

Dear Senators PATRICK, Agenbroad, Ward-Engelking, and
Representatives DIXON, DeMordaunt, Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Grape Growers and Wine Producers Commission:

IDAPA 48.01.01 - Notice of Omnibus Rulemaking (Fee Rule) - Proposed Rule (Docket No.
48-0101-2000F).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 10/16/2020. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/13/2020.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Commerce & Human Resources Committee and the House Business Committee

FROM: Deputy Division Manager - Katharine Gerrity

DATE: September 29, 2020

SUBJECT: Grape Growers and Wine Producers Commission

IDAPA 48.01.01 - Notice of Omnibus Rulemaking (Fee Rule) - Proposed Rule (Docket No. 48-0101-2000F)

Summary and Stated Reasons for the Rule

The Idaho Grape Growers and Wine Producers Commission, submits notice of proposed fee rule. According to the commission, the rulemaking republishes the following temporary rule chapter that was previously submitted: IDAPA 48.01.01, Rules of the Idaho Grape Growers and Wine Producers Commission.

The commission states that the fee rules do not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Legislature in the prior rules. The commission notes that the rulemaking reflects the collection of fees as provided in Section 54-3610, Idaho Code, which provides as follows:

54-3610. IMPOSITION OF TAX AND PROVISION FOR LATE FEES. (1) From and after the first day of July, 1995, there is hereby levied and imposed a tax payable to the commission on the production of wine in Idaho, and on all grapes grown and grape juice purchased in Idaho for the production of wine in Idaho, and on all grapes and grape juice purchased from producers outside Idaho for the production of wine in Idaho. The commission shall set each tax by rule. The minimum tax to each grower for grapes grown in Idaho shall be set at one hundred dollars (\$100) annually. The tax on each winery for the production of wine shall be set at a minimum of one hundred dollars (\$100) annually. The purchasers of grapes grown or grape juice produced outside the state shall be responsible for submitting the tax to the commission.

(2) Any person or firm who makes payment to the commission at a date later than that prescribed in this section or by rule may be subject to a late payment penalty as set forth by the commission by rule. Such penalty shall not exceed the rate of fifteen percent (15%) per annum on the amount due. In addition to the above penalty, the commission shall be entitled to recover all costs, fees, and reasonable attorney's fees incurred in the collection of the tax and penalty provided for in this section.

Negotiated Rulemaking/Fiscal Impact

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

The commission notes that negotiated rulemaking was not conducted because engaging in negotiated rulemaking for all previously existing rules would inhibit the agency from carrying out its ability to protect health, safety, and welfare. The department also confirms that the rulemaking is not anticipated to have any fiscal impact on the general fund.

Statutory Authority

The rulemaking appears to be authorized pursuant to Sections 54-3605 and 54-3610, Idaho Code.

cc: Grape Growers and Wine Producers Commission
Moya Dolsby

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 48 – IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION

DOCKET NO. 48-0101-2000F (FEE RULE)

NOTICE OF OMNIBUS RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-3605(15); 54-3610, Idaho Code.

PUBLIC HEARING SCHEDULE: Opportunity for presentation of oral comments concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of the purpose of the proposed rulemaking:

This proposed rulemaking re-publishes the following existing temporary rule chapter previously submitted to and reviewed by the Idaho Legislature under IDAPA 48, rules of the Idaho Grape Growers and Wine Producers Commission:

IDAPA 48

- 48.01.01, *Rules of the Idaho Grape Growers and Wine Producers Commission.*

FEE SUMMARY: This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in the prior rules. The rule specifies the amount of grape and wine tax to be levied in accordance with statute. The rule also provides for a late payment penalty in accordance with statute. The following is a specific description of the fee or charge imposed or increased authorized in Section 54-3610, Idaho Code:

- Seven dollars (\$7) per ton of grapes purchased by producers in Idaho during the previous calendar year for the production of wine in Idaho.
- Seven dollars (\$7) per ton of grapes harvested by growers in Idaho during the previous calendar year for the purpose of the production of wine in Idaho.
- Seven dollars (\$7) per ton of grapes purchased by producers outside Idaho during the previous calendar year for the purpose of the production of wine in Idaho.
- Four cents (\$.04) per gallons of grape juice purchased by producers outside Idaho during the previous calendar year for the purpose of the production of wine in Idaho.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2021 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Brenna Christison, (208) 332-1538.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 14th day of August, 2020.

Brenna Christison
Operations & Finance Manager
Idaho Grape Growers and Wine Producers Commission

821 W. State Street
Boise ID 83702
(208) 332-1538

IDAPA 48 – IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION

48.01.01 – RULES OF THE IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION

000. LEGAL AUTHORITY.

This chapter is adopted in accordance with Section 54-3605(15), Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 48.01.01, “Rules of the Idaho Grape Growers and Wine Producers Commission.” ()

02. Scope. These rules include, but are not limited to, levy of taxes and penalties as provided by Section 54-3610, Idaho Code. ()

002. DEFINITIONS.

The definitions set forth in Title 54, Chapter 36, Idaho Code, apply to this chapter. ()

003. -- 019. (RESERVED)

020. TAX AND LATE PAYMENT PENALTY.

01. Levy and Rate of Tax. In accordance with Section 54-3610, Idaho Code, a tax is levied and imposed on wineries, grapes grown, used, or purchased, and grape juice purchased for the production of wine in Idaho. The rate of each tax is: ()

a. Seven dollars (\$7) per ton of grapes purchased by producers in Idaho during the previous calendar year for the production of wine in Idaho. ()

b. Seven dollars (\$7) per ton of grapes harvested by growers in Idaho during the previous calendar year for the purpose of the production of wine in Idaho. ()

c. Seven dollars (\$7) per ton of grapes purchased by producers outside Idaho during the previous calendar year for the purpose of the production of wine in Idaho. ()

d. Four cents (\$.04) per gallons of grape juice purchased by producers outside Idaho during the previous calendar year for the purpose of the production of wine in Idaho. ()

02. Minimum Levy. The minimum taxes paid by any grower or winery is one hundred dollars (\$100) annually. ()

03. Payment of Tax. All taxes must be paid on or before June 30 of each year as follows: ()

a. The grower harvesting grapes for the production of wine pays the tax levied upon the grower. ()

b. Each winery pays the tax levied upon the winery for the production of wine. ()

c. Purchasers of grapes grown or grape juice produced outside Idaho pay the taxes levied on such grapes and grape juice. ()

d. Purchasers of grape juice produced in Idaho pay the taxes levied on such grape juice. ()

04. Opt Out Alternative. A grower or producer may opt out of the levy of tax by submitting a letter to the Commission no later than June 30 of each year stating the grower or producer's name and address, and their intent to opt out of the application of the provisions of Title 54, Chapter 36, Idaho Code, for the upcoming fiscal year. ()

021. -- 999. (RESERVED)

PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: Idaho Grape Growers and Wine Producers Commission_____

Agency Contact: Brenna Christison _____ **Phone: 208-332-1538** _____

Date: August 14th, 2020 _____

IDAPA, Chapter and Title Number and Chapter Name: IDAPA 48 – Rules of the Idaho Grape Growers and Wine Producers Commission

Fee Rule Status: _____ **Proposed** _____ **Temporary**

Rulemaking Docket Number: 48-0101-2000F _____

STATEMENT OF ECONOMIC IMPACT:

The fees or charges, authorized in Section 54-3610 Idaho Code, are part of the agency’s 2020/2021 fiscal year budget that relies upon the existence of these fees or charges to meet the state’s obligations and provide necessary state services. Failing to reauthorize these temporary rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and immediate danger of a violation of Idaho’s constitutional requirement that it balance its budget.

The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. The rule specifies the amount of grape and wine tax to be levied in accordance with statute. The rule also adopts a late payment penalty in accordance with statute.

- Seven dollars (\$7) per ton of grapes purchased by producers in Idaho during the previous calendar year for the production of wine in Idaho.
- Seven dollars (\$7) per ton of grapes harvested by growers in Idaho during the previous calendar year for the purpose of the production of wine in Idaho.
- Seven dollars (\$7) per ton of grapes purchased by producers outside Idaho during the previous calendar year for the purpose of the production of wine in Idaho.
- Four cents (\$.04) per gallons of grape juice purchased by producers outside Idaho during the previous calendar year for the purpose of the production of wine in Idaho.