



Enhanced Enforcement of Fuel Tax Law

Options to Reduce Use of Untaxed Motor Fuel on Idaho Roads and Highways

A report jointly issued by the:
Idaho State Tax Commission
Idaho State Police
Idaho Transportation Department

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Options to Reduce Use of Untaxed Motor Fuel on Idaho Roads and Highways

Executive Summary

The Idaho State Tax Commission (ISTC) and the Idaho State Police (ISP) were asked to provide the Idaho Legislature recommendations to improve enforcement of the prohibition of dyed fuel and other untaxed fuel use on Idaho roads and highways. The Idaho Transportation Department (ITD) participated in the development of this report.

Dyed fuel enforcement statutes are in Title 63, Chapter 24, Idaho Code. The ISTC is the primary agency responsible for the enforcement of this chapter. The criminal code prohibition on the use of dyed fuel on the highway is Idaho Code §63-2425. Though the criminal violation related to this code is a misdemeanor, it is not listed in the Idaho Uniform Bond Schedule, which means arresting a violator is not possible. Under IC §63-2460(1) the misdemeanor penalty for a convicted violator is a fine of \$100 up to \$1,000. Civil penalties are set forth in IC §63-2460(2). A civil penalty of \$250 may be imposed for a first offense, \$500 for a second offense, and \$1,000 for a third offense. These are enforced by the ISTC.

The ISTC and law enforcement officers do not have specific authority to enforce the law the way the statutes are currently written. The code does not give authority to any agency to stop or inspect commercial or private vehicles for dyed fuel. Under current statutes, law enforcement officers are only able to check for dyed fuel if they respond to crashes where fuel is leaking from the tank and they discover dyed fuel, and when the ISP conducts Level I Commercial Vehicle Safety Alliance (CVSA) inspections (which are limited to an inspection of the fuel cap and only for non-exempt carriers). ISTC employees are limited to responding to complaints or performing an audit.

The nine options described in this report range from implementing some form of a dyed diesel testing program to fundamentally changing how Idaho taxes motor fuel, such as moving to a weight/mile tax, taxing all diesel fuel, or moving to a two-tiered fuel tax system. The agencies wish to stress that they are not advocating for any particular option or options, but if the Idaho Legislature decides to move forward with legislation, some form of inspection program should receive serious consideration by lawmakers.

The following is a synopsis of the nine options:

Option	Description
1	Allow inspection of main vehicle supply tanks by the ISTC or its designee (dipping).
2	Add dedicated fuel tax investigation and prosecution units. (Enhancement to Option 1)
3	Clarify that the violation is on the driver, vehicle owner, or both. Increase the fines for the violations. The violation is on the person who would reasonably know of the violation. (Enhancement to Option 1)
4	Enhance dyed diesel referral program to include a Web page and reward fund. (Enhancement to Option 1)
5	Implement a weight/mile tax for diesel vehicles over 26,000 lbs. gross vehicle weight (GVW) in lieu of a diesel fuel tax.
6	Tax all dyed diesel, and allow a refund for nontaxable use.
7	Do not allow dyed diesel to be used in Idaho. Refund claims based on a flat percentage or authorized percentage will be allowed.

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- 8 Tax fuel as it enters (1st receiver tax) and leaves (retail tax) the fuel distribution system, and include information reporting by fuel carriers to the ISTC for full accountability of fuel.
- 9 Require retailers and purchasers to be licensed to buy or sell dyed diesel. Licensed retailers would file an informational report to track motor fuel sales. Licensed purchasers would be allowed to purchase dyed diesel exempt from tax.

Other options, not involving ISP, ISTC, and ITD include:

- Require dyed diesel signage on fuel pumps to identify that it is for nontaxable use and impose a penalty for failure to properly sign the pump.
- Test the fuel sold at the pumps to give consumers confidence that the fuel purchased was as advertised and impose a penalty for failure to test.

Implementing an inspection program requires numerous changes to Idaho statutes:

- The definition of dyed diesel in IC §§63-2402 and 63-2425 is vague and does not indicate at what point a violation occurs.
- Delegation of authority for ISP Commercial Vehicle Safety (CVS) and ITD Ports of Entry (POE) is needed in IC §63-2442.
- The authority to stop and inspect a vehicle and a penalty for refusal is needed in IC §63-2425.
- Remove the exemptions for safety inspections in IC §§67-2901A and 67-2901B.
- Modify IC §§40-510 and 40-511 to require diesel vehicles of all weights and hauling any commodity to submit to inspection of the fuel in any fuel tank when requested by any peace officer at a fixed or portable check station.
- Give officers inspecting fuel clear authority to inspect private and commercial vehicles.
- Add the misdemeanor violation in IC §63-2460(1), to the list in the Idaho Uniform Bond Schedule so arrest of a violator is possible.

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OVERVIEW

Gasoline and undyed diesel are taxed motor fuels. The motor fuel tax revenues are dedicated funds used to build, maintain, and repair Idaho roads and highways. The Idaho economy relies on safe roads to transport people and commodities across the state. Those who pay their fair share in motor fuel taxes to travel on the highways expect all others to pay their share to use the roads. Anytime a person illegally uses dyed or untaxed fuel on the highways, it reduces the revenue that helps support our roadways.

Dyed fuel is designed for off-road use and is not for use on Idaho highways. It is used as heating fuel, for stationary equipment, and for mobile equipment like tractors, graders, and combines. Unlicensed equipment used on a construction site or in a field and which never travels on Idaho highways does not need to use tax-paid fuel. Dyed diesel is meant for this type of diesel-powered equipment. Dyed fuel used in equipment is subject to Idaho sales tax unless an exemption applies.

People who purchase untaxed dyed diesel and use that fuel to travel Idaho highways are not paying the tax to support the roads. Research performed by other states indicates the primary abuse of dyed diesel is from intrastate travel by commercial vehicles 10,000 lbs. GVW and above and private family-owned passenger vehicles (car, SUV, or pickup). Research shows that those with access to dyed diesel bulk storage are the chief offenders. Commercial abuse comes from vehicles used in the agriculture and construction industries. However, privately-owned diesel vehicles may be worse offenders. Anyone with access to dyed diesel may attempt to use dyed fuel to save money. The recent increase in Idaho's fuel tax rates to 32 cents per gallon may provide an additional incentive to use untaxed fuel on Idaho roads.

Legislative Requirement

The 2015 session of the Idaho Legislature charged the ISTC and the ISP to provide recommendations to the transportation committees on ways to improve enforcement to reduce the illegal use of dyed or untaxed fuels on Idaho roads and highways. House Bill 312a, Section 13 (2015 Idaho Session Laws, Chapter 341) states:

“It is the intent of the Legislature that the Idaho State Police and the State Tax Commission shall, no later than the first day of the 2016 legislative session, provide recommendations to the Senate Transportation Committee and the House Transportation and Defense Committee on greater enforcement of the prohibition of dyed fuel and other untaxed fuel use on Idaho roads and highways.”

This report outlines nine options to improve compliance with statutes relating to the use of dyed diesel and other untaxed fuel on Idaho roads and highways. These options were developed by a joint effort of the Idaho State Police (ISP), Idaho State Tax Commission (ISTC) and the Idaho Transportation Department (ITD).

The nine options described in this report range from implementing some form of dyed diesel testing program to fundamentally changing how Idaho taxes motor fuel, such as moving to a weight/mile tax, taxing all diesel fuel, or moving to a two-tiered fuel tax system. The agencies wish to stress that they are not advocating for any particular option or options, but if the Idaho Legislature decides to move forward with legislation, some form of inspection program should receive serious consideration by lawmakers. Many of the enforcement options included in this report might be funded or implemented through Highway Use Tax Evasion Program - Fuel Tax Evasion Enforcement Grants.

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Extent of the Problem in Idaho

No definitive studies exist that quantify the extent or tax dollars cost of using dyed diesel and other untaxed fuel on Idaho roads and highways. Based on research done in Montana and using data on dyed diesel obtained from Idaho distributor reports for fiscal year 2015, the ISTC estimates a loss of \$11.4 million a year to Idaho from the misuse of dyed fuel alone is possible. The Montana study used a 16% noncompliance rate, even though a dyed diesel enforcement compliance program was in effect during the study period.

Report Methodology

Three approaches were used to study the enforcement of dyed diesel and other untaxed fuel use. A survey was sent to state fuel tax administrators in the continental United States. Research studies relating to fuel tax evasion and how to address the problem were reviewed. Lastly, Idaho fuel tax enforcement statutes were reviewed, and current practices were examined for effectiveness. Working groups from the three agencies used this material and research to develop the options for this report.

The ISTC surveyed dyed diesel enforcement administrators in the continental United States. The survey consists of 22 questions covering:

- How do the other states enforce their dyed diesel laws?
- What statutes authorize enforcement?
- Which agencies in the state cooperate in enforcement?

Twenty-nine out of 48 states responded. A summary of survey responses is included in the appendix, and the raw survey results are available upon request from the ISTC.

The working group reviewed two state studies, Kentucky and Montana, and work by the federal Transportation Research Board. The Kentucky study is a basic history of fuel tax evasion up to the approximate time that the dyed diesel program was begun by the Internal Revenue Service and the Environmental Protection Agency in 1993. The Montana study gives the changing landscape of dyed diesel enforcement and fuel tax evasion from a regional perspective after 10 years. The federal study is similar to the Montana study, but from a national perspective. In addition, the working group reviewed a plan to combat fuel tax evasion developed by the Federation of Tax Administrators Motor Fuel Tax Section.

The studies reviewed and work of the Federation of Tax Administrators Motor Fuel Tax Section may be found at:

1. [The Motor Fuel Tax Evasion Issue in Kentucky](#), July 1996, by the Kentucky Transportation Center, University of Kentucky.
2. [Determining the Current Rates of Motor Fuel Tax Evasion for the State of Montana](#), Final Report November 2006, by Battelle.
3. [NCHRP Report 623, Identifying and Quantifying Rates of State Motor Fuel Tax Evasion](#), 2008, by the National Cooperative Highway Research Program of the Transportation Research Board.
4. Federation of Tax Administrators Motor Fuel Tax Section (FTA) [2015 Uniformity Guide](#).

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Current Statutory Environment and Barriers to Enforcement

Dyed fuel enforcement statutes are in Title 63, Chapter 24, Idaho Code. The ISTC is the primary agency responsible for the enforcement of this chapter. However, current code does not provide the means to implement a consistent program, and it is not clear that the authority to do so currently exists. The term “dyed diesel” is not well defined in Idaho code. No testing (dipping) of fuel tanks for dyed diesel is performed by any state or federal agencies in Idaho.

Criminal penalties for use of dyed fuel to propel vehicles on the highway are authorized by IC §63-2425. Though the criminal violation related to this code is a misdemeanor, it is not listed in the Idaho Uniform Bond Schedule, which means arresting a violator is not possible. The misdemeanor penalty for a convicted violator is a fine of \$100 up to \$1,000.

Civil penalties are set forth in IC §§63-2460(2). A civil penalty of \$250 may be imposed for a first offense, \$500 for a second offense, and \$1,000 for a third offense. Civil penalties are enforced by the ISTC.

The ISTC and law enforcement officers do not have specific authority to enforce the law the way the statutes are currently written. The code does not give authority to any agency to stop or inspect commercial or private vehicles for dyed fuel. Under current Idaho laws, law enforcement officers are only able to check for dyed fuel in the following ways:

- 1) If they respond to crashes where fuel is leaking from the tank and they discover dyed fuel.
- 2) The ISP Commercial Vehicle Safety Unit (CVS) conducts Level I Commercial Vehicle Safety Alliance (CVSA) inspections. A federal regulation allows a CVSA certified inspector to remove the fuel cap to check the gasket on the cap. If dyed fuel is observed, the inspector can issue a citation. However, exempt carriers in Idaho are not subject to the inspection of the gasket on the cap. This is also not the same as an inspection of the main fuel supply tank of a motor vehicle.

The ISTC may issue a notice of deficiency determination and make a tax assessment based on evidence obtained from an audit or other sources.

Enforcement Approaches for a Dyed Diesel Testing Program

Our research indicates that when considering a testing program, there are three approaches law enforcement may use to reduce the highway use of dyed diesel and other untaxed fuels: civil, criminal, or a combination of both. One of the most important aspects of any of these enforcement options is consistency and should be strongly considered.

Civil – This would be an option carried out by the ISTC. It is the primary agency in Idaho with authority to collect motor fuel tax. IC §63-2425 could be revised to give the ISTC authority to inspect any diesel-powered vehicles and conduct on-sight inspections. The ISTC would need a team of inspectors or tax auditors to travel throughout the state to conduct inspections. This could be done at the ports of entry. States such as Pennsylvania, Georgia, and Connecticut only use tax auditors for enforcement similar to this criterion.

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Criminal - IC §62-2425 could be revised to give ISP CVS authority to stop and inspect all diesel-powered vehicles at roadside. This could be authorized by adding an “implied consent” statute similar to IC §18-8002(1). ITD could also inspect vehicles or combinations of vehicles, with a maximum gross weight or registered gross weight, or operated at a gross weight of 26,001 lbs. GVW or more, and all vehicles hauling hazardous materials and livestock with a maximum gross weight of 10,001 lbs. GVW or more passing through the ports of entry (IC §40-511). A criminal citation could be issued based on evidence of dyed diesel usage. A similar law in Nevada and Texas gives state police authority to stop diesel-driven vehicles as a primary offense.

Civil and Criminal – This would be the most consistent option. IC §63-2425 could be revised to have both the options listed above. The Legislature could allow the ISTC to delegate authority to allow CVS and ITD Port of Entry (POE) employees to enforce the motor fuel tax laws. CVS would be able to conduct roadside inspections. POE, CVS, and the ISTC would be able to inspect vehicles required to report to Ports of Entry (IC §40-511). The inspections could be authorized by adding an “implied consent” statute similar to IC §18-8002(1). Civil action could be taken against first-time offenders (possibly second offense, also). Repeat offenders would receive a criminal citation. CVS and POE could give evidence of dyed diesel use to the ISTC for a civil action. The civil action would be the most consistent. With this option all diesel-powered vehicles could be inspected, not just vehicles passing through a POE. Also, as a representative of the ISTC, CVS could help conduct on-site investigations of bulk dyed diesel storage tanks or businesses. Washington, Colorado, and Montana use this option.

Additional Options Worth Considering

Two options for the Legislature to consider that do not fall under the administration of the ISP, ISTC, and ITD are:

1. **Dyed diesel signage on the pumps.** The Internal Revenue Service (IRS) requires signs on dyed diesel pumps to identify that the dyed diesel is for nontaxable use. Washington requires the signage by state law, RCW 82.36.066. If Idaho added the same requirement, it would not depend on IRS revenue agents to enforce this requirement (which they currently do not do). Employees from the Idaho State Department of Agriculture’s (ISDA) Weights and Measures program could perform this task as deputies of the ISTC. A penalty could be added for noncompliance.
2. **Testing the fuel sold at the pumps.** Occasional testing of motor fuel, both gas and diesel, would give Idaho consumers’ confidence that the fuel purchased was as advertised. This would also be performed by employees from the ISDA Weights and Measures program. A penalty would be added for noncompliance.

The additional options listed above would require further review to determine what procedures and additional funding would be required. However, a few items were identified that would require clarification before the ISDA could fully commit resources.

The option requiring an ISDA Weights and Measures program for enforcement of signage and fuel testing would require a clear definition and enforcement requirements. ISDA estimates a few hundred retail fueling sites would require signage enforcement. ISDA would have to review the resources required to implement enforcement.

In order for ISDA to test the motor fuel (gas and diesel) sold at pumps, a fuel quality testing laboratory is required. Fuel samples must be sent to a certified fuel testing laboratory for enforcement action to be taken. Field tests would be screening tests to determine which outlets require testing at a fuel testing laboratory. Costs for a

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certified fuel laboratory test are estimated to range from \$400 to \$1,400 per sample. Shipping and handling of the fuel samples is an additional expense since the sample could not be shipped via UPS or US Mail.

Any legislation would also have to clearly explain whether ISTC issues a tax deficiency and penalty or ISDA issues a penalty and notifies ISTC for either option. Additional issues may also be raised after an ISDA review of the procedure.

Administrative and start-up costs for ISDA's participation are currently undefined and should be identified in the event the option is chosen that includes ISDA's participation.

Explanation of Enforcement Options

The following chart summarizes the agencies' options. Each option is explained in greater detail on pages 8 through 20.

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Options	Options for Fuel Tax Enforcement	Ease of Taxpayer Compliance	Taxpayer Cost	Ease of State Administration	Cost of State Administration	Identifies Noncompliance	Promotes Self-Compliance	Result
1	Allow inspection of main vehicle supply tanks by the ISTC or its designee (dipping).	8	7	2	2	4	8	
2	Add dedicated fuel tax investigation and prosecution units. (Enhancement to Option 1)	9	6	1	1	6	9	
3	Clarify that the violation is on the driver, vehicle owner, or both. Increase the fines for the violations. The violation is on the person who would reasonably know of the violation. (Enhancement to Option 1)	8	9	9	9	2	5	
4	Enhance dyed diesel referral program to include a Web page and reward fund. (Enhancement to Option 1)	8	8	9	9	2	2	
5	Implement a weight/mile tax for diesel vehicles over 26,000 lbs. GVW in lieu of a diesel fuel tax.	2	2	1	1	3	2	
6	Tax all dyed diesel, and allow a refund for nontaxable use.	7	3	7	5	6	6	
7	Do not allow dyed diesel to be used in Idaho. Refund claims based on a flat percentage or authorized percentage will be allowed.	1	1	4	4	6	6	
8	Tax fuel as it enters (1st receiver tax) and leaves (retail tax) the fuel distribution system, and include information reporting by fuel carriers to the ISTC for full accountability of fuel.	1	1	3	2	9	9	
9	Require retailers and purchasers to be licensed to buy or sell dyed diesel. Licensed retailers would file an informational report to track motor fuel sales. Licensed purchasers would be allowed to purchase dyed diesel exempt from tax.	1	1	2	2	4	4	

Note:

Red is the costliest, hardest, or least effective. Blue is the least expensive, easiest, or most effective. White is neutral. For purposes of this matrix, "Taxpayer" is broadly meant as the end-user, but also may mean the actual taxpayer of the fuel tax.

1. For "Ease of Taxpayer Compliance" and "Ease of State Administration": a number 1 means the option would be the hardest to comply with or to administer; a number 10 would mean that the option would be the easiest to comply with or administer.
2. For "Taxpayer Cost" and "Cost of State Administration": a number 1 means the option would have the highest cost for the taxpayer or for the state to administer; a number 10 would mean that the option would have the lowest cost for the taxpayer or for the state to administer.
3. For "Identifies Noncompliance" and "Promotes Self-Compliance": a number 1 means the option has the lowest rate of identifying noncompliance and promoting self-compliance; a number 10 would mean the option has the highest rate of identifying noncompliance and promoting self-compliance.

Options to Reduce Use of Untaxed Motor Fuel on Idaho Roads and Highways

The options were developed using the studies and the FTA Uniformity Guide (11-point plan) listed on page 2.

Option	Source
1	The source for this option is from FTA Uniformity Guide Point 11.
2	The source for this option is from FTA Uniformity Guide Point 11.
3	The source for this option is from page 32 of the 2006 Montana study.
4	The source for this option is from page 19 of the 2006 Montana study.
5	The source for this option is from page 13 of the, NCHRP Report 623.
6	The source for this option is from a news report on an unprinted 2011 proposed House Bill.
7	The source for this option is from a news report on an unprinted 2011 proposed House Bill.
8	The source for this option is from FTA Uniformity Guide Points 5 and 9.
9	The source for this option is from FTA Uniformity Guide Point 4.

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Option #1: Allow inspection of main vehicle supply tanks by the ISTC or its designee (dipping).

Ease of Taxpayer Compliance	8	Taxpayer Cost	7
Ease of State Administration	2	Cost of State Administration	2
Identifies Noncompliance	4	Promotes Self-Compliance	8

The purpose would be to promote voluntary compliance by increasing the possibility of being charged with a criminal offense or civil penalty when not complying with the law.

The following are the variations for this option:

- **ISP Variation.** The ISTC is allowed to delegate its enforcement authority to the ISP CVS to conduct dyed diesel enforcement. The CVS would test fuel in tanks and collect samples. This information would be sent to the ISTC, who would issue tax deficiencies including penalty and interest. The CVS may also cite the taxpayers for criminal offenses.
- **ITD Variation.** The ISTC is allowed to delegate its enforcement authority to the ITD Ports of Entry (POE) to conduct dyed diesel enforcement at fixed and mobile check stations. The POE would test fuel in tanks and collect samples. This information would be sent to the ISTC to issue tax deficiencies including penalty and interest. The POE may also cite the taxpayers for criminal offenses.
- **ISTC Variation.** The ISTC would create a dyed diesel enforcement unit. This unit would have sworn officers working independently from ISP CVS and ITD POE. Officers would cite taxpayers for criminal offenses and issue tax deficiencies based on information gathered by the unit.
- **Joint Agency Variation.** The ISTC would create a dyed diesel enforcement unit. The enforcement unit would set up inspection stations and perform roadside enforcement stops with the assistance of the ISP CVS and ITD POE. This unit may or may not have sworn officers. The officers may also work with other agencies. ISTC officers would assist the other agencies in gathering information to issue tax deficiencies. The originating agency may also cite the taxpayers for criminal offenses.

Under all the scenarios, the agency citing the taxpayer for the criminal offense would notify the ISTC, which would assess unpaid tax. In all cases, the agency testing the fuel would also make a civil citation or initiate one. The ISTC would also initiate and process criminal citations and civil penalties based on citations provided by the Internal Revenue Service (IRS), other states, and other agencies.

Description of procedure

Acting independently or in conjunction with other agencies, the testing agency sets up testing stations and tests diesel vehicles. The state employees, if citing for criminal offenses, must be trained and POST certified. The officers may be armed or supported by armed officers (if required). The officers would either cite offenders following evidence procedures or initiate a civil offense under the procedures allowed. Roadside inspections will follow standard police procedure. Inspections would only be performed by trained and authorized state employees, whether sworn law enforcement officers or not.

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Option 1 continued

Is there a statute change required? Yes

- The definition of dyed diesel in IC §§63-2402 and 63-2425 is vague and does not indicate at what point a violation occurs.
- Delegation of authority for ISP CVS and ITD POE would have to be granted in IC §63-2442.
- The authority to stop and inspect a vehicle and a penalty for refusal is needed in IC §63-2425.
- Adding an implied consent provision similar to IC 18-8002(1) for dyed diesel purposes. Language could be “Any person who drives or is in actual physical control of a diesel powered motor vehicle in this state shall be deemed to have given his consent to evidentiary testing for dyed diesel fuel in the motor vehicle’s diesel fuel tank.”
- The exemptions for safety inspections in IC §67-2901B should be removed.
- Require diesel vehicles of all weights and hauling any commodity to submit to inspection of the fuel in any fuel tank when requested by any peace officer at a fixed or portable check station in IC §§40-510 and 40-511.
- Give officers inspecting fuel clear authority to inspect private and commercial vehicles.
- Add the misdemeanor violation in IC §63-2460(1) to the list in the Idaho Uniform Bond Schedule so arrest of a violator is possible.

Analysis of effects

Pros	Cons
<ul style="list-style-type: none"> • Idaho would have a presence that would deter offenders. This would increase sales of tax-paid diesel. • Other offenses may be found if law enforcement is looking for dyed diesel offenders. • Idaho would deter criminals from other states. • Idaho would support the tax evasion-fighting efforts of neighboring states. 	<ul style="list-style-type: none"> • Not everyone would get caught. A positive test will occur less than 10% of the time (more often, less than 1%). • At a roadside stop, probable cause will be required or the inspection must be a secondary offense. • There is a safety risk for unarmed inspectors • The inspector, if not properly trained, could damage the diesel vehicles’ anti-theft device in the fuel spout. • Taxpayers could be inconvenienced by a testing station or roadside stop.

Estimated cost to administer: ISP Variation

Estimated initial start-up for 1 year: \$1,057,308 with continued annual costs of \$277,536. This is for 4 FTEPs (full time equivalent positions) and 4 vehicles, sampling and testing equipment, etc. *(Note: Costs subject to change due to a change in the number of employees, equipment, and software requirements.)*

Estimated cost to administer: ITD Variation

Estimated initial start-up for 1 year: \$1,114,708 with continued annual costs of \$473,708. This consists of 6 additional FTEPs (total \$337,708), 6 vehicles/fuel (\$436,000), 22 sets of sampling and testing equipment, etc. (total \$187,000), initial training for 77 employees (\$154,000). Unknown costs for travel, additional POST certified training may be required and possible facility expansion if all diesel vehicles under 26,000 lbs. GVW are required to stop at Ports of Entry. *(Note: Costs subject to change due to a change in the number of employees, equipment, and software requirements.)*

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Option 1 continued

Estimated cost to administer: ISTC Variation.

Estimated initial start-up for 1 year: \$1,250,000 with continued annual costs of \$800,000. This is for 3 inspectors, a supervisor, and support personnel (7 total), 3 vehicles, sampling and testing equipment, etc. *(Note: Costs subject to change due to a change in the number of employees, equipment, and software requirements.)*

Estimated cost to administer: Joint Agency Variation.

This administration cost could not be estimated because there are too many unknown variables.

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Option #2: Add dedicated fuel tax investigation and prosecution units. (Enhancement to Option 1)

Ease of Taxpayer Compliance	9	Taxpayer Cost	6
Ease of State Administration	1	Cost of State Administration	1
Identifies Noncompliance	6	Promotes Self-Compliance	9

Description of procedure

This could be a joint task force with ITD, ISTC, ISP, Attorney General (AG), and the Idaho Department of Agriculture-Weights and Measures, or variations based on which agencies were involved. The ISTC has primary responsibility as the tax enforcement authority. ITD and ISP would use law enforcement authority as agents of the ISTC to determine which fuel users are not in compliance. This task force would assist the ISTC investigation for other criminal offenses by checking other vehicles owned by the same offender and bulk tanks owned or used by the offender. The AG would prosecute cases. Weights and Measures would act as an agent of the ISTC to determine if tax were properly assessed.

Is there a statute change required? Yes

New laws would be needed to set up the inspections and outline the procedure that would be followed to investigate and prosecute offenders.

Analysis of effects

Pros	Cons
<ul style="list-style-type: none"> • There would be fewer offenders. 	<ul style="list-style-type: none"> • Offenders would feel persecuted.

Estimated cost to administer

Dedicated investigation unit: \$1,250,000 start-up with \$800,000 annual costs.

Dedicated prosecution unit: \$1,250,000 start-up with \$800,000 annual costs.

Each unit with 7 employees.

Cost based upon estimated cost for dyed diesel enforcement unit (Option #1).

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Option #3: Clarify that the violation is on the driver, vehicle owner, or both. Increase the fines for the violations. The violation is on the person who would reasonably know of the violation. (Enhancement to Option 1)

Ease of Taxpayer Compliance	8	Taxpayer Cost	9
Ease of State Administration	9	Cost of State Administration	9
Identifies Noncompliance	2	Promotes Self-Compliance	5

Description of procedure

This may be addressed after the main problem of identifying violators is resolved.

Is there a statute change required? Yes

IC §63-2450.

Analysis of effects

Pros	Cons
<ul style="list-style-type: none"> • If the drivers are responsible, they will do everything to ensure that the fuel is tax-paid so that they do not have to pay the ticket. • If the company is responsible, it will ensure that none of its drivers use dyed fuel in their vehicles. 	<ul style="list-style-type: none"> • If there are multiple drivers using the same vehicle, it would be unfair to cite the driver. • If the driver is required to fuel from specified bulk storage that the vehicle owner owns and purchases fuel for, it would be unfair to cite the driver. • If the driver is reimbursed for fuel purchases, it would be unfair to cite the vehicle owner, when the owner has no control over where the fuel that the driver purchases comes from.

Estimated cost to administer

Minimal

Option #4: Enhance dyed diesel referral program to include a Web page and reward fund. (Enhancement to Option 1)

Ease of Taxpayer Compliance	8	Taxpayer Cost	8
Ease of State Administration	9	Cost of State Administration	9
Identifies Noncompliance	2	Promotes Self-Compliance	2

The ISTC recently began a fraud referral program which included a fraud Web page and fraud referral form. Previously, all dyed diesel fraud calls were forwarded to the fuel tax audit unit to research the fraud referral. The location of the fraud Web page and fraud referral form are:

- Types of violations, <https://tax.idaho.gov/i-1176.cfm?seg=violations>.
- Information referral form, <https://tax.idaho.gov/i-1176.cfm?seg=instructions>.

When the ISTC receives a fraud referral from whatever source, the referral is investigated, and, when appropriate, a notice of deficiency determination is issued.

Description of procedure

The dyed diesel referral program could be expanded to include a Web page on the ISTC site specifically for dyed diesel fraud or a telephone hotline similar to the Crimestoppers hotline (<http://www.crimestopperswidaho.org/>). A reward fund could be administered and disbursed by the ISTC using special fuel taxes received by including the fund as a distribution of special fuel taxes.

Is there a statute change required? Yes

None required for expansion of fraud Web page or establishing a hotline. A change to IC §63-2418 is required to add a distribution for a reward fund.

Analysis of effects

Pros	Cons
<ul style="list-style-type: none"> • This would be an opportunity to educate the taxpayer. 	<ul style="list-style-type: none"> • May increase the ISTC workload without an increase in additional tax revenues.

Estimated cost to administer

Minimal

Option #5: Implement a weight/mile tax for diesel vehicles over 26,000 lbs. gross vehicle weight (GVW) in lieu of a diesel fuel tax.

Ease of Taxpayer Compliance	2	Taxpayer Cost	2
Ease of State Administration	1	Cost of State Administration	1
Identifies Noncompliance	3	Promotes Self-Compliance	2

Description of procedure

There would be different points of taxation for gasoline-based motor fuels and special fuels. This would be similar to the fuel taxation prior to 2002 as enacted by Chapter 158, 1983 Idaho Session Laws (HB 281).

Gasoline-based fuels would continue to be taxed at the 1st receiver as is current practice. Special fuels retail dealers would file monthly, not quarterly, per IC §63-2420 as it existed in the 1983 legislation. All sales of special fuels would be taxable at the point of retail sale except those special fuel consumers with a weight/mile fuel tax license. The return filed by the licensee would be based on vehicle weight and number of axles not a per-gallon tax, according to IC §§63-2416, 63-2417, and 63-2421, as they existed in 1983.

All retailers selling diesel and other special fuels would be required to license as retail dealers and pay the tax collected. The tax would apply to everyone except commercial vehicles over 26,000 lbs. GVW. Business owners with diesel or other special fuel powered vehicles over 26,000 lbs. GVW would be required to obtain a user license to pay the weight/mile tax. This tax would be based on the weight of the vehicle and number of axles.

Government, charitable, private or off-road, and some farm operations will be exempt from the weight/mile tax. However, exempt vehicles may be subject to the fuel tax. The tax on diesel and other special fuels would be assessed at the retail level unless the purchaser identified themselves as weight/mile license holders. A credit is allowed for tax paid at the pump for vehicles subject to the weight/mile tax. Commercial vehicles 26,000 lbs. GVW and under may register and pay tax.

Close cooperation between ITD and ISTC would be required. Axles and weights on vehicles would have to be verified with ITD records.

The tax could also be administered by ITD (in addition to vehicle registration).

Is there a statute change required? Yes

IC §63-2402. A review of the entire motor fuel tax code would be required. Motor fuel tax law changes similar to SL 1983, Chapter 158, would be required with adjustments to allow for the weight/mile taxation of vehicles powered by special fuels.

Analysis of effects

Prior to this change, studies similar to the Kentucky Motor Carrier Tax Consolidation Study, http://uknowledge.uky.edu/cgi/viewcontent.cgi?article=1001&context=ktc_researchreports, and the 1999 Oregon report on “Effect of Weight Mile Tax on Road Damage in Oregon,” http://www.oregon.gov/ODOT/TD/TP_RES/docs/reports/effectweightmiletax.pdf, should be reviewed.

Options to Reduce Use of Untaxed Motor Fuel on Idaho Roads and Highways

Option 5 continued:

Pros	Cons
<ul style="list-style-type: none"> The heavier weight trucks would compensate the highway fund based on their increased weight. The majority of commercial vehicles would not require dyed diesel enforcement because no tax would be charged on fuel sold to commercial vehicles over 26,000 lbs. GVW. 	<ul style="list-style-type: none"> A major overhaul of the taxing system that would require extensive education for taxpayers and ISTC/ITD employees. Dyed diesel enforcement would still be required for vehicles under 26,000 lbs. GVW. This could change the point of taxation for some special fuels and cause problems for distributors. Which department would oversee the county registered vehicles? Would county registered vehicles be required to license under the weight/distance? Would weight/distance tax be administered by ISTC or ITD or both? Taxpayers do not like to register all their vehicles at ITD and appreciate the convenience of registering at the county level.

Estimated cost to administer

The change would require the ISTC to overhaul procedures and processes for application processing, licensing, reporting, and auditing. New forms and instructions would be required.

Costs to the ISTC and affected taxpayers could not be determined at this time.

Estimated costs for ITD would depend on how it was administered and which agency would oversee the tax. Minimum requirements would be increased costs to upgrade ITD software so that the number of axles would be included (approximately \$100,000 – \$200,000). Counties can register vehicles up to 60,000 lbs. GVW, so there would also be a need to modify their registration systems (cost unknown). If it were mandated that these vehicles only register with ITD, then there is a need for 3 additional FTEPs in Motor Carrier Services to compensate for the added requests (6000+ requests) coming to ITD as they would not be able to register at the county level anymore.

Options to Reduce Use of Untaxed Motor Fuel on Idaho Roads and Highways

Option #6: Tax all dyed diesel, and allow a refund for nontaxable use.

Ease of Taxpayer Compliance	7	Taxpayer Cost	3
Ease of State Administration	7	Cost of State Administration	5
Identifies Noncompliance	6	Promotes Self-Compliance	6

Description of procedure

Taxes would be paid on all dyed diesel sold. A 2% allowance would be taken by distributors. There would be increased audits of refund (Form 75) returns. The refund fund may have to be increased. Form 75 returns with dyed diesel claims will increase. Sales/Use tax will have to be audited and assessed.

Is there a statute change required? Yes

IC §63-2402(5)(a) exempting the motor fuel tax on dyed diesel.

Also review sections:

IC §63-2406, Distributor Reports

IC §63-2407, Deductions Authorized

IC §63-2423, Credits and Refunds to Consumers

IC §63-2425, Dyed Fuel and Other Untaxed Fuel Prohibited For Use On A Highway

IC §63-2431, Taxes in Lieu Of All Other Taxes Imposed (IC §63-3622C, Motor Fuel Tax Exemption)

Analysis of effects

Pros	Cons
<ul style="list-style-type: none"> A return will be filed that will show how much dyed diesel each taxpayer used. The motor fuel and sales tax exemptions will be verified. 	<ul style="list-style-type: none"> Taxpayers will pay tax up front and wait for a refund. Some taxpayers may forego claiming a refund because of the increased paperwork required to file a refund. Additional recordkeeping is required to support the refund claim in an audit. Some taxpayers may forego claiming a refund because the untaxed fuel is subject to sales tax.

Estimated cost to administer

Not known at this time. The ISTC would need more staff (approximately 30 full time positions) to process and audit the surge in refund claims which could exceed 325,000 returns a year.

Options to Reduce Use of Untaxed Motor Fuel on Idaho Roads and Highways

Option #7: Do not allow dyed diesel to be used in Idaho. Refund claims based on a flat percentage or authorized percentage will be allowed.

Ease of Taxpayer Compliance	1	Taxpayer Cost	1
Ease of State Administration	4	Cost of State Administration	4
Identifies Noncompliance	6	Promotes Self-Compliance	6

Description of procedure

No Idaho terminal would be allowed to sell dyed diesel. No truck would be allowed to transport dyed diesel to an Idaho location. Those who used tax-paid diesel in a nontaxable manner would be required to claim a refund. The ISTC would issue authorized percentages based on requests from taxpayers to facilitate filing of refund claims. A penalty would be imposed on the sale or transportation of dyed diesel.

Is there a statute change required? Yes

IC §63-2425 and all related statutes would need to be changed so that no dyed diesel could be sold at Idaho terminals. Changes would also have to be made that would not allow trucks to transport dyed diesel across Idaho state lines. Penalty statutes would require modification.

Analysis of effects

Pros	Cons
<ul style="list-style-type: none"> Taxpayers who owe the use tax would have to pay it. Fuels tax or sales tax would be paid, depending on whether or not the taxpayer filed for a refund or not. 	<ul style="list-style-type: none"> Making sales of dyed diesel in Idaho illegal could drive sale of this product “underground,” making enforcement at the current level more difficult. May violate the interstate commerce clause.

Estimated cost to administer

Costs would depend on the level of enforcement and penalties imposed. The imposition of the penalty could be on distributors illegally purchasing and reporting dyed diesel in Idaho. Consumer use of dyed diesel would have to be enforced by roadside inspection (see Option 1).

Option #8: Tax fuel as it enters (1st receiver tax) and leaves (retail tax) the fuel distribution system, and include information reporting by fuel carriers to the ISTC for full accountability of fuel.

Ease of Taxpayer Compliance	1	Taxpayer Cost	1
Ease of State Administration	3	Cost of State Administration	2
Identifies Noncompliance	9	Promotes Self-Compliance	9

The tax would be assessed at two points and fuel deliveries would be reported to the ISTC. Carriers may be penalized for unreported loads carried in the state. Fuel would be identified, regardless of type, as it enters the distribution system, and as it leaves the distribution system. Deliveries would be tracked by the carrier reports within the distribution system. The purpose is to better track fuel moving through the Idaho motor fuel distribution system.

This could either be administered by itself or in conjunction with Option 1.

Description of procedure

The motor fuel tax would be composed of two elements: a price tax and a volumetric tax.

Price Tax: A wholesale tax is determined at a predetermined time using a national standard price (e.g. producer price index or PPI. This would be the first receiver tax. The equivalent of ½ of 2% allowance could be given at this taxation point. The transfer fee could be assessed at this level.

Volumetric Tax: A tax based on the volume sold would be assessed at the retail sale level. This could be a fixed or variable rate. The variable rate could be changed based on a national standard such as the consumer price index. A service fee on dyed diesel sales could be assessed on the retail sale to pay for dyed diesel enforcement costs. The equivalent of ½ of 2% allowance could be given at this taxation point.

The changes in price could both be annual, but determined six months apart. The taxpayer would see price changes twice a year.

In addition, carriers would be required to report deliveries of fuel. There must be a penalty for unreported carrier loads.

Is there a statute change required? Yes

Change the assessment of the motor fuel tax, and add the dyed diesel enforcement service fee, **IC §63-2402**. No change to the transfer fee assessment, **IC §41-4909**. Change distribution to include disbursement of dyed diesel enforcement fee, **IC §63-2418**. Change reporting by distributors, **IC §63-2406**. Add collection and reporting of volumetric tax and dyed diesel enforcement fee by retailers. Change carrier report, **IC §63-2436**. Add carrier and retailer violation and penalty in **IC §§63-2450** and **63-2460**.

Options to Reduce Use of Untaxed Motor Fuel on Idaho Roads and Highways

Option 8 continued

Analysis of effects

Pros	Cons
<ul style="list-style-type: none">• This would allow for greater scrutiny of motor fuels through the distribution system, limiting evasion. This is a support function to the dyed diesel enforcement unit and will provide probable cause for officers. It will also help the investigation unit track possible tax evasion in other areas besides dyed diesel tax evasion.• Idaho will know when the fuel enters/exits the state or is used by consumers to the greatest extent possible.	<ul style="list-style-type: none">• This is an overhaul of the current motor fuel tax system. Retailers will have additional reporting burdens. Dyed diesel would cost more because of the enforcement fee (there can be no exemption from fee by dyed diesel purchasers). The two-tier tax could be confusing and cumbersome to administer.• The Legislature will have no control over the rate of tax if based solely on independent sources.

Estimated cost to administer

Cannot determine cost estimate at this time.

Option #9: Require retailers and purchasers to be licensed to buy or sell dyed diesel. Licensed retailers would file an informational report to track motor fuel sales. Licensed purchasers would be allowed to purchase dyed diesel exempt from tax.

Ease of Taxpayer Compliance	1	Taxpayer Cost	1
Ease of State Administration	2	Cost of State Administration	2
Identifies Noncompliance	4	Promotes Self-Compliance	4

This would support the work of ISTC dyed diesel enforcement staff. The purpose would be to track dyed diesel users and provide probable cause for the law enforcement and investigation personnel.

- Require a dyed diesel user permit. The permit would be required for users purchasing dyed diesel. Like WA RCW 82.38.065 and TX 162.205 and 162.206.
- Require a farm vehicle sticker in lieu of a license plate for all farm vehicles and equipment used on the highway. Like WA RCW 46.16A420.
- Require the purchaser of dyed diesel to provide the seller an exemption certificate similar to the ST-101 Resale and Exemption Certificate, CA 60106.2.
- A combination of two or more of the above.

Description of procedure

This would work best if the dyed diesel purchaser was required to be licensed, but it could work (less effectively) with a dyed diesel exemption certificate. First, the purchaser would give the license number or certificate and buy the dyed diesel. The retailer would document the sale and the license/certificate. A report with the gallons sold and the license/certificate would be sent to the ISTC. The retailer would also have to provide a report of how many gallons were in inventory at the beginning and ending of each period (probably by month). The total sales and purchases would also have to be reported and the seller or purchaser identified. The retailer’s information would have to be verified with the wholesaler’s or first receiver’s fuel distributor’s tax report. Tax would be charged on any sales which were not properly documented and possibly a civil penalty would be charged.

Is there a statute change required? Yes

IC §§63-2425, 63-2450, and 63-2460. A retailer would have to get a retailer’s license so that the information could be tracked. Since there is no tax due, there would have to be a penalty for failure to file a return.

Analysis of effects

Pros	Cons
<ul style="list-style-type: none"> • This would help track the users of dyed diesel. 	<ul style="list-style-type: none"> • This wouldn’t help track violations (e.g., taxable use of dyed diesel)

Estimated cost to administer

A rough estimate for the ISTC to start up a licensing program is a minimum of \$300,000 and \$125,000 per year for on-going costs.

Appendix A:
Idaho Dyed Diesel Cases

Options to Reduce Use of Untaxed Motor Fuel on Idaho Roads and Highways

Dyed Diesel Cases (CY1997 to November 10, 2015)

The ISTC procedure for dyed diesel cases is currently to assess tax and the civil penalty in IC §63-2460 based on audit evidence or evidence from a third party. In the almost 18 years since the ISTC began to issue assessments, the majority are from citations issued by other jurisdictions.

<i>Assessment Source</i>	<i>Number</i>	<i>\$ Amount</i>
Audit Review	2	1,506.00
Taxpayer Voluntary Payments	3	18.00
Idaho Citation	8	14,868.22
IRS Citation	29	27,258.99
Montana Citation	24	1,568.00
Nevada Citation	2	0.00
Observation	43	13,630.35
Oregon Citation	1	250.00
Other	15	3,921.75
Washington Citation	30	13,201.85
Total	157	\$76,223.16

Appendix B:

Dyed Diesel Survey Results

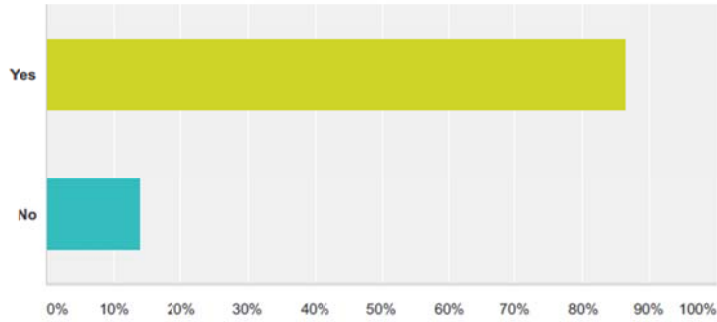
Idaho Dyed Diesel Enforcement Survey

1. Do you have a dyed diesel enforcement program?
2. What is the title/position of the person completing this survey?
3. What jurisdiction (state) do you work in?
4. Is the program enforced jointly by your jurisdiction and the IRS?
5. What is the web address (URL link) to your law/regulations (statute, rule, code) for nontaxable use of dyed diesel?
6. What is the web address (URL link) to your law/regulations (statute, rule, code) for violation of nontaxable use?
7. What is the web address (URL link) to your law/regulations (statute, rule, code) for roadside enforcement of nontaxable use?
8. Does your program use roadside enforcement?
9. What other techniques besides roadside enforcement do you use?
10. If you use other techniques, what is the web address (URL link) to your law/regulation (statute, rule, code) for those methods?
11. If your jurisdiction requires dyed diesel buyers to be licensed, how does the licensing program work?
12. Which agency in your jurisdiction has primary responsibility for education and enforcement of dyed diesel?
13. What other agencies are involved in education and enforcement?
14. What are the roles of the other agencies?
15. How are roles coordinated between agencies?
16. If your jurisdiction has a roadside enforcement program, what action by a taxpayer will prompt a fuel supply tank inspection? (e.g. random stop, secondary infraction)
17. If your jurisdiction has a roadside enforcement program, how does your jurisdiction determine if a violation has occurred? (e.g. test of sample)
18. If your jurisdiction has a roadside enforcement program, what is the penalty for violating nontaxable use law?
19. If your jurisdiction has a program that checks bulk dyed diesel tanks, what action by a taxpayer will prompt a bulk tank inspection?
20. If your jurisdiction has a program that checks bulk dyed diesel tanks, how does your jurisdiction determine if a violation has occurred?
21. If your jurisdiction has a program that checks bulk dyed diesel tanks, what is the penalty for violating nontaxable use laws?
22. How is your dyed diesel program funded?

Summary Results from all Respondents

Q1 Do you have a dyed diesel enforcement program?

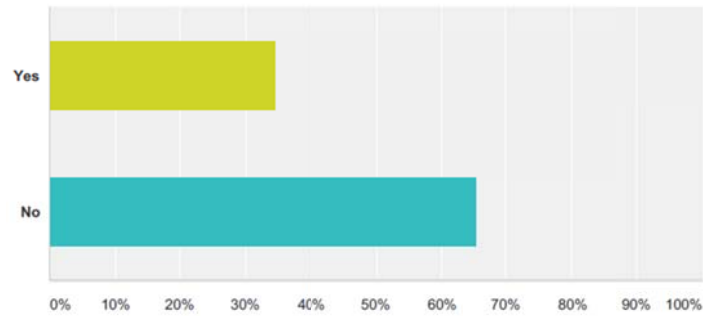
Answered: 29 Skipped: 0



Yes	86.21% (25)
No	13.79% (04)

Q4 Is the program enforced jointly by your jurisdiction and the IRS?

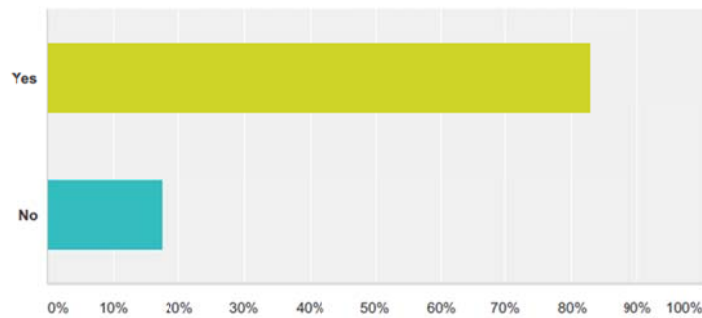
Answered: 29 Skipped: 0



Yes	34.48% (10)
No	65.52% (19)

Q8 Does your program use roadside enforcement?

Answered: 29 Skipped: 0



Yes	82.76% (24)
No	17.24% (05)

Summary Results for Neighboring States

Between mid-May 2015 and mid-September 2015 a survey* was routed to jurisdictions within the continental United States. The following pages detail results from our neighboring states:

California

Montana (contiguous)

Nevada (contiguous)

Oregon (contiguous)

Texas

Utah (contiguous)

Washington (contiguous)

Wyoming (contiguous)

*(The full survey is available upon request)

Executive Summary of Survey

The detailed summary is a review of the laws and procedures in the states contiguous to Idaho. California and Texas were also included because they are the two largest states in the Pacific Region of the Federation of Tax Administrators (FTA) Motor Fuel Section.

Of the states listed, only Oregon does not allow an inspection of the main fuel supply tank of a diesel vehicle. California requires testing to be done at clearly identified test stations. It contracts with the Air Resources Board. Montana's Department of Transportation administers its fuel tax. It works with the Montana State Police and has its own peace officers authorized to inspect the supply tanks of diesel vehicles with probable cause. Nevada allows employees of the Department of Transportation (NDOT) or its designated agents at the Nevada Highway Patrol to inspect fuel supply tanks. Sheriffs and all peace officers can act as agents of NDOT. Texas' Comptroller's Office has law enforcement officers that are authorized to inspect the fuel supply tank of a vehicle that "appears" to operate using diesel. Utah may inspect vehicle supply tanks following state and federal laws. Washington and Wyoming State Police are also allowed to inspect and take samples of diesel used in the main supply tank of diesel vehicles in order to make an assessment or write a citation.

Options to Reduce Use of Untaxed Motor Fuel on Idaho Roads and Highways

California

The State of California performs dyed diesel inspections at fixed locations throughout the state. The inspections are performed by the Air Resources Board. Diesel vehicles are tested at designated inspection sites or at other locations with evidence, Section 60603(a)(2). The penalty for violating the fuel tax law is \$500 or 25 percent of the tax due, Section 30361.5(b). If more than one penalty applies, only the greatest penalty will be assessed. There is a penalty of \$1,000 for refusal to allow an inspection, Section 60603(b).

Has a dyed diesel enforcement program?

Yes.

Enforced jointly by jurisdiction and IRS?

Yes.

Use roadside enforcement?

Yes, we contract with another agency (Air Resource Board) to have the diesel tested on the roads.

Use other techniques besides roadside enforcement?

We also utilize leads from IRS and other agencies to enforce the dyed diesel laws.

Agency(s) in jurisdiction with primary responsibility for education and enforcement of dyed diesel

(unanswered)

How is dyed diesel program funded?

(unanswered)

Options to Reduce Use of Untaxed Motor Fuel on Idaho Roads and Highways

Montana

The State of Montana Department of Transportation designates some employees as peace officers, Section 61-10-154(5). These officers and the Montana State Highway Patrol are allowed to inspect the supply tanks of diesel vehicles with probable cause, Sections 61-10-154(4) and (6)(c), random stops, or inspection stations. In a recent presentation, Montana explained how their inspection procedure works. A diesel vehicle will be tested by taking a small sample to test in a Petrospec fuel analyzer. The initial cost for the analyzer and printer is \$8,288 with printer. All samples from vehicles which measure 2 parts per million or less are considered not in violation. Any samples which measure more than 2 parts per million require additional samples for lab testing. The lab will verify that a sample from a vehicle is in violation and notify the transportation department. The transportation department will issue a fine.

Montana also allows farmers to estimate the nontaxable fuel use refund for bulk and cardrol purchases based on the ratio between the gross earned farm income and total gross earned income.

Has a dyed diesel enforcement program?

Yes.

Enforced jointly by jurisdiction and IRS?

No.

Use roadside enforcement?

Yes.

Use other techniques besides roadside enforcement?

Dyed fuel tip line. Patrol Officers conduct surveillance of dyed fuel pumps.

Agency(s) in jurisdiction with primary responsibility for education and enforcement of dyed diesel

Within the Montana Dept. of Transportation, the Motor Fuel Section works jointly with the Motor Carrier Services Enforcement Division for both education and enforcement.

How is dyed diesel program funded?

Through FHWA's Fuel Tax Evasion Grant.

Options to Reduce Use of Untaxed Motor Fuel on Idaho Roads and Highways

Nevada

The State of Nevada Department of Transportation is authorized to stop and inspect vehicles using special fuels, Section NRS 366.150(1)(c). The inspections can be performed by sheriffs and other peace officers, NRS 366.750. Law enforcement officers are not authorized additional compensation to assist in the enforcement of the fuel tax laws. The 2015 Nevada legislature passed SB155 which allows farmers and ranchers to claim a refund claiming 80% of the special fuel tax placed into bulk storage.

Has a dyed diesel enforcement program?

Yes.

Enforced jointly by jurisdiction and IRS?

No.

Use roadside enforcement?

Yes.

Use other techniques besides roadside enforcement?

We have a “whistleblower” site on our webpage to report suspected dyed diesel violations.

Agency(s) in jurisdiction with primary responsibility for education and enforcement of dyed diesel

Nevada Highway Patrol (primarily). Also: Nevada Dept. of Motor Vehicles Motor Carrier Division.

How is dyed diesel program funded?

Part of our general duties of the Highway Patrol and Motor Carrier Auditors.

Options to Reduce Use of Untaxed Motor Fuel on Idaho Roads and Highways

Oregon

The State of Oregon has a weight distance tax that is charged, in some cases, in lieu of a motor fuel tax for vehicles using special fuel. There is a gasoline tax and a diesel tax for all gas vehicles and smaller diesel vehicles. Commercial vehicles get a weight and miles license to pay the weight/mile tax. The tax is based on the weight of the vehicle and the number of axles. A road damage study is performed occasionally to determine if the rate needs to be changed.

Has a dyed diesel enforcement program?

No.

Enforced jointly by jurisdiction and IRS?

No.

Use roadside enforcement?

No.

Use other techniques besides roadside enforcement?

N/A

Agency(s) in jurisdiction with primary responsibility for education and enforcement of dyed diesel

N/A

How is dyed diesel program funded?

N/A

Options to Reduce Use of Untaxed Motor Fuel on Idaho Roads and Highways

Texas

The State of Texas Office of the Comptroller is allowed to stop any vehicle which appears to be operating using diesel, Section 162.009. A purchaser of dyed diesel may either be required to obtain a license and bond or must sign a statement that dyed diesel is for his own use, depending on the amount purchased, Section 162.205.

Has a dyed diesel enforcement program?

Yes.

Enforced jointly by jurisdiction and IRS?

No.

Use roadside enforcement?

Yes.

Use other techniques besides roadside enforcement?

Premises and Records Inspection (Texas Motor Fuels Tax Code Section 162.008)

Agency(s) in jurisdiction with primary responsibility for education and enforcement of dyed diesel

Texas Comptroller of Public Accounts (primarily).

Also: Texas Dept. of Public Safety – Commercial Vehicle Enforcement, and other law enforcement agencies/officers trained by the Texas Comptroller Criminal Investigation Division investigators.

How is dyed diesel program funded?

General revenue.

Options to Reduce Use of Untaxed Motor Fuel on Idaho Roads and Highways

Utah

The State of Utah may check the storage tanks of diesel vehicles in cooperation with state and federal agencies following state and federal law, Section 59-13-313. The tax is a lien against the vehicle and is not removed until the tax is paid, Section 59-13-311. Utah does not have an active roadside or dyed diesel inspection program. Inspections are performed by the IRS. They have also been performed by the sheriff's office in the county of the suspected violator at the request of the Utah State Tax Commission.

Has a dyed diesel enforcement program?

No.

Enforced jointly by jurisdiction and IRS?

No.

Use roadside enforcement?

No.

Use other techniques besides roadside enforcement?

When leads are received, local Sheriff Departments are contacted to assist in the dyed diesel dipping.

Agency(s) in jurisdiction with primary responsibility for education and enforcement of dyed diesel

Utah State Tax Commission.

How is dyed diesel program funded?

N/A

Options to Reduce Use of Untaxed Motor Fuel on Idaho Roads and Highways

Washington

The Washington State Patrol (WSP) or other certified officers are authorized to inspect and collect samples of special fuel used in the propulsion of vehicles on public highways to detect the presence of dye or other chemical compounds, RCW 8238.072(3). Failure to allow an inspection is a traffic infraction, RCW 46.32.010(6). Special fuel users may operate vehicles using dyed diesel if the use is authorized by the Internal Revenue Code, and the user has a dyed special fuel user license or is exempt from the special fuel tax, RCW 82.38.065. A farmer can request a farm decal for farm vehicles principally used in farming, RCW 46.16A420. Vehicles with a farm decal operate within a radius of twenty-five miles, RCW 46.16A080(3)(a).

Has a dyed diesel enforcement program?

Yes.

Enforced jointly by jurisdiction and IRS?

Yes.

Use roadside enforcement?

Yes.

Use other techniques besides roadside enforcement?

WSP makes stops for safety inspections or other traffic violations. Takes samples of fuel and tests with portable testing equipment.

Agency(s) in jurisdiction with primary responsibility for education and enforcement of dyed diesel

Department of Licensing for education. Washington State Patrol for enforcement.

How is dyed diesel program funded?

Through general transportation appropriations to the WSP and federal grants administered by DOL.

Options to Reduce Use of Untaxed Motor Fuel on Idaho Roads and Highways

Wyoming

The State of Wyoming allows a state trooper or special enforcement officer to withdraw and inspect the diesel fuel of a vehicle during an inspection authorized by WS 31-18-301, a weight or safety inspection, or with probable cause, WS 39-17-208(c)(viii).

Has a dyed diesel enforcement program?

(Didn't respond to survey.)

Enforced jointly by jurisdiction and IRS?

(Didn't respond to survey.)

Use roadside enforcement?

(Didn't respond to survey.)

Use other techniques besides roadside enforcement?

(Didn't respond to survey.)

Agency(s) in jurisdiction with primary responsibility for education and enforcement of dyed diesel

(Didn't respond to survey.)

How is dyed diesel program funded?

(Didn't respond to survey.)

Appendix C:
Select State Dyed Diesel Laws

Selected Excerpts of Laws from Neighboring States

California

1. Location of state law, <http://www.boe.ca.gov/lawguides/business/current/btlg/vol3/dftl/dftl-toc.html> :
2. **60027. "Qualified highway vehicle operator."** "Qualified highway vehicle operator" means any person licensed as a qualified highway vehicle operator that owns, operates, or otherwise controls a diesel-powered highway vehicle and delivers, or causes to be delivered, diesel fuel or any liquid into the fuel tank of a diesel-powered highway vehicle and is qualified to use dyed diesel fuel on the highway by the Internal Revenue Service under Section 48.4082-4 of Title 26 of the Code of Federal Regulations.
3. **60058.** Backup tax. The tax specified in Section 60050 is imposed as a backup tax as follows:
 - (a) On the delivery into the fuel tank of a diesel-powered highway vehicle of:
 - (1) Any diesel fuel that contains a dye.
 - (2) Any diesel fuel on which a claim for refund has been allowed.
 - (3) Any liquid on which tax has not been imposed by this part, Part 2 (commencing with Section 7301), or Part 3 (commencing with Section 8601).
 - (b) On the sale of any diesel fuel on which a claim for refund has been allowed.
 - (c) On the sale and delivery into the fuel tank of a diesel-powered highway vehicle of any diesel fuel that contains a dye or any liquid on which tax has not been imposed by this part, Part 2 (commencing with Section 7301), or Part 3 (commencing with Section 8601).
 - (d) For the purposes of this section, aircraft jet fuel on which tax has been imposed only pursuant to Part 2, Chapter 2.5 (commencing with Section 7385) shall be deemed to be a liquid on which tax has not been imposed by Part 2 (commencing with Section 7301).
4. **60101.** Dyed fuel exemption. (a) Diesel fuel that is required to be dyed satisfies the dyeing requirement of this part if it meets the dyeing requirements of the United States Environmental Protection Agency and the Internal Revenue Service, including, but not limited to, requirements respecting type, dosage, and timing.
 - (b) Marking shall meet the marking requirements of the Internal Revenue Service.
 - (c) No person shall operate or maintain a motor vehicle on any public highway in this state with dyed diesel fuel in the fuel supply tank. This subdivision does not apply to uses of dyed diesel fuel on the highway that are lawful under the Internal Revenue Code or regulations promulgated thereunder, if the person is registered as a qualified highway vehicle operator, exempt bus operator, or government entity.
5. **60361.5.** Immediate liability for backup tax. (a) Except in the case of a qualified highway vehicle operator, the backup tax imposed under Section 60058 and any applicable penalties and interest shall be immediately due and payable. The board shall forthwith ascertain as best it may the amount of diesel fuel sold, or delivered into the fuel tank of a diesel fuel-powered highway vehicle, or sold and delivered into the fuel tank of a diesel fuel-powered highway vehicle, and shall determine immediately the tax on the amount and shall give the highway vehicle operator/fueler notice of this determination as prescribed by Section 60340. The determination shall include interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the last day of the month following the date the backup tax applies until the date of remittance to the state. The provisions of Sections 60331 and 60332 shall be applicable with respect to the finality of the determination and the right of the highway vehicle operator/fueler to petition for a redetermination.
 - (b) A penalty of 25 percent of the amount of tax or five hundred dollars (\$500), whichever is greater, shall be added to the tax.
 - (c) If more than one of the penalties specified in this section and Section 60105, 60106.3, or 60503.2 is otherwise applicable, only the penalty totaling the greatest amount shall be imposed,

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and, the penalty specified in this section may be imposed only if the amount of penalty exceeds any other applicable penalty.

(d) Where the board determines that the sale, delivery into the fuel tank of a diesel fuel-powered highway vehicle, or sale and delivery into the fuel tank of a diesel fuel-powered highway vehicle of untaxed diesel fuel was due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty. A person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which the request for relief is based.

(e) All administrative provisions contained in this part that apply to a supplier shall also be applicable to a highway vehicle operator/fueler.

6. **60603.** Inspections by board. (a) Officers or employees of the state, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are authorized to enter any place and to conduct inspections in accordance with paragraphs (1) to (6), inclusive.

(1) Inspections shall be performed in a reasonable manner and at times that are reasonable under the circumstances, taking into consideration the normal business hours of the place to be entered.

(2) Inspections may be at any place at which taxable diesel fuel is or may be produced or stored or at any inspection site where evidence of activities involving evasion may be discovered. These places may include, but are not limited to, any terminal, any diesel fuel storage facility that is not a terminal, any retail diesel fuel facility, or any designated inspection site. (3) A designated inspection site is any state highway inspection station, weigh station, agricultural inspection station, mobile station, or other location designated by the state or the Internal Revenue Service to be used as a diesel fuel inspection site. A designated inspection site shall be identified as a diesel fuel inspection site.

(4) Officers or employees may physically inspect, examine, or otherwise search any tank, reservoir, or other container that can or may be used for the production, storage, or transportation of diesel fuel, diesel fuel dyes, or diesel fuel markers. Inspection may also be made of any equipment used for, or in connection with, production, storage, or transportation of diesel fuel, diesel fuel dyes, or diesel fuel markers. This includes any equipment used for the dyeing or marking of diesel fuel. This includes the books and records kept to determine tax liability.

(5) Officers or employees may detain any vehicle, train, or vessel for the purpose of inspecting its fuel tanks and storage tanks. Detainment will be either on the premises under inspection or at a designated inspection site. Detainment may continue for a reasonable period of time as is necessary to determine the amount and composition of the diesel fuel.

(6) Officers or employees may take and remove samples of diesel fuel in reasonable quantities as necessary to determine its composition.

(b) Any person that refuses to allow an inspection may be fined one thousand dollars (\$1,000) for each refusal. This penalty is in addition to any other penalty or tax that may be imposed upon that person or any other person liable for tax or penalty.

Montana

1. Location of state law, http://leg.mt.gov/bills/mca_toc:
2. **61-10-154.** Department of transportation to adopt motor carrier safety standards -- enforcement -- designation of peace officers -- duties -- violations. (1) As used in this section, the terms "for-hire motor carrier", "private motor carrier", "gross vehicle weight rating", and "gross combination weight rating" have the same meaning as provided in 49 CFR 390.5.
 - (2) The department of transportation shall adopt, by rule, standards for safety of operations of:
 - (a) any for-hire motor carrier or any private motor carrier;
 - (b) any motor vehicle or vehicle combination used in interstate commerce that has a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight, whichever is greater, of 10,001 pounds or more;
 - (c) any motor vehicle or vehicle combination used in intrastate commerce that has a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight, whichever is greater, of 26,001 pounds or more and that is not a farm vehicle operating solely in Montana;
 - (d) any motor vehicle that is designed or used to transport at least 16 passengers, including the driver, and that is not used to transport passengers for compensation;
 - (e) any motor vehicle that is designed or used to transport at least nine passengers, including the driver, for compensation; or
 - (f) any motor vehicle that is used to transport hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with federal hazardous materials regulations in 49 CFR, part 172.
 - (3) Standards of safety adopted under this section must substantially comply, within allowed tolerance guidelines, to the federal motor carrier safety regulations and the federal hazardous material regulations as applied to motor carriers and vehicles transporting passengers or property in commerce.
 - (4) The department of transportation shall work with the highway patrol in the enforcement of safety standards adopted pursuant to this section. The highway patrol and the department of transportation shall cooperate to ensure minimum duplication and maximum coordination of enforcement efforts.**
 - (5) In order to enforce compliance with safety standards adopted pursuant to this section, the department of transportation shall designate employees as peace officers. The designated employees must be employed in the administration of the motor carrier services functions of the department of transportation. Each employee designated as a peace officer may:
 - (a) issue citations and make arrests in connection with violations of safety standards adopted under this section;
 - (b) issue summonses;
 - (c) accept bail;
 - (d) serve warrants for arrest;
 - (e) make reasonable inspections of cargo carried by commercial motor vehicles;
 - (f) enforce the provisions of Title 49 of the United States Code and regulations that have been adopted under Title 49 and make reasonable safety inspections of commercial motor vehicles used by motor carriers; and
 - (g) require production of documents relating to the cargo, driver, routing, or ownership of commercial motor vehicles.
 - (6) In addition to other enforcement duties assigned under 61-10-141 and this section, an employee of the department of transportation who is appointed as a peace officer pursuant to 61-12-201 or this section has:**
 - (a) the same authority to enforce provisions of the motor carriers law as that granted to the public service commission under 69-12-203;

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(b) the duty to secure or make copies, or both, of all bills of lading or other evidence of delivery for shipment of agricultural seeds, as defined in 80-5-120, that have been sold or are intended for sale in Montana and to forward the copies to the department of agriculture within 24 hours of the date that the bill of lading was obtained; and

(c) the authority, if probable cause exists, to stop and inspect a supply tank connected to the engine of any diesel-powered motor vehicle operating on the public highways of this state in order to determine compliance with Title 15, chapter 70, part 4.

(7) A violation of the standards adopted pursuant to this section is punishable as provided in 61-9-512, and the court, upon conviction, as defined in 61-5-213, shall forward a record of conviction to the department within 5 days in accordance with 61-11-101.

(8) The department of transportation shall report to the revenue and transportation interim committee biennially on its enforcement of the provisions of Title 15, chapter 70, part 4, pursuant to the authority provided in subsection (6)(c) and on any impacts that enforcement has had on the state special revenue fund.

3. **15-70-430.** Estimate allowed for agricultural use -- seller's signed statement acceptable on keylock or cardrol purchases. (1) An applicant whose use qualifies as agricultural use may apply for a refund of the applicable tax on the gallons of gasoline or special fuel as indicated by bulk delivery invoices or by evidence of keylock or cardrol purchases as an estimate of off-highway use. To ensure that the applicant's use qualifies as agricultural use, the department of transportation may request state or federal income tax information from the applicant or the department of revenue to determine the ratio of the applicant's gross earned farm income to total gross earned income, excluding unearned income, provided that the department of transportation gives notice to the applicant.
- (2) For purposes of application for a refund under subsection (1), the department shall accept, as evidence of keylock or cardrol purchases, a statement of the sale of gasoline or special fuel with applicable Montana tax that identifies the purchaser and specifically identifies the transaction as a keylock or cardrol purchase.
- (3) An applicant may apply for a refund of the applicable tax on gallons of gasoline or special fuel as indicated by bulk delivery invoices or by evidence of keylock or cardrol purchases according to the applicant's ratio of gross earned farm income to total gross earned income, excluding unearned income, as follows:
- (a) if the ratio is 50% or more, the applicant may apply for a refund of 60% of the gasoline or special fuel tax;
- (b) if the ratio is between 40% and 49%, the applicant may apply for a refund of 50% of the gasoline or special fuel tax;
- (c) if the ratio is between 30% and 39%, the applicant may apply for a refund of 40% of the gasoline or special fuel tax; and
- (d) if the ratio is less than 30%, the applicant is not eligible for a refund of the gasoline or special fuel tax under this section.
- (4) If the applicant's ratio in any of the 3 previous years on record is higher than the present year, the highest ratio must be used to calculate the eligible refund.
- (5) If any invoice or evidence is either lost or destroyed, the purchaser may support the purchaser's claim for refund by submitting an affidavit relating the circumstances of the loss or destruction and by producing other evidence that may be required by the department of transportation.
- (6) An applicant whose use does not qualify as agricultural use may not estimate and shall maintain records as required by 15-70-426.

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Nevada

1. Location of state law, <http://www.leg.state.nv.us/nrs/nrs-366.html>:
2. **NRS 366.150** Examinations, investigations and inspections; fee for examination of records outside State; statements of contents of records.
 1. The Department or its authorized agents may:
 - (a) Examine the books, papers, records and equipment of any special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter, special fuel user, special fuel manufacturer or any other person transporting or storing special fuel;
 - (b) Investigate the character of the disposition which any person makes of special fuel;and
 - (c) Stop and inspect a motor vehicle that is using or transporting special fuel, to determine whether all excise taxes due pursuant to this chapter are being properly reported and paid.**
 2. The fact that the books, papers, records and equipment described in paragraph (a) of subsection 1 are not maintained in this State at the time of demand does not cause the Department to lose any right of examination pursuant to this chapter at the time and place those books, papers, records and equipment become available.
 3. If a special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter, special fuel user or special fuel manufacturer wishes to keep proper books and records pertaining to business done in Nevada elsewhere than within the State of Nevada for inspection as provided in this section, he or she must pay a fee for the examination in an amount per day equal to the amount set by law for out-of-state travel for each day or fraction thereof during which the examiner is actually engaged in examining those books and records, plus the actual expenses of the examiner during the time that the examiner is absent from this State for the purpose of making the examination, but the time must not exceed 1 day going to and 1 day coming from the place where the examination is to be made in addition to the number of days or fractions thereof the examiner is actually engaged in auditing those books and records. Not more than two such examinations may be charged against any special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter, special fuel user or special fuel manufacturer in any year.
 4. Any money received must be deposited by the Department to the credit of the fund or operating account from which the expenditures for the examination were paid.
 5. Upon the demand of the Department, each special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter, special fuel user or special fuel manufacturer shall furnish a statement showing the contents of the records to such extent and in such detail and form as the Department may require.
3. **NRS 366.200** Exempt sales and uses.
 1. The sale or use of special fuel for any purpose other than to propel a motor vehicle upon the public highways of Nevada is exempt from the application of the tax imposed by NRS 366.190. The exemption provided in this subsection applies only in those cases where the purchasers or the users of special fuel establish to the satisfaction of the Department that the special fuel purchased or used was used for purposes other than to propel a motor vehicle upon the public highways of Nevada.
 2. Sales made to the United States Government or any instrumentality thereof are exempt from the tax imposed by this chapter.
 3. Sales made to any state, county, municipality, district or other political subdivision thereof are exempt from the tax imposed by this chapter.
 4. Sales made to any person to be used to propel a motor vehicle which is dedicated for exclusive use as part of a system which:
 - (a) Operates motor vehicles for public transportation in an urban area;
 - (b) Transports persons who pay the established fare; and

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- (c) Uses public money to operate the system or acquire new equipment, are exempt from the tax imposed by this chapter.
5. Sales made to any person for use in operating special mobile equipment are exempt from the tax imposed by this chapter.
4. **NRS 366.203** Addition of dye to certain exempt special fuel; operation or maintenance on highway of vehicle containing dyed special fuel.
- 1. Special fuel, other than compressed natural gas, liquefied petroleum gas or kerosene, which is exempt from the tax pursuant to subsection 3 or 4 of NRS 366.200 must be dyed before it is removed for distribution from a rack. The dye added to the exempt special fuel must be of the color and concentration required by the regulations adopted by the Secretary of the Treasury pursuant to 26 U.S.C. § 4082.**
2. Except as otherwise provided in subsections 3 and 4, a person shall not operate or maintain on any highway in this State a motor vehicle which contains dyed special fuel in the fuel tank of that vehicle. A person who operates or maintains a motor vehicle in violation of this subsection and the registered owner of the motor vehicle are jointly and severally liable for any taxes, penalties and interest payable to the Department.
3. A person who, pursuant to subsection 2, 3 or 4 of NRS 366.200, is exempt from the tax imposed by this chapter may operate or maintain a motor vehicle on a highway in this State which contains dyed special fuel in the fuel tank of that vehicle.
4. A person may operate or maintain on a highway in this State any special mobile equipment that is incidentally operated or moved upon a highway or farm equipment which contains dyed special fuel in the fuel tank of the special mobile equipment or farm equipment. As used in this subsection:
- (a) “Farm equipment” means any self-propelled machinery or motor vehicle that is designed solely for tilling soil or for cultivating, harvesting or transporting crops or other agricultural products and which is not required to be registered with the Department. The term includes a tractor, baler or swather, any implement used to retrieve hay, or any special mobile equipment that is used for farming purposes. The term does not include a truck-tractor or any other vehicle primarily used for hauling loads long distances over a public highway.
- (b) “Highway” does not include a controlled-access highway as defined in NRS 484A.060.
- (c) “Truck-tractor” has the meaning ascribed to it in NRS 482.130.
- (d) “Vehicle” has the meaning ascribed to it in NRS 482.135.
5. There is a rebuttable presumption that all special fuel which is not dyed special fuel and which is sold or distributed in this State is for the purpose of propelling a motor vehicle.
6. The Department shall, by regulation, define “incidentally operated or moved upon a highway” for purposes of this section.
5. **NRS 366.720** Unlawful acts; penalty.
1. Any person who:
- (a) Fails or refuses to pay the tax imposed by this chapter;
- (b) Engages in business in this State as a special fuel manufacturer, special fuel user, special fuel exporter, special fuel dealer or special fuel supplier, or acts in this State as a special fuel transporter, without being the holder of a license to engage in that business or to act in that capacity;
- (c) Fails to make any of the reports required by this chapter;
- (d) Makes any false statement in any application, report or statement required by this chapter;
- (e) Refuses to permit the Department or any authorized agent to examine records as provided by this chapter;
- (f) Fails to keep proper records of quantities of special fuel received, produced, refined, manufactured, compounded, used or delivered in this State as required by this chapter;
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- (g) Makes any false statement in connection with an application for the refund of any money or taxes provided in this chapter;
 - (h) Violates the provisions of NRS 366.265;
 - (i) Fails or refuses to stop his or her motor vehicle for an inspection to determine if all excise taxes due pursuant to the provisions of this chapter are being properly reported and paid; or
 - (j) Refuses to allow the Department or an authorized agent to inspect a motor vehicle to determine whether all excise taxes due pursuant to the provisions of this chapter are being properly reported and paid, is guilty of a misdemeanor.
2. Each day or part thereof during which any person engages in business as a special fuel manufacturer, special fuel dealer, special fuel supplier or special fuel exporter or acts as a special fuel transporter without being the holder of a license authorizing him or her to engage in that business or to act in that capacity constitutes a separate offense within the meaning of this section.
6. **NRS 366.745** Payment of cost of prosecution of violator. The Department is authorized to have paid out of the State Highway Fund all expenses incurred in the prosecution before any court of this State of any person charged with the violation of any provision of this chapter.
7. **NRS 366.750 Enforcement by sheriffs and other peace officers. County sheriffs and all other peace officers and traffic officers of this State shall, without further compensation, assist in the enforcement of this chapter, and make arrests for that purpose when requested by the Department or its duly authorized agents.**
8. In the 2015 legislative session, Nevada passed a bill allowing farmers and ranchers to obtain a permit that would allow them to claim a refund of 80% of the tax paid on fuel purchased for bulk storage that would be used solely for farming and ranching. For more information, go to https://www.leg.state.nv.us/Session/78th2015/Bills/SB/SB155_EN.pdf.

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Oregon

Oregon does not refer to dyed diesel in their statute and do not have fuel supply tank inspections. The following are links to fuel tax and weight/mile tax.

1. Motor Vehicle Fuel and Aircraft Fuel Taxes,
https://www.oregonlegislature.gov/bills_laws/ors/ors319.html.
2. Weight Mile Tax can be found under Motor Carriers,
https://www.oregonlegislature.gov/bills_laws/ors/ors825.html, and Registration of Commercial Vehicles,
https://www.oregonlegislature.gov/bills_laws/ors/ors826.html.

Texas

1. Location of state law, <http://www.statutes.legis.state.tx.us/Docs/TX/htm/TX.162.htm>
2. **Sec. 162.009. AUTHORITY TO STOP AND EXAMINE.** To enforce this chapter, the comptroller or a peace officer may stop a motor vehicle that appears to be operating with or transporting motor fuel to examine the shipping document, cargo manifest, or invoices required to be carried, examine a license or copy of a license that may be required to be carried, take samples from the fuel supply or cargo tanks, and make any other investigation that could reasonably be made to determine whether the taxes have been paid or accounted for by a license holder or a person required to be licensed. The comptroller, a peace officer, an employee of the attorney general's office, an employee of the Texas Commission on Environmental Quality, or an employee of the Department of Agriculture may take samples of motor fuel from a storage tank or container to:
 - (1) determine if the fuel contains hazardous waste or is adulterated; or
 - (2) allow the comptroller to determine whether taxes on the fuel have been paid or accounted for to this state.
3. **Sec. 162.205. PERSONS REQUIRED TO BE LICENSED.** (a) A person shall obtain the appropriate license or licenses issued by the comptroller before conducting the activities of:
 - (1) a supplier, who may also act as a distributor, importer, exporter, blender, motor fuel transporter, or aviation fuel dealer without securing a separate license, but who is subject to all other conditions, requirements, and liabilities imposed on those license holders;
 - (2) a permissive supplier, who may also act as a distributor, importer, exporter, blender, motor fuel transporter, or aviation fuel dealer without securing a separate license but who is subject to all other conditions, requirements, and liabilities imposed on those license holders;
 - (3) a distributor, who may also act as an importer, exporter, blender, or motor fuel transporter without securing a separate license, but who is subject to all other conditions, requirements, and liabilities imposed on those license holders;
 - (4) an importer, who may also act as an exporter, blender, or motor fuel transporter without securing a separate license, but who is subject to all other conditions, requirements, and liabilities imposed on those license holders;
 - (5) a terminal operator;
 - (6) an exporter;
 - (7) a blender;
 - (8) a motor fuel transporter;
 - (9) an aviation fuel dealer;
 - (10) an interstate trucker; or
 - (11) a dyed diesel fuel bonded user.(b) A person must obtain a license as a dyed diesel fuel bonded user to purchase dyed diesel fuel in amounts that exceed the limitations prescribed by Section 162.206(c). This subsection does not affect the right of a purchaser to purchase not more than the number of gallons of dyed diesel fuel prescribed by Section 162.206(c) each month for the purchaser's own use using a signed statement.
4. **Sec. 162.206. STATEMENT FOR PURCHASE OF DYED DIESEL FUEL.** (a) The first removal of diesel fuel from a terminal in this state is taxable, except the sale of dyed diesel fuel may be made without collecting the tax if the purchaser furnishes to a licensed supplier or distributor a signed statement that includes an end user number issued by the comptroller. A person who wants to use a signed statement to purchase dyed diesel fuel must apply to the comptroller for an end user number to be used in conjunction with a signed statement. A licensed supplier or distributor may not make a tax-free sale of any diesel fuel to a purchaser using a signed statement unless the purchaser has an end user number issued by the comptroller under this section. A taxable sale or removal of dyed diesel fuel may not be made under this chapter, except as prescribed by Subsection (d).

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(b) A sale of dyed diesel fuel may be made without collecting the tax if the purchaser furnishes to a licensed supplier or distributor a signed statement, including an end user number issued by the comptroller, that stipulates that:

(1) all of the dyed diesel fuel purchased on the signed statement will be consumed by the purchaser and will not be resold; and

(2) none of the dyed diesel fuel purchased on the signed statement will be delivered or permitted to be delivered into the fuel supply tank of a motor vehicle operated on the public highways of this state.

(c) A person may not make a tax-free purchase and a licensed supplier or distributor may not make a tax-free sale to a purchaser of any dyed diesel fuel under this section using a signed statement for the first sale or purchase and for any subsequent sale or purchase in a calendar month for more than:

(1) 10,000 gallons of dyed diesel fuel;

(2) 25,000 gallons of dyed diesel fuel if the purchaser stipulates in the signed statement that all of the fuel will be consumed by the purchaser in the original production of, or to increase the production of, oil or gas and furnishes the licensed supplier or distributor with a letter of exception issued by the comptroller; or

(3) 25,000 gallons of dyed diesel fuel if the purchaser stipulates in the signed statement that all of the fuel will be consumed by the purchaser in agricultural off-highway equipment.

(c-1) The monthly limitations prescribed by Subsection (c) apply regardless of whether the dyed diesel fuel is purchased in a single transaction during that month or in multiple transactions during that month.

(d) Any gallons purchased or sold in excess of the limitations prescribed by Subsection (c) constitute a taxable purchase or sale. A purchaser that exceeds the limitations prescribed by Subsection (c) shall be required to obtain a dyed diesel fuel bonded user license.

(e) The signed statement and end user number from the purchaser relieves the licensed supplier or distributor from the burden of proof that the sale of dyed diesel fuel for a nonhighway purpose was not taxable to the purchaser and remains in effect unless:

(1) the statement is revoked in writing by the purchaser or licensed supplier or distributor;

(2) the comptroller notifies the licensed supplier or distributor in writing that the purchaser may no longer make tax-free purchases; or

(3) the licensed supplier or distributor is put on notice by making taxable sales of dyed diesel fuel to a purchaser who has previously furnished a signed statement to the licensed supplier or distributor.

(f) For purposes of Subsection (e)(3), a licensed supplier or distributor is not put on notice when taxable sales of dyed diesel fuel are made in accordance with Subsection (d).

(g) The statement must be signed by the purchaser or the purchaser's representative.

(g-1) For purposes of this section, the purchaser is considered to have temporarily furnished the signed statement to the licensed supplier or distributor if the supplier or distributor verifies that the purchaser has an end user number issued by the comptroller. The licensed supplier or distributor shall use the comptroller's Internet website or other materials provided or produced by the comptroller to verify this information until the purchaser provides to the supplier or distributor a completed signed statement.

(h) The comptroller by rule may allow separate operating divisions of a corporation to give separate signed statements as if the divisions were different legal entities.

(i) The comptroller may adopt necessary forms and rules to administer and enforce this section.

(j) A taxable use of any part of the dyed diesel fuel purchased under a signed statement shall, in addition to application of any criminal penalty, forfeit the right of the person to purchase dyed diesel fuel tax-free for a period of one year from the date of the offense. Any tax, interest, and penalty found to be due through false or erroneous execution or continuance of a promissory

statement by the purchaser, if assessed to the licensed supplier or distributor, is a debt of the purchaser to the licensed supplier or distributor until paid and is recoverable at law in the same manner as the purchase price of the fuel.

(k) Properly completed signed statements should be in the possession of the licensed supplier or distributor at the time the sale of dyed diesel fuel occurs. If the licensed supplier or distributor is not in possession of the signed statements within 60 days after the date written notice requiring possession of them is given to the licensed supplier or distributor by the comptroller, exempt sales claimed by the licensed supplier or distributor that require delivery of the signed statements shall be disallowed. If the licensed supplier or distributor delivers the signed statements to the comptroller within the 60-day period, the comptroller may verify the reason or basis for the signed statements before allowing the exempt sales. An exempt sale may not be granted on the basis of signed statements delivered to the comptroller after the 60-day period.

(l) On receipt of notice transmitted by an electronic means of a final judgment entered by a court against a purchaser of dyed diesel fuel for failure to pay an amount owed to a licensed supplier or distributor for the purchase of dyed diesel fuel, the comptroller shall revoke the end user number issued to the purchaser. The comptroller shall provide the notice described by Subsection (e)(2) to the licensed supplier or distributor if the purchaser's end user number is revoked.

(m) The comptroller may reinstate an end user number that is revoked under Subsection (l) on receipt of proof transmitted by an electronic means and satisfactory to the comptroller that the purchaser whose end user number was revoked has satisfied the judgment described by Subsection (l), including all costs and other amounts awarded in the judgment.

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Utah

1. Location of state law, http://le.utah.gov/xcode/Title59/Chapter13/59-13-P3.html?v=C59-13-P3_1800010118000101
2. **59-13-303.** Special fuel user permits -- Application -- Revocation of permits under certain circumstances.
 - (1)
 - (a) Except as provided in Subsection (1)(b), each user shall, prior to the use of the fuel in a qualified motor vehicle, apply to the commission on forms prescribed by the commission for a special fuel user permit. When the application is approved by the commission, a single special fuel user permit shall be issued to the user.
 - (b) In place of the special fuel user permit issued under Subsection (1)(a), a user may purchase a special fuel user trip permit. A special fuel user trip permit is valid for 96 hours or until the qualified vehicle leaves the state, whichever occurs first.
 - (c) The fee for the special fuel user trip permit is \$25.
 - (2) A special fuel user permit number shall be assigned to each licensed user and is nontransferable and valid until surrendered by the user for nonuse or until revoked by the commission.
 - (3) The special fuel user permit expires December 31 of each year. Special fuel user permits for the calendar year shall be honored until February 28 of the following year. An application shall be filed with the commission each year for a new special fuel user permit for vehicles operated by a licensed user.
 - (4)
 - (a) The special fuel user permit shall be kept in the passenger compartment of each vehicle, or as otherwise authorized by the commission.
 - (b) A user that does not comply with the requirements of this section may be required to purchase a special fuel user trip permit.
 - (5) The commission may revoke the special fuel user permit issued under this section from any person refusing or neglecting to comply with this part.
 - (6) Any user reporting Utah special fuel tax liability under Part 5, Interstate Agreements, is exempted from the permit requirements of this section.
3. **59-13-311.** Tax is a lien against vehicle -- Removable only when tax is paid.

The special fuel tax constitutes a lien upon, and has the effect of an execution duly levied against, any vehicle in which special fuel is used. The lien may not be removed until the special fuel tax is paid or the vehicle subject to the lien is sold in payment of the tax.
4. **59-13-313.** Commission to enforce the laws -- Estimations of tax -- Penalties -- Notice of determinations -- Information sharing with other states.
 - (1)
 - (a) The commission is charged with the enforcement of this part and may prescribe rules relating to administration and enforcement of this part.
 - (b) The commission may coordinate with state and federal agencies in the enforcement of this part.**
 - (c) Enforcement procedures may include checking diesel fuel dye compliance of storage facilities and tanks of vehicles, in a manner consistent with state and federal law.**
 - (2)
 - (a) If the commission has reason to question the report filed or the amount of special fuel tax paid to the state by a user or supplier, the commission may compute and determine the amount to be paid based upon the best information available to the commission.
 - (b) Any added amount of special fuel tax determined to be due under this section shall:
 - (i) have added to it a penalty as provided under Section 59-1-401; and
 - (ii) bear interest at the rate and in the manner prescribed in Section 59-1-402.
 - (c)

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(i) The commission shall give to the user or supplier written notice of the commission's determination.

(ii) The commission may:

(A) serve the notice described in Subsection (2)(c)(i) personally; or

(B) send the notice described in Subsection (2)(c)(i) to the user or supplier at the user or supplier's last-known address as it appears in the records of the commission.

(3) The commission may, upon the duly received request of the officials to whom the enforcement of the special fuel laws of any other state are entrusted, forward to those officials any information which the commission may have in its possession relative to the delivery, removal, production, manufacture, refining, compounding, receipt, sale, use, transportation, or shipment of special fuel by any person.

5. **59-13-314.** Special fuel user permit required before registration of vehicle.

Before registering any motor vehicle which is operated by special fuels, the registered owner or lessee of the vehicle shall obtain a valid special fuel user permit for the current year if required under Section 59-13-303.

6. **59-13-320.5.** Use of dyed diesel on highways prohibited -- Penalty.

(1) A person may not operate a motor vehicle on a highway if a fuel supply tank of the motor vehicle contains dyed diesel fuel, unless:

(a) permitted under federal law;

(b)

(i) the motor vehicle is used on the highway only to travel from one parcel of land owned or operated by the owner to another parcel of land owned or operated by the owner; and

(ii) the motor vehicle's travel on the highway is necessary for furtherance of agricultural purposes; or

(c) the motor vehicle is special mobile equipment, as defined in Section 41-1a-102, including off-road motorized construction or maintenance equipment, that is only incidentally operated or moved on a highway in connection with a construction project.

(2) A person who violates Subsection (1) shall pay a penalty assessed by the commission as follows:

(a) the greater of \$500 or \$5 per gallon of dyed diesel fuel within each fuel supply tank of the motor vehicle, based on the maximum storage capacity of each fuel supply tank; or

(b) for a second and subsequent offense, the greater of \$1,000 or \$10 per gallon of dyed diesel fuel within each fuel supply tank of the motor vehicle, based on the maximum storage capacity of each fuel supply tank.

(3) The penalty imposed under this section:

(a) is in addition to any other taxes, interest, or penalties imposed under this chapter; and

(b) shall be deposited in the Transportation Fund.

(4) Upon making a record of its actions, and upon reasonable cause shown, the commission may waive, reduce, or compromise the penalty imposed under this section.

Washington

1. Location of state laws, <http://apps.leg.wa.gov/rcw/default.aspx?cite=82.38>, <http://apps.leg.wa.gov/rcw/default.aspx?cite=46.32>, and <http://apps.leg.wa.gov/rcw/default.aspx?cite=46.16A>
2. **RCW 82.38.065** Dyed special fuel use — Authorization, license required — Imposition of tax. (Effective July 1, 2015.)

A person may operate or maintain a licensed or required to be licensed motor vehicle with dyed special fuel in the fuel supply tank only if the use is authorized by the internal revenue code and the person is either the holder of a dyed special fuel user license or the use is exempt from the special fuel tax. A person may maintain dyed special fuel for a taxable use in bulk storage if the person is the holder of a dyed special fuel user license issued under this chapter.
3. **RCW 82.38.066** Dyed special fuel — Requirements — Marking — Notice. (Effective July 1, 2015.)
 - (1) Special fuel satisfies the dyeing and marking requirements of this chapter if it meets the dyeing and marking requirements of the internal revenue service, including, but not limited to, requirements respecting type, dosage, and timing.
 - (2) Notice is required with respect to dyed special fuel. A notice stating "DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE" must be:
 - (a) Provided by the terminal operator to a person who receives dyed special fuel at a terminal rack;
 - (b) Provided by a seller of dyed special fuel to the buyer if the special fuel is located outside the bulk transfer-terminal system and is not sold from a retail pump posted in accordance with the requirements of this subsection; or
 - (c) Posted by a seller on a retail pump dispensing dyed special fuel and provided by the seller of dyed special fuel to the buyer at the retail pump.
4. **RCW 82.38.072** Dyed special fuel — Penalties. (Effective July 1, 2015.)
 - (1) Unless the use is exempt from the special fuel tax, or expressly authorized by the federal internal revenue code and this chapter, a person having dyed special fuel in the fuel supply tank of a motor vehicle that is licensed or required to be licensed is subject to a civil penalty of ten dollars for each gallon of dyed special fuel placed into the supply tank of the motor vehicle, or one thousand dollars, whichever is greater. The penalties must be collected and administered under this chapter.
 - (2) A person who maintains dyed special fuel in bulk storage for an intended sale or use in violation of this chapter is subject to a civil penalty of ten dollars for each gallon of dyed special fuel, or one thousand dollars, whichever is greater, currently or previously maintained in bulk storage by the person. The penalties must be collected and administered under this chapter.
 - (3) For the purposes of enforcement of this section, the Washington state patrol or other commercial vehicle safety alliance-certified officers may inspect, collect, and secure samples of special fuel used in the propulsion of a vehicle operated upon the highways of this state to detect the presence of dye or other chemical compounds.**
 - (4) RCW 43.05.110 does not apply to the civil penalties imposed under subsection (1) of this section.
5. **RCW 82.38.170**, Civil and statutory penalties and interest — Deficiency assessments. (Effective July 1, 2015.)
 - (1) If any person fails to pay any taxes due the state of Washington within the time prescribed by RCW [82.38.150](#) and [82.38.160](#), the person must pay a penalty of ten percent of the tax due.
 - (2) If the tax reported by any licensee is deficient a penalty of ten percent of the deficiency must be assessed.
 - (3) If any licensee, whether or not licensed as such, fails, neglects, or refuses to file a required fuel tax report, the department must determine the tax liability and add the penalty provided in

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subsection (2) of this section to the liability. An assessment made by the department pursuant to this subsection or to subsection (2) of this section is presumed to be correct, and the burden is on the person who challenges the assessment to establish by a fair preponderance of the evidence that it is erroneous or excessive.

(4) If any licensee establishes by a fair preponderance of evidence that failure to file a report or pay the proper amount of tax within the time prescribed was due to reasonable cause and was not intentional or willful, the department may waive the penalty prescribed in subsections (1) and (2) of this section.

(5) If any licensee files a false or fraudulent report with intent to evade the tax imposed by this chapter, there is added to the amount of deficiency a penalty of twenty-five percent of the deficiency, in addition to all other penalties prescribed by law.

(6) If any person acts as a licensee without first securing the required license, all fuel tax liability incurred by that person becomes immediately due and payable. The department must determine the amount of the tax liability and must assess the person a penalty of one hundred percent of the tax in addition to the tax owed.

(7) Any fuel tax, penalties, and interest payable under this chapter shall bear interest at the rate of one percent per month, or fraction thereof, from the first day of the calendar month after the amount or any portion thereof should have been paid until the date of payment. The department may waive interest when it determines the cost of processing the collection exceeds the amount of interest due.

(8) Except in the case of filing a false or fraudulent report, if the department deems mitigation of penalties and interest to be reasonable and in the best interests of carrying out the purpose of this chapter, it may mitigate the assessments.

(9) Except in the case of a fraudulent report or failure to file a report, deficiencies, penalties, and interest must be assessed within five years from the twenty-fifth day of the next succeeding month following the reporting period for which the amount is determined or within five years after the return is filed, whichever period expires later.

(10)(a) Any licensee against whom an assessment is made under the provisions of subsections (1) and (2) of this section may petition for a reassessment within thirty days after service upon the licensee of the assessment. If such petition is not filed within such thirty day period, the amount of the assessment becomes final.

(b) If a petition for reassessment is filed within the thirty day period, the department must reconsider the assessment and, if the licensee has requested in the petition, must grant an informal hearing and give ten days' notice of the time and place. The department may continue the hearing as needed. The decision of the department upon a petition for reassessment becomes final thirty days after service upon the licensee.

(c) Every assessment made by the department becomes due and payable at the time it becomes final and if not timely paid to the department, a penalty of ten percent of the amount of the tax is added to the assessment.

(11) Any notice of assessment required by this section must be served by depositing such notice in the United States mail, postage prepaid addressed to the licensee at the address shown in the records of the department.

(12) Any licensee who has had a fuel license revoked must pay a one hundred dollar penalty prior to the issuance of a new license.

(13) Any person who, upon audit or investigation by the department, is found to have not paid fuel taxes as required by this chapter is subject to cancellation of all vehicle registrations for vehicles utilizing special fuel as a means of propulsion. Any unexpired Washington tonnage on the vehicles in question may be transferred to a purchaser of the vehicles upon application to the department who will hold such tonnage in its custody until a sale of the vehicle is made or the tonnage has expired.

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6. **RCW 82.38.260**, Administration and enforcement. (*Effective July 1, 2015.*)

- (1) The department may prescribe, adopt, and enforce reasonable rules relating to administration and enforcement of this chapter.
- (2) The department or its authorized representative may examine the books, papers, records, and equipment of any person distributing, transporting, storing, or using fuel to determine whether all taxes due or refundable are properly reported, paid, or claimed. If books, papers, records, and equipment are not maintained in this state at the time of demand, the department does not lose any right of examination.
- (3) The department may require additional reports from any licensee with reference to any of the matters herein concerned. Such reports must be made and filed on forms prepared by the department.
- (4) For the purpose of any investigation or proceeding, the director or designee may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the director deems relevant or material to the inquiry.
- (5) In the case of contumacy by or refusal to obey a subpoena issued to, any person, any court of competent jurisdiction upon application by the director, may issue to that person an order requiring appearance before the director or designee to produce testimony of other evidence regarding the matter under investigation or in question.
- (6) The department must, upon request from officials responsible for enforcement of fuel tax laws of any state, the District of Columbia, the United States, its territories and possessions, the provinces or the dominion of Canada, forward information relative to the receipt, storage, delivery, sale, use, or other disposition of fuel by any person, if the other furnishes like information.
- (7) The department may enter into a fuel tax cooperative agreement with another state, the District of Columbia, the United States, its territories and possessions, or Canadian province for the administration, collection, and enforcement of their respective fuel taxes.
- (8) For the purposes of administration, collection, and enforcement of taxes imposed under this chapter, pursuant to another agreement under chapter 82.41 RCW, chapter 82.41 RCW controls to the extent of any conflict.
- (9) The remedies of the state in this chapter are cumulative and no action taken by the department may be construed to be an election on the part of the state or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy for which provision is made in this chapter.

7. **WAC 308-77-114**, Unauthorized use of dyed diesel.

- (1) Is there any dye concentration in diesel fuel that the department cannot assess penalties for unlawful use? No. The department may assess on any dye concentration found in licensed vehicles, vehicles required to be licensed, or in bulk storage tanks used to fuel licensed or required to be licensed vehicles.**
- (2) Who can be assessed a penalty for unlawful use of dyed diesel?**
 - (a) The operator of the vehicle;**
 - (b) The registered owners of the vehicle;**
 - (c) Any person responsible for the operation, maintenance, or fueling of the vehicle.**
- (3) If dyed diesel is discovered in the fuel supply tanks of a vehicle, when must the fuel be removed? Dyed diesel fuel must be removed from the vehicles within twenty-four hours from the time of discovery. Detection of dyed diesel in the same vehicles after the twenty-four-hour period will be considered as a separate violation.**
- (4) Will I be assessed dyed diesel penalties on the fuel in bulk storage tanks? Yes, if any dyed diesel fuel from the bulk storage tanks has been used for unlawful purposes.**

(5) How is the dyed diesel fuel in a bulk storage tank assessed? The assessment is based on the capacity or estimated quantity of dyed diesel fuel in the bulk storage tanks without regard to how this fuel will be used.

(6) What if I refuse the department or authorized representative access to inspect the vehicles or bulk storage tanks? The penalty in RCW 82.38.170(13) will be calculated on the capacity of the bulk storage tanks and the number of vehicles subject to the refusal.

[Statutory Authority: RCW 82.38.260. WSR 09-07-075, § 308-77-114, filed 3/16/09, effective 4/16/09; WSR 01-22-073, § 308-77-114, filed 11/1/01, effective 12/2/01.]

8. **RCW 46.16A.080** Registration — Exemptions.

The following vehicles are not required to be registered under this chapter:

(1) Converter gears used to convert a semitrailer into a trailer or a two-axle truck or tractor into a three or more axle truck or tractor or used in any other manner to increase the number of axles of a vehicle;

(2) Electric-assisted bicycles;

(3)(a) Farm vehicles operated within a radius of twenty-five miles of the farm where it is principally used or garaged for the purposes of traveling between farms or other locations to engage in activities that support farming operations, (b) farm tractors and farm implements including trailers designed as cook or bunk houses used exclusively for animal herding temporarily operating or drawn upon the public highways, and (c) trailers used exclusively to transport farm implements from one farm to another during daylight hours or at night when the trailer is equipped with lights that comply with applicable law;

(4) Forklifts operated during daylight hours on public highways adjacent to and within five hundred feet of the warehouses they serve;

(5) Golf carts, as defined in RCW 46.04.1945, operating within a designated golf cart zone as described in RCW 46.08.175;

(6) Motor vehicles operated solely within a national recreation area that is not accessible by a state highway, including motorcycles, motor homes, passenger cars, and sport utility vehicles. This exemption applies only after initial registration;

(7) Motorized foot scooters;

(8) Nurse rigs or equipment auxiliary for the use of and designed or modified for the fueling, repairing, or loading of spray and fertilizer applicator rigs and not used, designed, or modified primarily for the purpose of transportation;

(9) Off-road vehicles operated on a street, road, or highway as authorized under RCW 46.09.360, or nonhighway roads under RCW 46.09.450;

(10) Special highway construction equipment;

(11) Dump trucks and tractor-dump trailer combinations that are:

(a) Designed and used primarily for construction work on highways;

(b) Not designed or used primarily for the transportation of persons or property on a public highway; and

(c) Only incidentally operated or moved over the highways;

(12) Spray or fertilizer applicator rigs designed and used exclusively for spraying or fertilization in the conduct of agricultural operations and not primarily for the purpose of transportation;

(13) Tow dollies;

(14) Trams used for transporting persons to and from facilities related to the horse racing industry as regulated in chapter 67.16 RCW, as long as the public right-of-way routes over which the trams operate are not more than one mile from end to end, the public rights-of-way over which the tram operates have average daily traffic of not more than fifteen thousand vehicles per day, and the activity is in conformity with federal law. The operator must be a licensed driver and at least eighteen years old. For the purposes of this section, "tram" also means a vehicle, or combination of vehicles linked together with a single mode of propulsion, used to transport persons from one location to another; and

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(15) Vehicles used by the state parks and recreation commission exclusively for park maintenance and operations upon public highways within state parks.

9. **RCW 46.32.010** Types of inspection authorized — Duties of state patrol — Penalties.

(1) The chief of the Washington state patrol may operate, maintain, or designate, throughout the state of Washington, stations for the inspection of commercial motor vehicles, school buses, and private carrier buses, with respect to vehicle equipment, drivers' qualifications, and hours of service and to set reasonable times when inspection of vehicles shall be performed.

(2) The state patrol may inspect a commercial motor vehicle while the vehicle is operating on the public highways of this state with respect to vehicle equipment, hours of service, and driver qualifications.

(3) It is unlawful for any vehicle required to be inspected to be operated over the public highways of this state unless and until it has been approved periodically as to equipment.

(4) Inspections shall be performed by a responsible employee of the chief of the Washington state patrol, who shall be duly authorized and who shall have authority to secure and withhold, with written notice to the director of licensing, the certificate of license registration and license plates of any vehicle found to be defective in equipment so as to be unsafe or unfit to be operated upon the highways of this state, and it shall be unlawful for any person to operate a vehicle placed out of service by an officer unless and until it has been placed in a condition satisfactory to pass a subsequent equipment inspection. The officer in charge of such vehicle equipment inspection shall grant to the operator of such defective vehicle the privilege to move such vehicle to a place for repair under such restrictions as may be reasonably necessary.

(5) In the event any insignia, sticker, or other marker is adopted to be displayed upon vehicles in connection with the inspection of vehicle equipment, it shall be displayed as required by the rules of the chief of the Washington state patrol, and it is a traffic infraction for any person to mutilate, destroy, remove, or otherwise interfere with the display thereof.

(6) It is a traffic infraction for any person to refuse to have his or her motor vehicle examined as required by the chief of the Washington state patrol, or, after having had it examined, to refuse to place an insignia, sticker, or other marker, if issued, upon the vehicle, or fraudulently to obtain any such insignia, sticker, or other marker, or to refuse to place his or her motor vehicle in proper condition after having had it examined, or in any manner, to fail to conform to the provisions of this chapter.

(7) It is a traffic infraction for any person to perform false or improvised repairs, or repairs in any manner not in accordance with acceptable and customary repair practices, upon a motor vehicle.

10. **RCW 46.16A.420** Farm vehicles — Farm exempt decal — Fee — Rules.

(1) A farmer shall apply to the department, county auditor or other agent, or subagent appointed by the director for a farm exempt decal for a farm vehicle if the farm vehicle is exempt under RCW 46.16A.080(3). The farm exempt decal:

(a) Allows the farm vehicle to be operated on public highways as identified under RCW 46.16A.080(3);

(b) Must be displayed on the farm vehicle so that it is clearly visible from outside of the farm vehicle;

(c) Must identify that the farm vehicle is exempt from the registration requirements of this chapter; and

(d) Must be visible from the rear of the farm vehicle. This requirement for a farm exempt decal to be visible from the rear of the vehicle applies only to farm exempt decals issued after July 28, 2013.

(2) A farmer or the farmer's representative must apply for a farm exempt decal on a form furnished or approved by the department. The application must show:

(a) The name and address of the person who is the owner of the vehicle;

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- (b) A full description of the vehicle, including its make, model, year, the motor number or the vehicle identification number if the vehicle is a motor vehicle, or the serial number if the vehicle is a trailer;
 - (c) The purpose for which the vehicle is principally used;
 - (d) The place where the farm vehicle is principally used or garaged; and
 - (e) Other information as required by the department upon application.
- (3) The department, county auditor or other agent, or subagent appointed by the director shall collect the fee required under RCW 46.17.325 when issuing a farm exempt decal.
- (4) A farm exempt decal may not be renewed. The status as an exempt vehicle continues until suspended or revoked for misuse, or when the vehicle is no longer used as a farm vehicle.
- (5) The department may adopt rules to implement this section.

Wyoming

1. Location of state law, <http://www.lexisnexis.com/hottopics/wystatutes/>
2. **§ 31-18-301.** Permanent cards and decals; operation without authority; inspections.
 - (a) The authority of any motor carrier issued after April 1, 1989, is valid until cancelled or revoked.
 - (b) No motor carrier that is required to have authority shall operate on the highways without a copy of the current authority carried in each power unit.
 - (c) A copy of the current authority shall upon demand, be presented by the driver of the vehicle to any of the field investigators of the department, members of the state highway patrol or authorized personnel of the department at its ports of entry. Investigators, troopers and authorized personnel may compel the driver to stop and submit the vehicle to an inspection by signs directing commercial vehicles or the motor carrier to stop at ports of entry or other locations designated by the department or by warning devices on vehicles of investigators, troopers or authorized personnel. All ports of entry shall post signs or signals indicating when the facility is open and directing commercial vehicles or motor carriers to stop for inspection. Notwithstanding the provisions of this section, a vehicle that is properly registered, has a proper fuel license, valid authority and is legal in size and weight, upon approval by the department, may be authorized to bypass a port of entry unless specifically directed to stop by an investigator, trooper or authorized personnel or by a sign or signal specifically requiring those vehicles to stop. These vehicles may, however, be required to slow to the designated speed and use the directed traffic lane for size and weight screening purposes.
 - (d) Vehicles checking through a port of entry shall not be required to stop at any other port of entry within the state on that trip unless there is an increase in the size or weight of the vehicle or its load, or unless specifically directed to stop by an investigator, trooper or authorized personnel or by a sign or signal specifically requiring those vehicles to stop.
3. **§ 39-17-208.** Enforcement.
 - (a) Audits. The following shall apply:
 - (i) All tax records specified in this article are open to examination by the director of the state department of audit or his deputies;
 - (ii) An agreement may provide for each member jurisdiction to audit the records of persons based in the jurisdiction to determine if the motor fuel taxes due each jurisdiction are properly reported and paid. Each state shall forward the findings of the audits performed on persons based in the jurisdiction to each jurisdiction in which the person has taxable use of motor fuels. For persons not based in this state and who have taxable use of motor fuel in this state, the department may serve the audit findings received from another jurisdiction, in the form of an assessment, on the person as though an audit was conducted by the department;
 - (iii) Any agreement entered into pursuant to this subsection does not preclude the department from auditing the records of any licensee under this chapter.
 - (b) Interest. The license taxes and penalty shall be collected by the department together with one percent (1%) per month or fractional part thereof on the license taxes from the due date until payment.
 - (c) Penalties. The following shall apply:
 - (i) Any person who conducts the business of a supplier, refiner, terminal operator, distributor, exporter or importer without holding a valid license as specified in W.S. 39-17-206 is guilty of a misdemeanor punishable as provided in paragraph (vii) of this subsection. Each day in violation of the provisions of this section constitutes a separate offense;
 - (ii) If any person fails or refuses to file the required statement or reports and remit the tax as provided by W.S. 39-17-207(a)(i)(A), (b)(i) and 39-17-206(f) and the department shall make a statement for that person from the best information available and from that statement shall determine the amount of the license and use taxes required to be paid and shall add a penalty of ten percent (10%) of the taxes due. The department shall notify the delinquent taxpayer of the

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total amount due by serving written notice upon the person personally or by the United States mail to the last known address as shown on the records of the department. If the delinquent taxpayer proves to the department that the delinquency was due to a reasonable cause, the department shall waive the penalty provided in this subsection. If the delinquent taxpayer after receiving the statement prepared by the department later renders to the department a true statement covering the same reporting period, the department shall use such statement, adding the penalty of ten percent (10%) and interest of one percent (1%) per month or fractional part thereof on the license taxes from the due date until payment. The penalty shall be waived by the department upon satisfactory written proof the delinquency was due to a reasonable cause. The department may suspend the license issued under this article of any person who fails or refuses to file required statements or reports and remit the tax as required under this article;

(iii) Any person who fails to furnish any report or remit any license tax to the department as required by this article is guilty of a misdemeanor. Each offense is punishable as provided in paragraph (vii) of this subsection. In addition, the department may suspend or revoke any license held by the offender and may require the offender, as a condition of any future licensing under this article, to provide a surety bond, cash bond or certificate of deposit as provided in W.S. 39-17-206(k);

(iv) Any supplier, refiner, terminal operator, distributor, exporter or importer selling diesel fuels subject to the license taxes imposed by this article while delinquent in the payment of any such taxes is liable for double the amount due to be recovered in a suit instituted by and in the name of the state of Wyoming. Upon application made by the state a writ of injunction may be issued, without requiring bond, against the defendants enjoining and restraining them from selling or offering to sell in the state diesel fuels until the license taxes are paid. Upon application made by the state a receiver of the property and business of the defendant may be appointed to impound the same as security for the delinquent tax and any judgment recovered in the suit;

(v) Any person who makes a false statement in a report required by this article is guilty of a misdemeanor punishable as provided in paragraph (vii) of this subsection. In addition, the person shall forfeit all rights to a refund to the extent that the false statement resulted in a refund larger than that to which the person was lawfully entitled;

(vi) Any person who does not display the price per gallon including all applicable taxes at which diesel fuels are to be sold as provided by W.S. 39-17-203(c)(iii) is guilty of a misdemeanor punishable as provided in paragraph (vii) of this subsection;

(vii) Any person violating any provision of this article, or who procures, aids or abets any person in a violation or noncompliance is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars (\$ 750.00), imprisonment for not more than six (6) months, or both;

(viii) Except as otherwise provided for by law, no person shall operate a motor vehicle upon any public road or highway in this state with dyed diesel fuel contained in the tank or tanks which supply diesel fuel to the engine of the motor vehicle. A state trooper or special enforcement officer, may, during an inspection under W.S. 31-18-301 or during a weight or safety inspection, withdraw and inspect any diesel fuel. A state trooper or special enforcement officer may, upon probable cause to believe that the vehicle is operating in violation of this paragraph or other law, withdraw and inspect any diesel fuel in the supply tank or tanks of the vehicle as authorized by W.S. 31-1-203(b). Any person who violates this subsection is guilty of a misdemeanor punishable by a fine of not more than five hundred dollars (\$ 500.00) or five dollars (\$ 5.00) for every gallon of fuel involved, whichever is greater. The penalty under this subsection shall increase with subsequent violations by multiplying the penalty imposed by the number of prior violations;

(ix) Repealed by Laws 1998, ch. 51, § 3.

(d) Liens. There are no specific applicable provisions for liens for this article.

(e) Tax sales. There are no specific applicable provisions for tax sales for this article.
