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HOUSE BILL 497

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Leo C. Watchman Jr.

AN ACT

**RELATING TO TAXATION; PROVIDING FOR A DEDUCTION FROM THE
PETROLEUM PRODUCTS LOADING FEE FOR CERTAIN GASOLINE AND SPECIAL
FUEL THAT IS SOLD ON INDIAN RESERVATION, PUEBLO GRANT OR TRUST
LAND AND ON WHICH A TRIBAL TAX OR FEE HAS BEEN IMPOSED FOR
CORRECTIVE ACTION AT SITES CONTAMINATED BY LEAKING STORAGE
TANKS; DECLARING AN EMERGENCY.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. Section 7-13A-3 NMSA 1978 (being Laws 1990,
Chapter 124, Section 16, as amended) is amended to read:**

**"7-13A-3. IMPOSITION AND RATE OF FEE--DENOMINATION AS
"PETROLEUM PRODUCTS LOADING FEE".--**

**A. For the privilege of loading gasoline or special
fuel from a rack at a refinery or pipeline terminal in this**

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1 state into a cargo tank, there is imposed a fee on the
2 distributor at a rate provided in Subsection C of this section
3 on each gallon of gasoline or special fuel loaded in New Mexico
4 on which the petroleum products loading fee has not been
5 previously paid.

6 B. For the privilege of importing gasoline or
7 special fuel into this state for resale or consumption in this
8 state there is imposed a fee determined as provided in
9 Subsection [E] D of this section on each load of gasoline or
10 special fuel imported into New Mexico for resale or consumption
11 on which the petroleum products loading fee has not been
12 previously paid. For the purposes of this section, "load"
13 means eight thousand gallons of gasoline or special fuel.
14 Loads shall be calculated to the nearest one-hundredth of a
15 load. To determine how many loads a person is to report under
16 the provisions of this section, the person shall divide by
17 eight thousand the sum of the following gallons:

18 (1) the total gallons of gasoline reported for
19 the purposes of Section 7-13-3 NMSA 1978 as adjusted under the
20 provisions of Subsections A through D of Section 7-13-4 NMSA
21 1978 and as further adjusted pursuant to Subsection C of this
22 section; and

23 (2) the total gallons of special fuels
24 received in New Mexico less any gallons exempted under Section
25 7-13A-4 NMSA 1978. [~~Loads shall be calculated to the nearest~~
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1 ~~one hundredth of a load.]~~

2 C. The total gallons of gasoline determined
3 pursuant to Paragraph (1) of Subsection B of this section shall
4 be adjusted by deducting the following gallons of gasoline:

5 (1) the total gallons of gasoline reported for
6 purposes of Section 7-13-3 NMSA 1978 that are sold at retail by
7 a registered Indian tribal distributor, meet the requirements
8 of Subparagraphs (a) through (c) of this paragraph and are
9 calculated pursuant to Subparagraph (d) of this paragraph:

10 (a) the sale of the gasoline occurs on
11 the Indian reservation, pueblo grant or trust land of the
12 distributor's Indian nation, tribe or pueblo;

13 (b) the gasoline is placed into the fuel
14 supply tank of a motor vehicle on that reservation, pueblo
15 grant or trust land;

16 (c) the Indian nation, tribe or pueblo
17 has certified to the department that it has in effect an
18 excise, privilege or similar tax or fee on the gasoline that is
19 used for a purpose similar to the program established for
20 corrective action at sites contaminated by leaking storage
21 tanks pursuant to the Ground Water Protection Act; and

22 (d) the volume of gasoline to be
23 deducted pursuant to this paragraph shall be the total gallons
24 sold in accordance with the provisions of Subparagraphs (a)
25 through (c) of this paragraph multiplied by a fraction the

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1 numerator of which is the rate of the tribal tax or fee
2 certified to the department by the Indian nation, tribe or
3 pueblo and the denominator of which is the rate of the
4 petroleum products loading fee imposed pursuant to this
5 section, but if the fraction exceeds one, it shall be one for
6 the purposes of determining the deduction; and

7 (2) the total gallons of gasoline reported for
8 purposes of Section 7-13-3 NMSA 1978 that are sold at retail by
9 a person other than a registered Indian tribal distributor,
10 meet the requirements of Subparagraphs (a) through (d) of this
11 paragraph and are calculated pursuant to Subparagraph (e) of
12 this paragraph:

13 (a) the sale of the gasoline occurs on
14 the Indian reservation, pueblo grant or trust land;

15 (b) the gasoline is placed into the fuel
16 supply tank of a motor vehicle on that reservation, pueblo
17 grant or trust land;

18 (c) the Indian nation, tribe or pueblo
19 has certified to the department that it has in effect an
20 excise, privilege or similar tax or fee on the gasoline that is
21 used for a purpose similar to the program established for
22 corrective action at sites contaminated by leaking storage
23 tanks pursuant to the Ground Water Protection Act;

24 (d) the person selling the gasoline is
25 subject to and in compliance with the tax or fee on the

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1 gasoline described in Subparagraph (c) of this paragraph that
2 is imposed by the Indian nation, tribe or pueblo where the sale
3 occurs; and

4 (e) the volume of gasoline to be
5 deducted pursuant to this paragraph shall be the total gallons
6 sold in accordance with the provisions of Subparagraphs (a)
7 through (d) of this paragraph multiplied by a fraction the
8 numerator of which is the rate of the tribal tax or fee
9 certified to the department by the Indian nation, tribe or
10 pueblo and the denominator of which is the rate of the
11 petroleum products loading fee imposed pursuant to this
12 section, but if the fraction exceeds one, it shall be one for
13 the purposes of determining the deduction.

14 ~~[E.]~~ D. The fee imposed by this section is and may
15 be referred to as the "petroleum products loading fee" and
16 shall be one hundred fifty dollars (\$150) per load or whichever
17 of the following applies:

18 (1) in the event the secretary of environment
19 certifies that the unobligated balance of the corrective action
20 fund at the end of the prior fiscal year equals or exceeds
21 eighteen million dollars (\$18,000,000), the fee shall be set at
22 forty dollars (\$40.00) per load;

23 (2) in the event the secretary of environment
24 certifies that the unobligated balance of the corrective action
25 fund at the end of the prior fiscal year exceeds twelve million

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1 dollars (\$12,000,000) but is less than eighteen million dollars
2 (\$18,000,000), the fee shall be set at eighty dollars (\$80.00)
3 per load;

4 (3) in the event the secretary of environment
5 certifies that the unobligated balance of the corrective action
6 fund at the end of the prior fiscal year exceeds six million
7 dollars (\$6,000,000) but is less than twelve million dollars
8 (\$12,000,000), the fee shall be set at one hundred twenty
9 dollars (\$120) per load; and

10 (4) in the event the secretary of environment
11 certifies that the unobligated balance of the corrective action
12 fund at the end of the prior fiscal year is less than six
13 million dollars (\$6,000,000), the fee shall be set at one
14 hundred fifty dollars (\$150) per load.

15 ~~[D.]~~ E. The amount of the petroleum products
16 loading fee set pursuant to Paragraph (1), (2), (3) or (4) of
17 Subsection ~~[C]~~ D of this section shall be imposed on the first
18 day of the month following expiration of ninety days after the
19 end of the fiscal year for which the certification was made.

20 ~~[E.]~~ F. As used in this section, "unobligated
21 balance of the corrective action fund" means corrective action
22 fund equity less all known or anticipated liabilities against
23 the fund. "

24 Section 2. EMERGENCY. --It is necessary for the public
25 peace, health and safety that this act take effect immediately.

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