

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 340

BY TRANSPORTATION AND DEFENSE COMMITTEE

AN ACT

1 RELATING TO TRANSPORTATION AND MOTOR FUEL TAXES AND FEES; TO PROVIDE A SHORT
2 TITLE; AMENDING SECTION 41-4909, IDAHO CODE, TO PROVIDE FOR A TRANSFER
3 FEE OF FOUR CENTS PER GALLON ON THE DELIVERY OR STORAGE OF CERTAIN FUELS
4 AND TO REMOVE LANGUAGE RELATING TO A CERTAIN CERTIFICATION AND TO MAKE A
5 TECHNICAL CORRECTION; AMENDING SECTION 41-4910, IDAHO CODE, TO REVISE
6 PROVISIONS RELATING TO THE DISTRIBUTION OF CERTAIN TRANSFER FEES AND
7 ACCUMULATED INTEREST, TO ESTABLISH PROVISIONS RELATING TO A CERTIFI-
8 CATION BY THE DIRECTOR AND DISTRIBUTION OF CERTAIN MONEYS AND TO MAKE
9 TECHNICAL CORRECTIONS; AMENDING SECTION 63-2402, IDAHO CODE, TO REVISE
10 THE TAX UPON CERTAIN MOTOR FUELS AND TO REVISE THE TAX UPON DIESEL FUEL;
11 AMENDING SECTION 63-2424, IDAHO CODE, TO REVISE CERTAIN FEES RELATING
12 TO VEHICLES POWERED BY GASEOUS FUELS; AMENDING TITLE 67, IDAHO CODE, BY
13 THE ADDITION OF A NEW SECTION 67-2914A, IDAHO CODE, TO ESTABLISH PRO-
14 VISIONS RELATING TO CERTAIN MONEYS IN THE IDAHO LAW ENFORCEMENT FUND
15 AND TO ESTABLISH PROVISIONS RELATING TO THE DYED FUEL ENFORCEMENT PILOT
16 PROGRAM; PROVIDING EFFECTIVE DATES AND PROVIDING A SUNSET DATE.
17

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

19 SECTION 1. SHORT TITLE. This act shall be known and may be cited as the
20 "Safe Roads Act of 2013."

21 SECTION 2. That Section 41-4909, Idaho Code, be, and the same is hereby
22 amended to read as follows:

23 41-4909. SOURCE OF TRUST FUND -- APPLICATION FEES -- APPLICATION FOR
24 ENROLLMENT -- TRANSFER FEES. (1) Every owner or operator of an underground
25 storage tank may, if he desires to apply to the trust fund to insure the un-
26 derground tank, make application for and pay into the trust fund an initial
27 application fee set by the administrator, but not to exceed twenty-five dol-
28 lars (\$25.00) for each tank for which application for coverage is made.

29 (2) Every owner or operator of an aboveground storage tank may, if he
30 desires to apply to the trust fund to insure the aboveground tank, make ap-
31 plication for and pay into the trust fund an initial application fee set by
32 the administrator, but not to exceed twenty-five dollars (\$25.00) for each
33 tank for which application for coverage is made.

34 (3) Every owner or operator of a farm tank or residential tank may, if he
35 desires to apply to the trust fund to insure the tank, make application for
36 and pay into the trust fund an initial application fee set by the administra-
37 tor, but not to exceed twenty-five dollars (\$25.00) for each tank for which
38 application for coverage is made.

39 (4) Every owner or operator of a heating tank may, if he desires to apply
40 to the trust fund to insure the tank, make application for and pay into the
41 trust fund an initial application fee set by the administrator, but not to

1 exceed five dollars (\$5.00) for each tank for which application for coverage
2 is made.

3 (5) The application for insurance shall be made to the administrator on
4 forms furnished and prescribed by the administrator for the purpose of elic-
5 iting reasonably available information as to the type and use of the storage
6 tank, the type of business enterprise of the tank owner or operator, the age
7 of the storage tank, the materials used in the construction of the tank and
8 the inside and outside protective coatings and other corrosion protective
9 measures, leak detection methods, spill and overflow prevention methods of
10 the tank, the location of the tank and its proximity to roads and buildings,
11 the foundation and type of material used as a bedding and fill for the tank,
12 any available inspection records of the tank including the gallons of petro-
13 leum products entered into the tank and the gallon dispersements from the
14 tank, and other information that is reasonably prudent in order to obtain
15 a sufficient body of statistical data to determine the relative hazards of
16 various categories of tanks, the potential that future leaks or discharges
17 may occur, and the conditions under which cleanup costs and personal injury
18 and property damage costs may occur and vary in the severity of the release
19 and the resultant costs to the trust fund.

20 (6) The administrator shall act upon the application for insurance with
21 all reasonable promptness, and the administrator shall make such investi-
22 gations of the applicant as the administrator deems advisable to determine
23 if the information contained in the application for insurance is accurate
24 and complete. The administrator shall determine if the applicant's storage
25 tanks meet all the eligibility requirements and promptly notify the appli-
26 cant of the acceptance or nonacceptance of the application for insurance.
27 The absence of unknown data requested on the application shall not preclude
28 an applicant's acceptance for coverage by the trust fund, if the applicant is
29 otherwise eligible for insurance under this chapter.

30 (7) In addition to the application fees received by the trust fund pur-
31 suant to this section, the trust fund shall receive the revenue produced by
32 the imposition of: a "transfer fee" of one cent (1¢) per gallon on the de-
33 livery or storage of all petroleum products as defined in subsection (23) of
34 section 41-4903, Idaho Code, delivered or stored within the state of Idaho;
35 and a "transfer fee" of four cents (4¢) per gallon on the delivery or stor-
36 age of all petroleum products, except aviation fuel, as defined in subsec-
37 tion (1) of section 63-2401, Idaho Code, delivered or stored within the state
38 of Idaho. This transfer fee is hereby imposed upon the first licensed dis-
39 tributor who receives, as receipt is determined in section 63-2403, Idaho
40 Code, a petroleum product within this state for the privilege of engaging in
41 the delivery or storage of petroleum products whose delivery or storage may
42 present the danger of a discharge into the environment and thus create the
43 liability to be funded. The fee imposed by this subsection shall not apply
44 to: (a) petroleum or petroleum products which are first delivered or stored
45 in this state in a container of fifty-five (55) gallons or less if such con-
46 tainer is intended to be transferred to the ultimate consumer of the petro-
47 leum or petroleum products; or (b) petroleum or petroleum products delivered
48 or stored in this state for the purpose of packaging or repackaging into con-
49 tainers of fifty-five (55) gallons or less if such container is intended to

1 be transferred to the ultimate consumer of the petroleum or petroleum prod-
2 ucts.

3 (8) The transfer fee shall be collected by the commission on all pe-
4 troleum products delivered or stored within this state after April 1, 1990.
5 This transfer fee shall be in addition to any excise tax imposed on motor fuel
6 or other petroleum products and shall be remitted to the commission with the
7 distributor's monthly report as required in section 63-2406, Idaho Code.
8 The distributor may deduct from his monthly report those gallons of petro-
9 leum products returned to a licensed distributor's refinery or pipeline
10 terminal storage or exported from the state when supported by proper docu-
11 ments approved by the commission. For the purpose of carrying out its duties
12 under the provisions of this chapter, the commission shall have the powers
13 and duties provided in sections 63-3038, 63-3039, 63-3042 through 63-3066,
14 63-3068, 63-3071, and 63-3074 through 63-3078, Idaho Code, which sections
15 are incorporated by reference herein as though set out verbatim.

16 (9) No person shall be excused from liability for any duty or fee im-
17 posed in this chapter for failure to obtain a distributor's license.

18 ~~(10) The director shall certify to the commission when the unencumbered~~
19 ~~balance in the trust fund equals thirty-five million dollars (\$35,000,000).~~
20 ~~Effective the first day of the second month following the date of such cer-~~
21 ~~tification, the imposition of the transfer fee shall be suspended. There-~~
22 ~~after, the director shall certify to the commission when the unencumbered~~
23 ~~balance in the trust fund equals twenty-five million dollars (\$25,000,000).~~
24 ~~Effective the first day of the second month following the date of such certi-~~
25 ~~fication, the imposition of the transfer fee shall be reinitiated.~~

26 SECTION 3. That Section 41-4910, Idaho Code, be, and the same is hereby
27 amended to read as follows:

28 41-4910. DISTRIBUTION OF APPLICATION FEES AND TRANSFER FEES. (1) The
29 application fees and the transfer fees collected as provided in this chapter
30 shall be promptly remitted to the state treasurer for deposit in the Idaho
31 petroleum clean water trust fund. The transfer fees and accumulated inter-
32 est which accrued to the fund prior to August 3, 1995, shall remain in the
33 fund. The transfer fees and accumulated interest, which have been held in a
34 separate suspense account since August 3, 1995, shall be distributed as pro-
35 vided in subsection (4) of this section. The transfer fees and accumulated
36 interest which accrue to the Idaho petroleum clean water trust fund subse-
37 quent to April 1, 1997, shall be distributed monthly thereafter as provided
38 in subsection (5) of this section.

39 (2) An amount of money equal to the actual cost of collecting, adminis-
40 tering and enforcing the transfer fee by the commission, as determined by it,
41 shall be retained by the commission. The amount retained by the commission
42 shall not exceed the amount authorized to be expended by appropriation by the
43 legislature. Any unencumbered balance in excess of the actual cost of col-
44 lection, administering and enforcing the transfer fee requirements by the
45 commission at the end of each fiscal year shall be remitted to the state trea-
46 surer for deposit into the Idaho petroleum clean water trust fund.

47 (3) From the receipts of the transfer fee, an amount of money shall be
48 distributed to the state refund account established under section 63-3067,
49 Idaho Code, sufficient to reimburse that account for all current refund

1 claims under this chapter paid from that account. Any refunds due and owing
 2 from the commission under this chapter shall be paid from the state refund
 3 account and those moneys are hereby continuously appropriated for that pur-
 4 pose.

5 (4) For the distribution on April 1, 1997, the balance of the transfer
 6 fees and accumulated interest accruing to the separate suspense account es-
 7 tablished for such fees on August 3, 1995, which remain after distributing
 8 the amounts specified in subsections (2) and (3) of this section, shall be
 9 distributed as follows:

10 (a) Twenty percent (20%) to the Idaho petroleum clean water trust fund
 11 established in section 41-4905, Idaho Code;

12 (b) Three percent (3%) to the Idaho department of parks and recreation
 13 in accordance with subparagraphs 1., 2. and 3. of paragraph (f), sub-
 14 section (1) of section 63-2412, Idaho Code; and

15 (c) The remainder shall be distributed:

16 (i) Six million dollars (\$6,000,000) to the state highway account
 17 for administration by the Idaho transportation department as pro-
 18 vided in section 41-4910A, Idaho Code; and

19 (ii) The balance remaining to the highway distribution account
 20 established in section 40-701, Idaho Code.

21 (5) For the distribution at the end of fiscal year 1997 and monthly
 22 thereafter, the balance of the transfer fees and accumulated interest ac-
 23 cruing to the Idaho petroleum clean water trust fund, which remain after
 24 distributing the amounts specified in subsections (2) and (3) of this sec-
 25 tion, shall be distributed as follows:

26 (a) ~~Seventy-seven percent (77%)~~ to the highway distribution account
 27 established in section 40-701, Idaho Code; ~~and~~

28 (b) Seven percent (7%) to the state highway account established in sec-
 29 tion 40-702, Idaho Code; and

30 (c) Three percent (3%) to the Idaho department of parks and recreation
 31 in accordance with subparagraphs 1., 2. and 3. of paragraph (f), sub-
 32 section (1) of section 63-2412, Idaho Code, as that section existed on
 33 July 1, 2009.

34 (6) (a) The director shall certify to the commission when the un-
 35 encumbered balance in the petroleum clean water trust fund equals
 36 thirty-five million dollars (\$35,000,000). Effective the first day of
 37 the second month following the date of such certification, the moneys
 38 from the transfer fee shall be distributed as follows:

39 (i) Three percent (3%) to the Idaho department of parks and recre-
 40 ation in accordance with subparagraphs 1., 2. and 3. of paragraph
 41 (f), subsection (1) of section 63-2412, Idaho Code;

42 (ii) Seven percent (7%) to the state highway account established
 43 in section 40-702, Idaho Code; and

44 (iii) Ninety percent (90%) to the highway distribution account as
 45 established in section 40-701, Idaho Code, for apportionment as
 46 designated in that section.

47 (b) Thereafter, the director shall certify to the commission when
 48 the unencumbered balance in the trust fund equals twenty-five million
 49 dollars (\$25,000,000). Effective the first day of the second month fol-
 50 lowing the date of such certification, the moneys from the transfer fee

1 shall be distributed in accordance with the provisions of subsection
2 (5) of this section.

3 SECTION 4. That Section 63-2402, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 63-2402. IMPOSITION OF TAX UPON MOTOR FUEL. (1) A tax is hereby imposed
6 upon the distributor who receives motor fuel in this state. The legal inci-
7 dence of the tax imposed under this section is borne by the distributor. The
8 tax becomes due and payable upon receipt of the motor fuel in this state by
9 the distributor unless such tax liability has previously accrued to another
10 distributor pursuant to this section. The tax shall be imposed without re-
11 gard to whether use is on a governmental basis or otherwise, unless exempted
12 by this chapter.

13 (2) (a) Except as provided for in paragraph (b) of this subsection,
14 on and after July 1, 2013, through June 30, 2014, the tax imposed in
15 this section shall be at the rate of twenty-five seven cents (25 $\frac{7}{10}$ ¢)
16 per gallon of motor fuel received, except fuel as defined in section
17 63-2401(23)(a), Idaho Code. This tax shall be subject to the exemp-
18 tions, deductions and refunds set forth in this chapter.

19 (b) On and after July 1, 2013, through June 30, 2014, the tax imposed
20 in this section shall be at the rate of twenty-eight cents (28¢) per
21 gallon of diesel fuel received, as that fuel is defined in section
22 63-2401(23)(a), Idaho Code. This tax shall be subject to the exemp-
23 tions, deductions and refunds set forth in this chapter.

24 (3) (a) Except as provided for in paragraph (b) of this subsection, on
25 and after July 1, 2014, through June 30, 2015, the tax imposed in this
26 section shall be at the rate of twenty-nine cents (29¢) per gallon of
27 motor fuel received, except fuel as defined in section 63-2401(23)(a),
28 Idaho Code. This tax shall be subject to the exemptions, deductions and
29 refunds set forth in this chapter.

30 (b) On and after July 1, 2014, through June 30, 2015, the tax im-
31 posed in this section shall be at the rate of thirty-one cents (31¢)
32 per gallon of diesel fuel received, as that fuel is defined in section
33 63-2401(23)(a), Idaho Code. This tax shall be subject to the exemp-
34 tions, deductions and refunds set forth in this chapter.

35 (4) (a) Except as provided for in paragraph (b) of this subsection, on
36 and after July 1, 2015, through June 30, 2016, the tax imposed in this
37 section shall be at the rate of thirty-one cents (31¢) per gallon of mo-
38 tor fuel received, except fuel as defined in section 63-2401(23)(a),
39 Idaho Code. This tax shall be subject to the exemptions, deductions and
40 refunds set forth in this chapter.

41 (b) On and after July 1, 2015, through June 30, 2016, the tax imposed
42 in this section shall be at the rate of thirty-four cents (34¢) per
43 gallon of diesel fuel received, as that fuel is defined in section
44 63-2401(23)(a), Idaho Code. This tax shall be subject to the exemp-
45 tions, deductions and refunds set forth in this chapter.

46 (5) (a) Except as provided for in paragraph (b) of this subsection, on
47 and after July 1, 2016, through June 30, 2017, the tax imposed in this
48 section shall be at the rate of thirty-three cents (33¢) per gallon of
49 motor fuel received, except fuel as defined in section 63-2401(23)(a),

1 Idaho Code. This tax shall be subject to the exemptions, deductions and
 2 refunds set forth in this chapter.

3 (b) On and after July 1, 2016, through June 30, 2017, the tax imposed
 4 in this section shall be at the rate of thirty-seven cents (37¢) per
 5 gallon of diesel fuel received, as that fuel is defined in section
 6 63-2401(23)(a), Idaho Code. This tax shall be subject to the exemp-
 7 tions, deductions and refunds set forth in this chapter.

8 (6) (a) Except as provided for in paragraph (b) of this subsection, on
 9 July 1, 2017, and thereafter, the tax imposed in this section shall be at
 10 the rate of thirty-five cents (35¢) per gallon of motor fuel received,
 11 except fuel as defined in section 63-2401(23)(a), Idaho Code. This tax
 12 shall be subject to the exemptions, deductions and refunds set forth in
 13 this chapter.

14 (b) On July 1, 2017, and thereafter, the tax imposed in this section
 15 shall be at the rate of forty cents (40¢) per gallon of diesel fuel re-
 16 ceived, as that fuel is defined in section 63-2401(23)(a), Idaho Code.
 17 This tax shall be subject to the exemptions, deductions and refunds set
 18 forth in this chapter.

19 (7) Nothing in this chapter shall prohibit the distributor who is liable
 20 for payment of the tax imposed under subsection (1) of this section from in-
 21 cluding as part of the selling price an amount equal to such tax on motor fu-
 22 els sold or delivered by such distributor; provided however, that nothing in
 23 this chapter shall be deemed to impose tax liability on any person to whom
 24 such fuel is sold or delivered except as provided in subsection (~~6~~10) of this
 25 section.

26 (48) Any person coming into this state in a motor vehicle may transport
 27 in the manufacturer's original tank of that vehicle, for his own use only,
 28 not more than thirty (30) gallons of motor fuel for the purpose of operating
 29 that motor vehicle, without complying with the provisions of this chapter.

30 (59) The tax imposed in this section does not apply to:

31 (a) Special fuels that have been dyed at a refinery or terminal under
 32 the provisions of 26 U.S.C. section 4082 and regulations adopted there-
 33 under, or under the clean air act and regulations adopted thereunder ex-
 34 cept as provided in section 63-2425, Idaho Code; or

35 (b) Special fuel dispensed into a motor vehicle which uses gaseous spe-
 36 cial fuels and which displays a valid gaseous special fuels permit under
 37 section 63-2424, Idaho Code; or

38 (c) Special fuels that are gaseous special fuels, as defined in section
 39 63-2401, Idaho Code, except that part thereof that is delivered into the
 40 fuel supply tank or tanks of a motor vehicle; or

41 (d) Aircraft engine fuel subject to tax under section 63-2408, Idaho
 42 Code.

43 (~~6~~10) Should the distributor of first receipt be exempt from imposition
 44 of the tax as a matter of federal law, by virtue of its status as a feder-
 45 ally-recognized Indian tribe or member of such tribe, such distributor shall
 46 not bear the tax's legal incidence and must pass the tax through as part of
 47 the selling price of the fuel. Such distributor shall retain the administra-
 48 tive obligation to remit the tax, and such obligation shall accrue upon re-
 49 ceipt in accordance with subsection (1) of this section. Should a retailer
 50 otherwise subject to the tax be exempt from imposition of the tax as a mat-

1 ter of federal law, by virtue of its status as a federally-recognized Indian
 2 tribe or member of such tribe, the retailer shall not bear the tax's legal in-
 3 cidence and must pass the tax through as part of the selling price of the fuel
 4 to the consumer, unless such consumer is exempt from imposition of the tax
 5 as a matter of federal law, by virtue of its status as a federally-recognized
 6 Indian tribe or membership in such tribe, and the retailer shall be entitled
 7 to claim a credit against taxes otherwise due and owing under this chapter or
 8 a tax refund, together with interest, attributable to the fuel purchased by
 9 such consumer.

10 SECTION 5. That Section 63-2424, Idaho Code, be, and the same is hereby
 11 amended to read as follows:

12 63-2424. GASEOUS FUELS. (1) In the case of special fuels which are in a
 13 gaseous form, the commission shall provide by rule the method to be used for
 14 converting the measurement of the fuel to the equivalent of gallons for the
 15 purpose of applying tax rates. The method provided shall cause the tax rate
 16 provided in section 63-2402, Idaho Code, to apply to an amount of gaseous fu-
 17 els having energy equal to one (1) gallon of gasoline.

18 (2) As an alternative to the provisions of subsection (1) of this sec-
 19 tion, an annual fee in lieu of the excise tax may be collected on a vehicle
 20 powered by gaseous fuels. The rate of the fee shall be based on the following
 21 schedule for all types of gaseous fuels as adjusted by the formula for prora-
 22 tion set out below. The permits shall be sold by gaseous fuels ~~distributors~~
 23 vendors dispensing gaseous fuels into motor vehicles.

| 24 | VEHICLE TONNAGE (GVW) | FEE |
|----|-----------------------|----------|
| 25 | 0 -- 8,000 | \$ 60.00 |
| 26 | 8,001 -- 16,000 | \$ 89.00 |
| 27 | 16,001 -- 26,000 | \$179.00 |
| 28 | 26,001 and above | \$208.00 |

| 29 | <u>VEHICLE TONNAGE (GVW)</u> | <u>FEE</u> |
|----|------------------------------|-----------------|
| 30 | <u>0 -- 8,000</u> | <u>\$140.00</u> |

31 8,001 and above shall use the provisions of subsection (1) of this section.

32 Permits for vehicles which are converted to gaseous fuels after the first of
 33 July in any year shall have the fee prorated for the appropriate number of
 34 months until renewal. The commission shall provide by rule the method to be
 35 used for converting the measurement of fuel to the equivalent of gallons for
 36 the purpose of applying increases in tax rates after this law becomes effec-
 37 tive. A decal issued by the commission shall be displayed in any vehicle for
 38 which a permit is issued hereunder as evidence that the annual fee has been
 39 paid in lieu of the fuel tax. This decal shall be displayed in a conspicuous
 40 place.

41 SECTION 6. That Chapter 29, Title 67, Idaho Code, be, and the same is
 42 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 43 ignated as Section 67-2914A, Idaho Code, and to read as follows:

1 67-2914A. IDAHO LAW ENFORCEMENT FUND -- DYED FUEL ENFORCEMENT PILOT
2 PROGRAM. (1) Of the moneys deposited into the Idaho law enforcement fund,
3 the director of the Idaho state police, in consultation with the director of
4 the Idaho transportation department, shall make available in state fiscal
5 years 2014, through 2016, two hundred fifty thousand dollars (\$250,000) each
6 year for the purposes of a pilot program to increase enforcement of the dyed
7 fuel limitations as provided for in section 63-2425, Idaho Code.

8 (2) For the length of the pilot program, the director of the Idaho state
9 police shall have the authority to carry out enforcement of the state's dyed
10 fuel laws as provided for in section 63-2425, Idaho Code, and may, pursuant
11 to the provisions of chapter 52, title 67, Idaho Code, adopt, amend or re-
12 scind rules as he deems necessary for the proper performance of all duties
13 associated with the fulfillment of the pilot program.

14 SECTION 7. The provisions of this act shall be in full force and effect
15 on and after July 1, 2013. The provisions of Section 6 of this act shall be
16 null, void and of no force and effect on and after July 1, 2016.