5, 9, 10, ~~11~~, 15 through 19, 22 and 24, title 49,  
31 sections 49-619, 49-660, 49-1407, 49-1418 and 49-1427 through 49-1430,  
32 Idaho Code;

33 (e) ~~Sections 63-2438, 63-2440, 63-2441 and 63-2443~~ Authorized use of  
34 motor fuel on the highways and international fuel tax agreement (IFTA)  
35 provisions of chapter 24, title 63, Idaho Code; and

36 (f) Section 67-2901A, Idaho Code.

37 (3) Motor vehicle investigators shall have the authority to access con-  
38 fidential vehicle identification number information.

39 (4) Any employee so appointed shall have the authority to issue mis-  
40 demeanor traffic citations in accordance with the provisions of section  
41 49-1409, Idaho Code, and infraction citations in accordance with the provi-  
42 sions of chapter 15, title 49, Idaho Code.

43 (5) No employee of the department shall carry or use a firearm of any  
44 type in the performance of his duties unless specifically authorized in  
45 writing by the director of the Idaho state police to do so.

46 (6) The board is authorized to extend the authority as provided in this  
47 section to authorized employees of contiguous states upon approval of a bi-  
48 lateral agreement according to the provisions of section 40-317, Idaho Code.