

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 132

BY TRANSPORTATION AND DEFENSE COMMITTEE

AN ACT

1 RELATING TO MOTOR FUELS; AMENDING SECTION 63-2402, IDAHO CODE, TO REMOVE
2 REFERENCE TO SPECIAL FUELS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING
3 SECTION 63-2424, IDAHO CODE, TO REMOVE CERTAIN FEES AND TO REVISE THE
4 TAX ON GASEOUS SPECIAL FUELS; AND AMENDING SECTION 63-2423, IDAHO CODE,
5 TO REPEAL AN EXEMPTION FROM THE GASEOUS SPECIAL FUELS TAX.
6

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

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

10 63-2402. IMPOSITION OF TAX UPON MOTOR FUEL. (1) A tax is hereby imposed
11 upon the distributor who receives motor fuel in this state. The legal inci-
12 dence of the tax imposed under this section is borne by the distributor. The
13 tax becomes due and payable upon receipt of the motor fuel in this state by
14 the distributor unless such tax liability has previously accrued to another
15 distributor pursuant to this section. The tax shall be imposed without re-
16 gard to whether use is on a governmental basis or otherwise, unless exempted
17 by this chapter.

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

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

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

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

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

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

40 ~~(c) Special fuels that are gaseous special fuels, as defined in section~~
41 ~~63-2401, Idaho Code, except that part thereof that is delivered into the~~
42 ~~fuel supply tank or tanks of a motor vehicle; or~~

1 (~~dc~~) Aircraft engine fuel subject to tax under section 63-2408, Idaho
2 Code.

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

21 SECTION 2. That Section 63-2424, Idaho Code, be, and the same is hereby
22 amended to read as follows:

23 63-2424. GASEOUS SPECIAL FUELS. (1) In the case of gaseous special fu-
24 els, ~~which are in a gaseous form~~, the commission shall provide by rule the
25 method to be used for converting the measurement of the fuel to the equiva-
26 lent of gallons for the purpose of applying tax rates. The method provided
27 shall cause the tax rate provided in section 63-2402, Idaho Code, to apply to
28 an amount of gaseous special fuels having energy equal to one (1) gallon of
29 gasoline.

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

36	— VEHICLE TONNAGE (GVW) —	— FEE
37	0 --- 8,000	\$ 60.00
38	8,001 --- 16,000	\$ 89.00
39	16,001 --- 26,000	\$179.00
40	26,001 and above	\$208.00

41 ~~Permits for vehicles which are converted to gaseous fuels after the first of~~
42 ~~July in any year shall have the fee prorated for the appropriate number of~~
43 ~~months until renewal. The commission shall provide by rule the method to be~~
44 ~~used for converting the measurement of fuel to the equivalent of gallons for~~
45 ~~the purpose of applying increases in tax rates after this law becomes effec-~~
46 ~~tive. A decal issued by the commission shall be displayed in any vehicle for~~

1 ~~which a permit is issued hereunder as evidence that the annual fee has been~~
 2 ~~paid in lieu of the fuel tax. This decal shall be displayed in a conspicuous~~
 3 ~~place~~

4 The commission shall use the following measurement for natural gas:

5 (a) When determining the tax on liquefied natural gas, a "diesel gal-
 6 lon equivalent" is a quantity that weighs six and six hundredths (6.06)
 7 pounds; and

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

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

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

20 63-2423. CREDITS AND REFUNDS TO CONSUMERS. (1) Any person who has paid
 21 his special fuels tax directly to the distributor from whom it was purchased
 22 shall be refunded the amount of:

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

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

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

33 ~~(d)~~ Any special fuels tax paid on special fuels exported for use out-
 34 side the state of Idaho. Special fuels carried from the state in the
 35 fuel tank of a motor vehicle will not be deemed to be exported from the
 36 state unless it is subject to a like or similar tax in the jurisdiction
 37 to which it is taken and that tax is actually paid to the other jurisdic-
 38 tion; and

39 ~~(ed)~~ Any tax, penalty or interest erroneously or illegally paid or col-
 40 lected.

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

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

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

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

48 (3) Refunds authorized in this section shall be claimed in the same man-
 49 ner as applies to refunds of gasoline tax under section 63-2410, Idaho Code,

1 and shall be subject to interest computed pursuant to subsection (5) of that
2 section.