

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 376

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO CIGARETTE TAXES; AMENDING SECTION 63-2510A, IDAHO CODE, TO RE-  
2 VISE CIGARETTE WHOLESALER BONDING REQUIREMENTS AND TO PROVIDE FOR AN  
3 ALTERNATIVE OF PREPAYING THE FULL VALUE OF STAMPS IN LIEU OF POSTING A  
4 BOND.  
5

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

7 SECTION 1. That Section 63-2510A, Idaho Code, be, and the same is hereby  
8 amended to read as follows:

9 63-2510A. BONDING. (1) At the time an application for a wholesaler's  
10 license or permit, under section 63-2503, Idaho Code, is submitted to the  
11 state tax commission, the applicant shall file a bond, in such form as the  
12 commission may determine, conditioned upon faithful performance of all of  
13 the requirements of this chapter. The total amount of the bond shall be fixed  
14 by the commission and shall be equivalent to, at least, the greater of twice  
15 the estimated average tax liability for the reporting period for which the  
16 applicant will be required to file a return, under section 63-2510, Idaho  
17 Code, or the value of stamps in the wholesaler's inventory including the  
18 value of stamps ordered but not yet received. ~~The bond required shall, in no~~  
19 ~~case, be less than one thousand dollars (\$1,000).~~ The total amount required  
20 to be secured by the bond may be increased or reduced by the commission at  
21 any time. Any bond given in conjunction with the provisions of this section  
22 shall be a continuing instrument, and shall cover the period during which the  
23 license or permit in connection with which the bond is given is in effect,  
24 unless the surety on the bond is released or discharged by the commission.  
25 Any surety on any bond furnished by a wholesaler shall be discharged only  
26 by the commission. Any surety on any bond furnished by a wholesaler shall  
27 be discharged and released by the commission from, any and all, liability  
28 to the state, accruing on the bond after the expiration of thirty (30) days  
29 from the date upon which the surety shall have lodged with the commission a  
30 written request to be released and discharged. The request shall not operate  
31 to relieve, release, or discharge the surety from any liability accrued, or  
32 which will accrue, before the expiration of the thirty (30) day period. The  
33 commission shall promptly, upon receipt of the notice of the request, notify  
34 the wholesaler and require him to furnish a new bond. Unless the wholesaler  
35 files a new bond with the commission in the amount provided in this section  
36 before the expiration of the thirty (30) day period, the commission shall  
37 immediately cancel the wholesaler's license or permit.

38 (2) In the event that any taxes due under the provisions of this chapter  
39 are not paid by a wholesaler, and the unpaid taxes are assessed by the commis-  
40 sion, and after all avenues for appeal of the assessment have been exhausted,  
41 the commission may apply the unpaid tax liability against the bond required  
42 in this section.

1 (3) A wholesaler may pay full value for stamps in advance in lieu of  
2 posting a bond. A wholesaler that has posted a bond may petition for release  
3 from the bond requirement after having filed timely and fully paid cigarette  
4 tax returns, as provided in section 63-2510, Idaho Code, for a period of not  
5 less than twelve (12) months. Upon such petition from the wholesaler, the  
6 commission will review the cigarette tax return filing and payment record of  
7 the wholesaler and, if determined necessary, within sixty (60) days exam-  
8 ine the books and records of the wholesaler. The commission will, no later  
9 than ninety (90) days from the date of receipt of the petition, advise the  
10 wholesaler in writing of its determination and the reasons therefor. If the  
11 wholesaler wishes to seek a redetermination of the commission's decision,  
12 a petition for redetermination may be filed as provided in section 63-3045,  
13 Idaho Code.

14 (4) If at any time after release of a bond requirement the wholesaler  
15 becomes delinquent for any period in the filing of tax returns or the pay-  
16 ment of the tax as required in section 63-2510, Idaho Code, the commission  
17 may make immediate demand that the return be filed or the payment be tendered  
18 and that a bond be filed as set forth in subsection (1) of this section. Any  
19 wholesaler against whom such demand is made may petition for a redetermina-  
20 tion as provided in section 63-3045, Idaho Code, except that the petition  
21 must be filed no later than ten (10) days after service upon the person of  
22 notice thereof. If a petition for redetermination is not filed within the  
23 ten (10) day period, the determination shall become final and the commis-  
24 sion shall issue a jeopardy assessment as provided in section 63-3630, Idaho  
25 Code, and thereafter may:

26 (a) Seize all Idaho cigarette stamps in the possession of the whole-  
27 saler which are not applied to cigarettes;

28 (b) File a lien of record upon the cigarettes held in inventory by the  
29 wholesaler or seize such cigarettes;

30 (c) Revoke the wholesaler's cigarette permit as provided in section  
31 63-2503, Idaho Code, except that no notice or hearing shall be required;  
32 and

33 (d) Notify the manufacturers of the cigarettes held in inventory by the  
34 wholesaler of any or all actions so taken.

35 (5) A wholesaler who acquires all cigarettes with tax stamps affixed  
36 at the time of acquisition may petition the state tax commission for waiver  
37 of the bond required in subsection (1) of this section. Upon receipt of  
38 evidence establishing that the wholesaler is not required to pay cigarette  
39 taxes under this chapter because the wholesaler exclusively purchases cig-  
40 arettes with stamps affixed by another wholesaler, the state tax commission  
41 may waive the requirement for a bond. Any such waiver is conditioned upon the  
42 wholesaler's continuing qualification for the waiver under this subsection.