

LAW AND ANALYSIS

Idaho Code section 63-2425 discusses the types of vehicles authorized to use dyed diesel on a highway:

DYED FUEL AND OTHER UNTAXED FUEL PROHIBITED FOR USE ON A HIGHWAY. (1) Except as provided in subsections (2) and (5) of this section, no person shall operate a motor vehicle on a highway in this state if the fuel supply tanks of the vehicle contain diesel fuel that has been dyed or marked at a refinery or terminal under the provisions of 26 U.S.C. 4082 and regulations adopted thereunder or under the clean air act and regulations adopted thereunder or if the tanks contain other motor fuel on which the tax under section 63-2402, Idaho Code, has not been paid.

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

(a) State and local government vehicles; and

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

(3) For the purposes of enforcement of this section, Idaho state police officers or employees of the Idaho transportation department may conduct a visual observation of fuel to detect the presence of dye. If dye is observed, such officers or employees shall take a photograph of the dyed fuel. Such photographs shall be preserved as evidence.

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

Petitioner is not operating an exempted vehicle, and therefore is responsible for the dyed diesel identified in their fuel tank. Idaho Code section 49-676(6) discusses the repercussions on an operator identified using a vehicle with dyed diesel:

If dyed fuel is discovered pursuant to an inspection authorized by this section, a citation shall be issued to the operator of the vehicle. The applicable penalty shall be as provided for in section 63-2460(2), Idaho Code, except that the penalty for a refusal of inspection shall be one thousand dollars (\$1,000). No additional fines or penalties shall be imposed. The operator of the vehicle shall be responsible for any penalty pursuant to this section. All penalties collected shall be remitted to the state treasurer and placed in the highway distribution account.

As Petitioner did not refuse an inspection, their penalty is set out in Idaho Code section 63-2460(2):

(a) Notwithstanding the provisions of subsection (1) of this section, any person operating a vehicle licensed or required to be licensed on a highway in this state with diesel fuel in violation of section 63-2425, Idaho Code, will be subject to the following:

(i) Upon the first violation, a civil penalty in the amount of two hundred fifty dollars (\$250);

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

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

Petitioner was identified as operating a registered vehicle with dyed diesel fuel. This is Petitioner's first violation, and therefore the civil penalty is TWO HUNDRED FIFTY DOLLARS (\$250.00). Based on the information available, the Commission finds the Notice prepared by the Bureau to be an accurate representation of Petitioner's fuel penalty.

THEREFORE, the Notice is hereby APPROVED, in accordance with the provisions of this decision, and is AFFIRMED and MADE FINAL.

IT IS ORDERED that Petitioner pay \$250. (TWO HUNDRED FIFTY DOLLARS AND ZERO CENTS).

DEMAND for immediate payment of the forgoing amount is hereby made and given.

An explanation of Petitioner's right to appeal this decision is enclosed.

DATED this _____ day of _____ 2024.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2024,
a copy of the within and foregoing DECISION was served by sending the same by United States
mail, postage prepaid, in an envelope addressed to:

Receipt No.
