

MINUTES
SENATE TRANSPORTATION COMMITTEE

DATE: Tuesday, January 19, 2016

TIME: 1:30 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Brackett, Vice Chairman Hagedorn, Senators Keough, Nonini, Vick, Den Hartog, Buckner-Webb and Lacey

ABSENT/ EXCUSED: Senator Winder

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Brackett** convened the meeting of the Senate Transportation Committee (Committee) at 1:32 p.m.

PASSED THE GAVEL: Chairman Brackett passed the gavel to Vice Chairman Hagedorn.

ADMINISTRATIVE RULES: **Vice Chairman Hagedorn** told the Committee they would be hearing all three of the Idaho State Tax Commission's (STC) administrative rules and the first five of the Idaho Transportation Department's (ITD) administrative rules. Following presentation of each rule, Committee members would be able to ask questions before considering a motion to either accept, reject or partially reject the rule.

DOCKET NO. 35-0105-1501 **Vice Chairman Hagedorn** welcomed Michael Chakarun, Tax Policy Manager for STC, who would present all three of STC's rules.

Mr. Chakarun said this rule provides the method used by STC to apply the motor fuel tax rate to gaseous special fuels required by Idaho Code § 63-2424(1). The current rule gives the conversion factor and resulting tax based on the motor fuel tax rate of 25 cents per gallon. The rule is being changed to remove the specific tax rate and add the formula to compute the fuel tax on gaseous special fuels.

H 312aaS,aaS, passed in the 2015 Legislative Session, addressed the need to increase transportation funding for local jurisdictions by raising registration fees and motor fuels taxes. Section 4 of that bill amends the motor fuels tax rate from 25 cents per gallon to 32 cents per gallon, which became effective on July 1, 2015. Idaho Code § 63-2424(1) requires that the STC provide by rulemaking a method to convert the motor fuel tax so that it can be applied to gaseous special fuels. **Mr. Chakarun** stood for questions, but there were none.

Vice Chairman Hagedorn called for a motion on the rule.

MOTION: **Senator Lacey** moved to accept **Docket No. 35-0105-1501**. **Senator Keough** seconded the motion. The motion passed by **voice vote**.

DOCKET NO. 35-0105-1502 **Mr. Chakarun** said that Motor Fuels Tax Rule 280, Refund to Consumers for Nontaxable Uses of Motor Fuels, will be deleted effective January 1, 2017 because of redundant language. The Motor Fuels Tax Rule 422, Documentation for Idaho Full-Fee Registrants, will become effective on July 1, 2016. Tax Rule 422 is a negotiated rule in this docket; STC went through a negotiation process with the Idaho Farm Bureau. **Mr. Chakarun** stood for questions.

Senator Den Hartog asked what language was redundant and whether the exact same language appeared in more than one tax rule. **Mr. Chakarun** deferred the question to Don Williams, STC's Tax Policy Specialist. **Mr. Williams** said that Motor Fuels Tax Rule 250, Section 6, states that everyone claiming a fuels tax refund must use an Idaho Form 75. Rule 280 was deleted because it had identical language. There were no further questions from the Committee.

Vice Chairman Hagedorn called for a motion on the rule.

MOTION:

Senator Nonini moved to accept **Docket No. 35-0105-1502**. **Senator Buckner-Webb** seconded the motion. The motion passed by **voice vote**.

**DOCKET NO.
35-0105-1503**

Mr. Chakarun said this docket changes five tax rules.

(1) Motor Fuels Tax Rule 004, Incorporation by Reference. This rule change will update the incorporated references and move the reference to Administrative and Enforcement Rule 110 from Rule 510.

(2) Motor Fuels Tax Rule 115, When the Gasoline Tax Rate Increases, Use Conversion Factor to Adjust Annual Gaseous Fuels Permit Fees. This rule will be deleted. 2015 H 132aaS,aaS eliminated the gaseous fuels permit program and the rule is no longer required.

(3) Motor Fuels Tax Rule 132, Licensed Gaseous Fuel Distributor's Reports. The portions of the rule that refer to the gaseous fuels permit or gaseous fuels decal will be deleted. H132aaS,aaS eliminated the gaseous fuels permit program. The gaseous fuels distributor record-keeping instructions for the gaseous fuels permit program are no longer required.

(4) Motor Fuels Tax Rule 410, Adoption of International Fuels Tax Agreement. This rule will be deleted. When the International Fuels Tax Agreement was incorporated into Rule 004, this rule became unnecessary.

(5) Motor Fuels Tax Rule 510, Application and Reporting of the Petroleum Transfer Fee. Paragraph 7 of this section is reworded because the limited distributors' license was added in 2015 in Idaho Code § 63-2427C. Paragraph 10 of this section is being deleted because Administrative and Enforcement Rule 110 is referenced incorrectly.

Mr. Chakarun stood for questions, but there were none.

Vice Chairman Hagedorn called for a motion on the rule.

MOTION:

Senator Buckner-Webb moved to accept **Docket No. 35-0105-1503**. **Senator Lacey** seconded the motion. The motion passed by **voice vote**.

Vice Chairman Hagedorn thanked Mr. Chakarun and Mr. Williams and asked Amy Smith, ITD's Vehicle Services Manager, to present the next docket.

**DOCKET NO.
39-0203-1501**

Ms. Smith thanked Vice Chairman Hagedorn and said this rule is pending and has gone through the negotiated rulemaking process. The amendments to this rule essentially eliminate the minimum number of hours that an Idaho licensed vehicle dealer must be open to the public for contact.

The minimum number of business hours was added through the administrative rule process during the 2015 Legislative Session to further clarify Idaho Code § 49-117's definition of principal place of business requirements. It stated that a dealership must be open so the public can contact the dealer or their salesmen at all reasonable times.

Although the rule passed, there was discussion with ITD and an agreement was reached. ITD would remove these changes through the negotiated rulemaking process. All of Idaho's licensed vehicle dealers were notified of the proposed changes and given an opportunity to participate in a public hearing, or to send comments to ITD.

ITD held the public hearing via a conference call presentation on June 24, 2015, with one participant. ITD received comments via email, phone and letters prior to and after the hearing; they were mainly from Idaho dealers. A total of 21 comments were received; 15 supported the change, 5 thought it shouldn't be changed and one requested more information.

The proposed rule removes the minimum number of hours that a licensed dealer or wholesale dealer must be opened for licensing purposes. The rule still requires that the dealer report business hours to ITD on the dealer's license application.

With legislative approval, this rule will become final and effective at the end of this Legislative Session. **Ms. Smith** stood for questions.

Senator Vick asked if the process allowed a dealer to change their hours of operation during the year. **Ms. Smith** confirmed there was an agreed-upon process in which the dealer simply reports the change in their hours of operation to ITD. **Senator Vick** thanked ITD for going through the negotiation process. He thought the result was a huge improvement. There were no further questions from the Committee.

Vice Chairman Hagedorn called for a motion on the rule.

MOTION:

Senator Vick moved to accept **Docket No. 39-0203-1501**. **Senator Den Hartog** seconded the motion. The motion passed by **voice vote**.

Vice Chairman Hagedorn thanked Ms. Smith and invited Reymundo Rodriguez, ITD's Commercial Vehicle Services Manager, to present the next four ITD administrative rules.

**DOCKET NO.
39-0222-1501**

Mr. Rodriguez said that as part of its modernization efforts, ITD instituted a new point-of-sale system. The new system no longer allows for customers to order credentials without payment at the time of the transaction. The old process allowing customers to be billed on a monthly basis for credentials has been eliminated. The new system allows customers to have escrow accounts whose funds can be utilized as needed. With these changes, the administrative rule governing the process needed to be modified to provide clarity. The proposed modifications accomplish five things:

- (1) Clarify the quarterly reporting of road use fees in accordance with Idaho Code § 49-439(7). A customer failing to provide the necessary reports can be suspended.
- (2) Provide flexibility to refund money for temporary permits and registration fees if eligible.
- (3) Eliminate delinquent billing processes to match new requirements of payment before credentials are sent.
- (4) Eliminate fee account billing processes because they are no longer available with the successful implementation of the new point-of-sale system, and escrow accounts are now available.
- (5) Clarify that unpaid amounts owed to ITD may be sent to a collection agency.

No hearings were requested or comments received. The Idaho Transportation Board (ITB) approved these modifications in August 2015. The rule has the support of the Trucking Advisory Council. **Mr. Rodriguez** stood for questions.

Senator Lacey asked if Section 703, Requirements for Collection, on page 34 was consistent with what was previously said about payment being made up front. **Mr. Rodriguez** responded that some customers pay by check so the reference to external collection agencies needs to be in the rule for cases where checks are returned for insufficient funds.

Senator Keough asked if there was a timeframe before turning accounts over to a collection agency. **Mr. Rodriguez** said there were three notices sent 15 days apart before accounts were turned for collection. **Senator Keough** asked if that timeframe was made clear to the customer when they submitted paperwork. **Mr. Rodriguez** confirmed that it was clear.

Senator Keough asked if a temporary trip permit was transferable to other vehicles. **Mr. Rodriguez** answered that one permit per vehicle is issued. The language allows for extensions of the permit or for issuing another permit for extenuating circumstances. There were no further questions from the Committee.

Vice Chairman Hagedorn called for a motion on the rule.

MOTION:

Senator Lacey moved to accept **Docket No. 39-0222-1501**. **Senator Nonini** seconded the motion. The motion passed by **voice vote**.

**DOCKET NO.
39-0226-1501**

Mr. Rodriguez said that the proposed modifications in this pending fee rule align with Idaho Code § 49-202(m). In 2009, the Idaho Legislature passed H 334 in which the Legislature made changes to statutory ITD fees. ITD failed to modify the rule at that time. It contained one fee.

The Legislature amended Idaho Code § 49-202, which details what fees ITD can collect. Idaho Code § 49-202(m) specifically changed the fee charged for issuing letters of temporary vehicle clearance to Idaho-based motor carriers from \$10 to \$18. That change directly impacted this rule, requiring a rule modification. The fee change became effective January 1, 2010.

No hearings were requested or comments received regarding this rule. ITB approved these modifications in July 2015. The rule has the support of the Trucking Advisory Council. **Mr. Rodriguez** stood for questions.

Vice Chairman Hagedorn asked if the fee had already been in place. **Mr. Rodriguez** confirmed that it had. **Vice Chairman Hagedorn** asked about the many changes to the fee rule on page 5. **Mr. Rodriguez** said those changes were made to conform to other rules, but the fee change from \$10 to \$18 was located on page 7. There were no further questions from the Committee.

Vice Chairman Hagedorn called for a motion on the rule.

MOTION:

Senator Keough moved to accept **Docket No. 39-0226-1501**. **Senator Lacey** seconded the motion. The motion passed by **voice vote**.

**DOCKET NO.
39-0301-1501**

Mr. Rodriguez said this modification is necessary to keep ITD in compliance with the passage of 2015 H 70. The bill required a change to the definition of excess weight. It also changed the steer axle tire limitation restrictions needed to match those restrictions presently under Idaho Code. The legislation allowed more flexibility in the amount of weight carried on the steer axles only. Prior to passage of 2015 H 70, the axles were restricted to 600 pounds per inch width of tire or the manufacturer's load rating, whichever was less. Currently the steer axle may not exceed the manufacturer's load rating per tire, or the load rating of the axle, or 20,000 pounds per axle, whichever is less.

No hearings were requested or comments received regarding this rule. ITB approved the modifications in July 2015. The rule has the support of the Trucking Advisory Council. **Mr. Rodriguez** stood for questions

Senator Hagedorn asked about the Idaho Code reference stated in Section 40 under Definitions referring to Overlegal Permit. **Mr. Rodriguez** said that Section 47 defined a Special Permit, but it was deleted because the definition of an Overlegal Permit was the same as a Special Permit.

Senator Lacey asked what the definition of Overlegal Permit was. **Mr. Rodriguez** said it was any vehicle that presented a load that was over the legal limits in weight or dimensions. **Senator Lacey** asked if a pilot car had to accompany an oversized load. **Mr. Rodriguez** said that language was contained in another rule under safety.

Senator Buckner-Webb asked what was the maximum amount allowed to be considered overlegal. **Mr. Rodriguez** said there were limits, but they vary based on the roadway routes requested for the permit. Some roadways have limitations based on infrastructure. **Senator Buckner-Webb** asked if there are limits on repeated trips. **Mr. Rodriguez** said there are limits for single trips. There were no further questions from the Committee.

Vice Chairman Hagedorn called for a motion on the rule.

MOTION:

Senator Nonini moved to accept **Docket No. 39-0301-1501**. **Senator Keough** seconded the motion. The motion passed by **voice vote**.

**DOCKET NO.
39-0313-1501**

Mr. Rodriguez said this rule pertains to the requirements and procedures of overweight permitted vehicles. These are for vehicles and/or loads that are non-reducible in nature, such as vehicles hauling a dozer or transformer. When these vehicle combinations exceed a certain weight limit (axles or overall gross weight) for the route that they are requesting, ITD submits detailed information to their Bridge Section for analysis of that vehicle over the highway route's infrastructure. The proposed modifications are necessary because ITD has determined that the current rule governing bridge analysis is antiquated and inadequate. With current staffing levels and the increased number of overweight vehicles traveling within and through the state, ITD needs more realistic guidelines for the completion of a bridge analysis request. Other modifications in this docket provide clarification as to whether ITD staff or a third party will be required to complete the analysis. A bridge analysis is required to protect ITD's infrastructure and the safety of the traveling public. ITD has been using similar guidelines in these bridge analysis requests for some time, making this modification familiar to the industry.

This rule underwent negotiated rulemaking; a public meeting in the form of a webinar/conference call was held on July 16, 2015. Two comments were received; one in favor and the other a general inquiry. ITB approved these modifications in August 2015. The rule has the support of the Trucking Advisory Council. **Mr. Rodriguez** stood for questions, but there were none.

Vice Chairman Hagedorn called for a motion on the rule.

MOTION:

Senator Lacey moved to accept **Docket No. 39-0313-1501**. **Senator Buckner-Webb** seconded the motion. The motion passed by **voice vote**.

**PASSED THE
GAVEL:**

Vice Chairman Hagedorn returned the gavel to Chairman Brackett.

Chairman Brackett thanked Vice Chairman Hagedorn for his work in the administrative rules process.

ADJOURNED: With no further business before the Committee, **Chairman Brackett** adjourned the meeting at 2:10 p.m.

Senator Brackett
Chair

Gaye Bennett
Secretary