

# U.S. Rep. Gallagher: Leads Wisconsin delegation in call to fix tax anomaly affecting Wisconsin fuel supply

Posted on Tuesday, Dec 5, 2023

>> **WisPolitics is now on the State Affairs network. Get custom keyword notifications, bill tracking and all WisPolitics content. [Get the app or access via desktop.](#)**

**WASHINGTON, D.C.** — Today, Rep. Mike Gallagher (R-WI) led the entire Wisconsin congressional delegation in a bipartisan letter to Congressional leadership on the need to [pass legislation](#) that would fix an anomaly in the Tax Code that negatively affects the fuel supply in Wisconsin.

The issue stems from the closure of the Milwaukee-Green Bay segment of the West Shore pipeline in 2016, which forced diesel fuel suppliers to ship fuel to Northeast Wisconsin by truck. When doing so, fuel that is normally tax-exempt is subject to tax due to unforeseen and unintended logistical requirements. The IRS previously granted a tax waiver to suppliers but stopped issuing the waiver last year. This costs suppliers hundreds of thousands of dollars, contributes to fuel supply issues, and raises the cost of fuel for farmers, construction workers, and foresters who rely on dyed diesel fuel.

In part, the members wrote, ***“In the fall of 2022, non-contract dyed diesel sales were halted at the Green Bay regional terminal for several weeks because supply was not available without trucking in the fuel. To meet its contractual obligations, one supplier was forced to pay hundreds of thousands of dollars in fuel excise taxes that it did owe but should not have incurred.*”**

***“Additionally, as the winter months approach, barge shipments become impossible to complete due to ice cover on Lake Michigan, making a fix to this unintended tax issue even more important. Passing H.R. 3524 or S. 1692 is a commonsense and bipartisan fix that would provide needed*”**

***relief to a notable supply constraint for off-road diesel users in Wisconsin.***

See the full letter [HERE](#) or read full text below.

*Dear Speaker Johnson, Minority Leader Jeffries, Majority Leader Schumer, and Minority Leader McConnell:*

*We write to encourage you to include H.R. 3524 or S. 1692 in any forthcoming legislation that includes a tax title or seek passage under suspension of the rules or through a unanimous consent agreement. H.R. 3524 and S. 1692, which are cosponsored by the entire Wisconsin congressional delegation, address an anomaly in the Tax Code that threatens the fuel supply for Wisconsin farmers, foresters, and other non-highway users.*

*Currently, fuel transported between fuel terminals via pipeline or barge is not subject to fuel excise taxes until it leaves the final terminal. However, when fuel is transported by truck between fuel terminals, it is subject to fuel excise taxes when it leaves the first terminal and again when it leaves the second terminal. The Tax Code allows for a refund of the first tax payment when the second tax payment occurs for most diesel fuel. However, dyed diesel is not subject to fuel excise taxes since it is used in agriculture and other off-road industries. It is identical to on-road diesel except that it is mixed with a dye to differentiate it, but this dye is not added until the fuel leaves the final terminal. As a result, for fuel transported by truck there is no provision for a refund of the first tax because there is no second tax when dyed fuel leaves the final terminal. Thus, suppliers are subject to a tax liability on sales of non-taxable fuel that creates an unintended fuel supply barrier.*

*In 2016, a major supply pipeline in Wisconsin aged out of service and it became necessary to truck fuel between terminals. Absent the enactment of H.R. 3524 or S. 1692, fuel suppliers in Wisconsin can be faced with the choice of paying a tax that they should not be liable for or halting dyed diesel sales to farmers, foresters, and other consumers. This unintended tax situation resulted in a supply disruption last year when a tragic fire at a Great Lakes refinery curtailed suppliers' ability to barge fuel. In the fall of 2022, non-contract dyed diesel sales were halted at the Green Bay regional terminal for several weeks because supply was not available without trucking in the fuel. To meet its contractual obligations, one supplier was forced to pay hundreds of thousands of dollars in fuel excise taxes that it did owe but should not have incurred.*

*Additionally, as the winter months approach, barge shipments become impossible to complete due to ice cover on Lake Michigan, making a fix to this unintended tax issue even more important. Passing H.R. 3524 or S. 1692 is a commonsense and bipartisan fix that would provide needed relief to a notable supply constraint for off-road diesel users in Wisconsin.*

*Thank you for your attention to this matter. We look forward to working with you to address this important issue.*

*Sincerely,*