

Recommendations for Enhancement of Dyed Fuel Enforcement

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Legislative Requirement, HB 312aaSaaS, Section 13

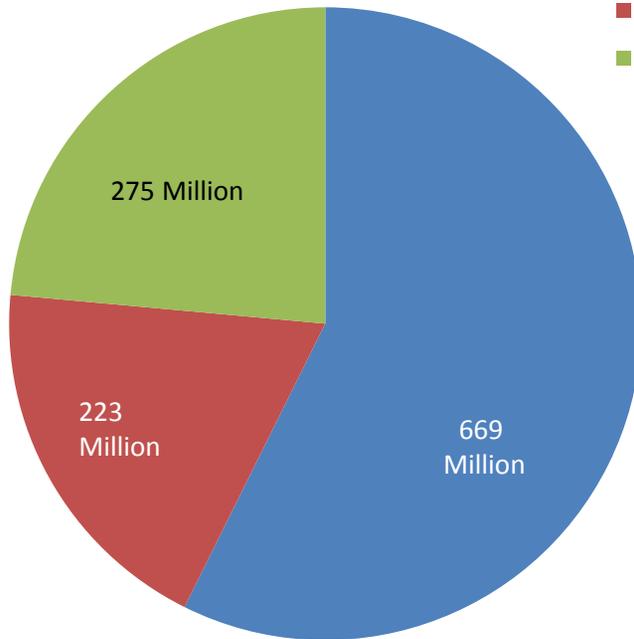
“It is the intent of the Legislature that the Idaho State Police and the State Tax Commission shall, no later than the first day of the 2016 legislative session, provide recommendations to the Senate Transportation Committee and the House Transportation and Defense Committee on greater enforcement of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

What Is Motor Fuel Tax For?

- Motor fuel tax is dedicated for Idaho highways (Article VII, Section 17, Idaho Constitution):
 - Construction
 - Repair
 - Maintenance

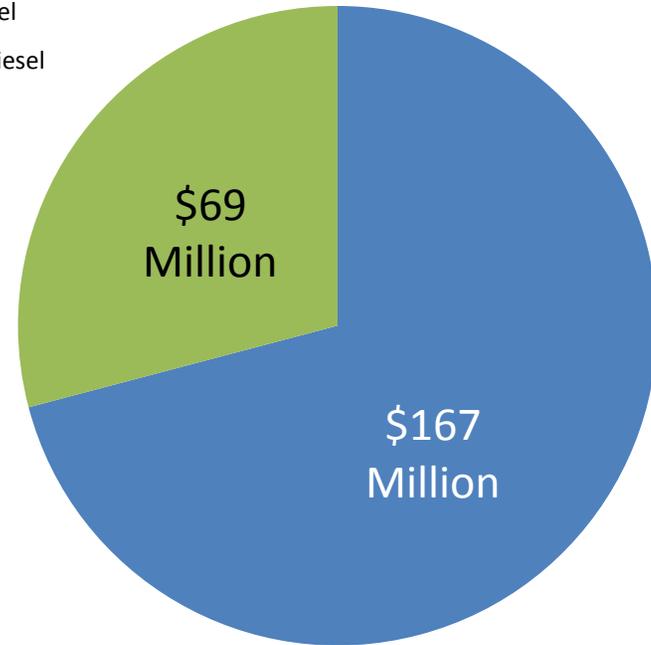
Motor Fuel Tax Received

Fiscal Year 2015 Gallons



- Gasoline
- Dyed Diesel
- Undyed Diesel

Fiscal Year 2015 Tax



What Is Dyed Diesel?

- Diesel marked with red dye to show it is exempt from fuel taxes.
 - IRS and EPA requirement (since 1993)
 - Dyeing adopted by Idaho (since 1995)
 - Used in equipment for nontaxable purposes
- Sales tax may apply on dyed diesel.
 - Exempt when fuel tax is included
 - When no fuel tax is included, production activities are exempt (e.g. farming, mining, logging)

When Is Dyed Diesel Used?

- Types of equipment which may use dyed diesel:
 - Farming equipment
 - Construction equipment
 - Logging equipment
- Some vehicles may use dyed diesel:
 - State and federal government vehicles
 - School buses
 - Highway department vehicles

Illegal Use of Dyed Diesel

- Use of dyed diesel in vehicles on Idaho highways is illegal unless exempt. (IC §§63-2425 & 2450)
- Users who illegally use dyed diesel in vehicles that are operated on the highways are not paying tax.

How Much Taxpayer Money is Lost?

- Current tax rates are:
 - 24.4 cents/gallon (Federal)
 - 32 cents/gallon (Idaho)
 - 56.4 cents/gallon (Total)
- One tanker load of diesel is 10,000 gallons.
- Idaho receives \$3,200 in tax per tanker load.

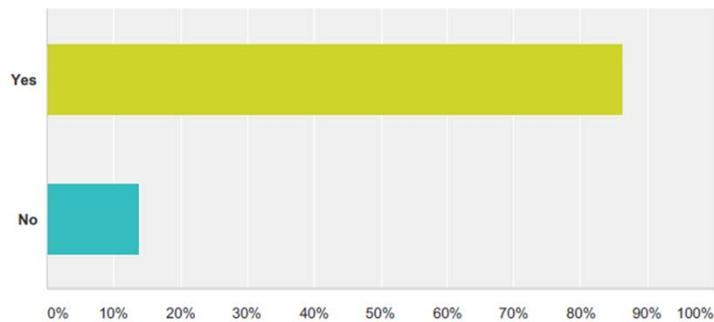
How Much Taxpayer Money is Lost?

- Estimating how much taxpayer money is lost to illegal use is difficult to determine.
- Montana estimated in 2006—with a dyed diesel enforcement program in place—16% of its revenues were lost.
- If Idaho is losing a similar amount, \$11.4 million was lost in fiscal year 2015.

Other State's Enforcement

Q1 Do you have a dyed diesel enforcement program?

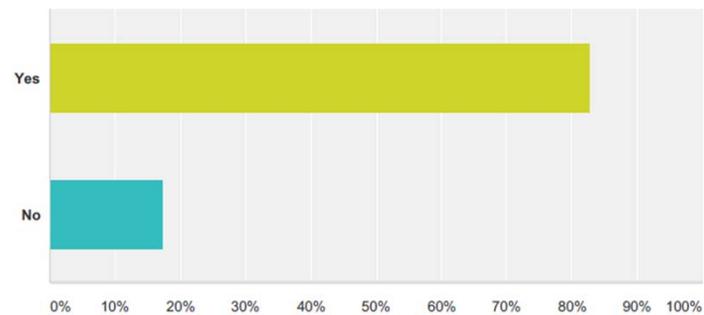
Answered: 29 Skipped: 0



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

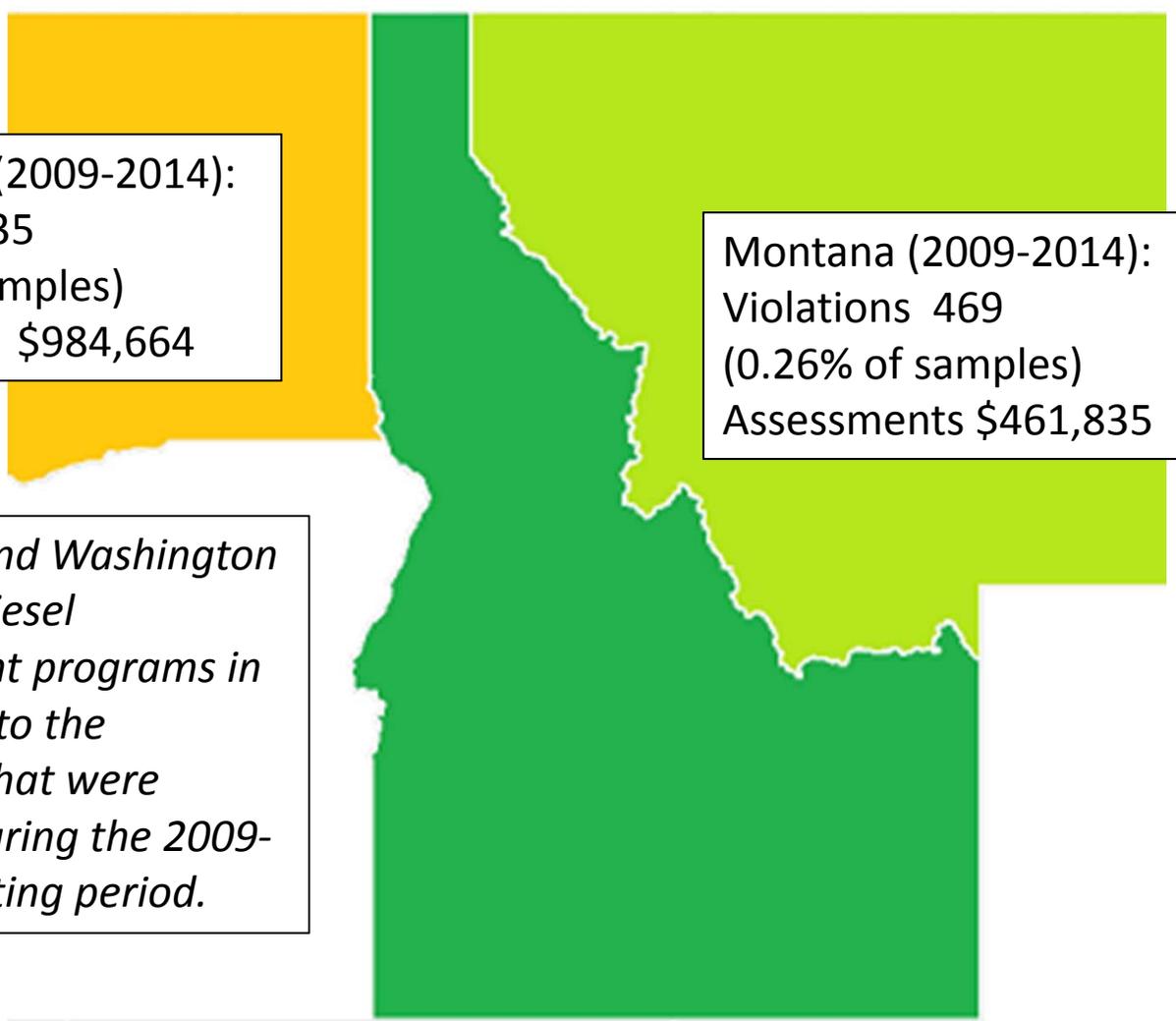
Q8 Does your program use roadside enforcement?

Answered: 29 Skipped: 0



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

Washington & Montana Enforcement

A map showing the states of Washington and Montana. Washington is colored orange and Montana is colored green. Two callout boxes are present: one for Washington (2009-2014) and one for Montana (2009-2014). A third callout box is located below the Washington callout.

Washington (2009-2014):
Violations 635
(5.83% of samples)
Assessments \$984,664

Montana (2009-2014):
Violations 469
(0.26% of samples)
Assessments \$461,835

Montana and Washington had dyed diesel enforcement programs in place prior to the violations that were reported during the 2009-2014 reporting period.

Ways to Deter Illegal Use

- Centralize fuel tax administration.
- Have dedicated fuel tax investigators.
- Have dedicated fuel tax prosecutors.
- Have sufficient and well trained compliance staff.
- Have designated on-road enforcement officers.
- Educate taxpayers.
- Minimize exemptions, refunds, and credits.
- License and bond dyed diesel sellers and purchasers.
- Have fines and penalties that deter illegal use.

Current Idaho Enforcement Activities

- State Tax Commission audits some consumers to ensure dyed diesel is not used illegally.
- State Tax Commission makes assessments when notified of violations by Idaho residents:
 - IRS
 - other states
- Idaho State Police may cite violators under specific circumstances.
- How can Idaho improve it's enforcement of dyed diesel?

How Can Idaho Improve Enforcement?

- Option #1: Allow inspection of main vehicle supply tank by the State Tax Commission or its designee (dipping).
 - This option will establish “designated on-road enforcement officers”.

How Can Idaho Improve Enforcement?

- Option #2: Add dedicated fuel tax investigation and prosecution units.
 - As an enhancement to Option #1, the dedicated investigation and prosecution units would support the dedicated on-road enforcement officers.

How Can Idaho Improve Enforcement?

- Option #3: Clarify that the violation is on the driver, vehicle owner, or both. Increase fines for the violations. The violation is on the person who would reasonably know of the violation.
 - As an enhancement to Option #1, the clarification of the law would support the dedicated on-road enforcement officers and dedicated investigation and prosecution units.

How Can Idaho Improve Enforcement?

- Option #4: Enhance dyed diesel referral program to include a Web page and reward fund
 - As an enhancement to Option #1, the referral program would require taxpayer education and a more visible presence on the State Tax Commission Web page.

How Can Idaho Improve Enforcement?

- 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.
 - Adopt a diesel fuel tax similar to Oregon's weight/distance tax. This would be more expansive than Idaho's previous weight/mile tax. It would only address dyed diesel use in commercial vehicles over 26,000 lbs. GVW.

How Can Idaho Improve Enforcement?

- Option #6: Tax all dyed diesel, and allow a refund for nontaxable use.
 - This would increase reporting and require more auditing of refund claims.

How Can Idaho Improve Enforcement?

- 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.
 - This would increase reporting and require more auditing of refund claims. It may be difficult to enforce.

How Can Idaho Improve Enforcement?

- 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 State Tax Commission for full accountability of fuel.
 - This would require an additional point of taxation and licensing of retailers. This would be similar to the tax system when gasoline was taxed at the distributor level and diesel taxed at the retail level.

How Can Idaho Improve Enforcement?

- 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.
 - This would require additional licensing and reporting by taxpayers.

Recommendations

- Option #1: Allow inspection of main vehicle supply tank.
 - Option #2: As an enhancement to Option #1, add dedicated fuel tax investigation and prosecution units.
 - Option #3: As an enhancement to Option #1, clarify who is the responsible person.
 - Option #4: As an enhancement to Option #1, enhance the dyed diesel referral program.

QUESTIONS?