

IN THE SENATE

SENATE BILL NO. 1298

BY TRANSPORTATION COMMITTEE

AN ACT

1 RELATING TO RULES OF THE ROAD; AMENDING CHAPTER 6, TITLE 49, IDAHO CODE, BY
2 THE ADDITION OF A NEW SECTION 49-675, IDAHO CODE, TO PROVIDE FOR LEG-
3 ISLATIVE INTENT AND TO AUTHORIZE JOINT EXERCISE OF POWERS AGREEMENTS
4 BETWEEN SPECIFIED AGENCIES; AMENDING CHAPTER 6, TITLE 49, IDAHO CODE,
5 BY THE ADDITION OF A NEW SECTION 49-676, IDAHO CODE, TO PROVIDE THAT
6 CERTAIN VEHICLES SHALL BE SUBJECT TO INSPECTION FOR DYED FUEL IN SPEC-
7 IFIED CIRCUMSTANCES; AMENDING SECTION 63-2425, IDAHO CODE, TO REVISE
8 PROVISIONS REGARDING THE PROHIBITION OF CERTAIN FUELS ON A HIGHWAY; AND
9 AMENDING SECTION 63-2460, IDAHO CODE, TO REVISE A PROVISION REGARDING
10 CIVIL PENALTIES.
11

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

13 SECTION 1. That Chapter 6, Title 49, Idaho Code, be, and the same is
14 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
15 ignated as Section 49-675, Idaho Code, and to read as follows:

16 49-675. LEGISLATIVE INTENT. The Idaho transportation department and
17 the Idaho state police are authorized to enter into one (1) or more joint ex-
18 ercise of powers agreements pursuant to sections 67-2328 through 67-2333,
19 Idaho Code, as deemed necessary to implement the provisions of this act. The
20 purpose of this legislation is to provide a practical inspection method to
21 ensure regulation with a minimum amount of disruption.

22 SECTION 2. That Chapter 6, Title 49, Idaho Code, be, and the same is
23 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
24 ignated as Section 49-676, Idaho Code, and to read as follows:

25 49-676. DYED FUEL -- INSPECTION. (1) The provisions of this section
26 shall be carried out through the use of existing state law enforcement and
27 Idaho transportation department resources.

28 (2) When stopped at an inspection check station or when otherwise law-
29 fully stopped as described in this section, any commercial diesel-powered
30 motor vehicle shall be subject to inspection for dyed fuel in the motor ve-
31 hicle's diesel fuel tank when the operator is requested to submit to such in-
32 spection:

33 (a) By any Idaho state police officer, when so requested as a secondary
34 action when the operator of the motor vehicle has been detained for a
35 suspected violation of another law;

36 (b) By any Idaho state police officer at a fixed or portable check sta-
37 tion established by the Idaho transportation department pursuant to the
38 provisions of section 40-510, Idaho Code; or

39 (c) By an authorized employee of the Idaho transportation depart-
40 ment on duty at a fixed or portable check station established by the

1 Idaho transportation department pursuant to the provisions of section
2 40-510, Idaho Code.

3 (3) Neither the Idaho state police nor the Idaho transportation depart-
4 ment shall set up random inspection stations for the purpose of testing for
5 dyed diesel.

6 (4) No state agency shall report any violation of section 63-2425,
7 Idaho Code, to any agency of the federal government.

8 (5) Inspection authority as provided in subsection (2) of this section
9 shall be limited solely to the motor vehicle inspected and shall not serve as
10 reasonable suspicion for any state agency to thereafter inspect other motor
11 vehicles, facilities, or property of the motor vehicle's owner beyond the
12 scope of subsection (2) of this section. Inspection authority shall not ap-
13 ply to portable fuel tanks or slip tanks that may be in the motor vehicle be-
14 ing inspected or to any bulk storage tanks.

15 (6) If dyed fuel is discovered pursuant to an inspection authorized by
16 this section, a citation shall be issued to the operator of the vehicle. The
17 applicable penalty shall be as provided for in section 63-2460(2), Idaho
18 Code. The penalty for a refusal of inspection shall be one thousand dollars
19 (\$1,000). If the operator of a vehicle subject to such penalty is not the
20 owner of the vehicle, the applicable penalty shall be divided between the
21 operator of the vehicle and the owner of the vehicle, with the operator being
22 assessed half and the owner being assessed the other half. No additional
23 fines or penalties shall be imposed. All penalties collected shall be remit-
24 ted to the state treasurer and placed in the highway distribution account.

25 (7) The provisions of this section shall not apply in the event of a dis-
26 aster or emergency declared by the governor under chapter 10, title 46, Idaho
27 Code, or by the president of the United States under the provisions of the
28 disaster relief act of 1974, 42 U.S.C. 5121 et seq., if the use of dyed fuel is
29 necessary to assist with such disaster or emergency.

30 (8) For purposes of this section, "dyed fuel" means diesel fuel that
31 has been dyed or marked at a refinery or terminal under the provisions of 26
32 U.S.C. 4082 and regulations adopted thereunder or under the clean air act
33 and regulations adopted thereunder, on which the tax under section 63-2402,
34 Idaho Code, has not been paid.

35 (9) For purposes of this section, "highways" shall have the same mean-
36 ing as provided in section 63-2401, Idaho Code.

37 (10) By January 1, 2021, the Idaho transportation department and the
38 Idaho state police shall enter into one (1) or more joint exercise of powers
39 agreements pursuant to sections 67-2328 through 67-2333, Idaho Code, as
40 necessary to implement the provisions of this section.

41 (11) Prior to conducting any inspections under the authority of this
42 section, the Idaho state police and the Idaho transportation department, in
43 collaboration with private groups, trade associations, and other dyed fuel
44 user groups, shall provide outreach and education on the use of dyed fuels in
45 Idaho for a period of six (6) months from the effective date of this section.

46 (12) The provisions of this section and associated funding shall be
47 evaluated by the legislature following a period of five (5) years after the
48 effective date of this section.

49 SECTION 3. That Section 63-2425, Idaho Code, be, and the same is hereby
50 amended to read as follows:

1 63-2425. DYED FUEL AND OTHER UNTAXED FUEL PROHIBITED FOR USE ON A HIGH-
 2 WAY. (1) Except as provided in subsections (2) through (5) of this section,
 3 no person shall operate a motor vehicle on a highway in this state if the fuel
 4 line connecting the fuel supply tanks to the engine of the vehicle contain
 5 diesel fuel ~~which that~~ has been dyed or marked at a refinery or terminal un-
 6 der the provisions of 26 U.S.C. ~~section~~ 4082 and regulations adopted there-
 7 under, or under the clean air act and regulations adopted thereunder, or con-
 8 tain other motor fuel on which the tax under section 63-2402, Idaho Code, has
 9 not been paid.

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

13 (a) State and local government vehicles; and

14 (b) Any vehicles ~~which that~~ may use dyed fuel on the highway under the
 15 provisions of 26 U.S.C. ~~section~~ 4082 or regulations adopted thereunder.

16 (3) For the purposes of enforcement of this section, Idaho state police
 17 officers or employees of the Idaho transportation department shall conduct
 18 a visual observation of fuel to detect the presence of dye and, if dye is ob-
 19 erved, shall take a photograph of such dyed fuel as evidence of such viola-
 20 tion.

21 (4) In the event of a change of ownership or other disposal of a motor
 22 vehicle authorized to use dyed fuel on the highway pursuant to subsection (2)
 23 of this section but that no longer falls within the provisions of that sub-
 24 section, the motor vehicle's owner, before selling or disposing of such ve-
 25 hicle, shall remove the dyed fuel from the vehicle's fuel tanks and certify
 26 that such dyed fuel has been removed.

27 (5) Incidental use or crossing of public roads or highways by vehicles
 28 intended primarily for off-highway use, including as provided for in section
 29 49-110(3), Idaho Code, with respect to an implement of husbandry, shall not
 30 be considered a violation of this section.

31 SECTION 4. That Section 63-2460, Idaho Code, be, and the same is hereby
 32 amended to read as follows:

33 63-2460. PENALTIES. (1) Any person who violates any provision of this
 34 chapter or who violates any provision of Idaho law relating to the assess-
 35 ment and collection of any unpaid tax or fee associated with this chapter is
 36 guilty of a misdemeanor, unless the violation is declared a felony by any
 37 other law of this state. Any person so convicted of a misdemeanor shall be
 38 punished by a fine of not less than one hundred dollars (\$100) nor more than
 39 one thousand dollars (\$1,000). Each day that an unlicensed person engages in
 40 the activities of a licensed distributor constitutes a separate violation.

41 (2) ~~In addition to~~ Notwithstanding the provisions of subsection (1) of
 42 this section, any person operating a vehicle licensed or required to be li-
 43 censed on a highway in this state with diesel fuel in violation of section
 44 63-2425, Idaho Code, will be subject to the following:

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

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

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

3 (3) The commission may assess the penalties set forth in subsection
4 (2) of this section as deficiencies in tax pursuant to sections 63-2434 and
5 63-3045, Idaho Code.

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