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HOUSE BILL 504

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

INTRODUCED BY

Fred Luna

AN ACT

**RELATING TO TAXATION; PROVIDING FOR ADDITIONAL DEDUCTIONS
PURSUANT TO THE GASOLINE TAX ACT AND THE SPECIAL FUELS
SUPPLIER TAX ACT.**

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

**Section 1. A new section of the Gasoline Tax Act is
enacted to read:**

**"[NEW MATERIAL] ADDITIONAL DEDUCTIONS.--In computing the
gasoline tax due, the following amounts of gasoline may be
deducted from the total amount of gasoline received in New
Mexico during the tax period, provided satisfactory proof
thereof is furnished to the department:**

**A. gasoline received in New Mexico but lost or
destroyed by fire, lightning, flood, tornado, windstorm,
explosion or other casualty;**

underscored material = new
[bracketed material] = delete

1 B. gasoline received in New Mexico for which the
2 taxpayer was not paid and the account has been determined to
3 be worthless and claimed as a bad debt deduction for federal
4 income tax purposes;

5 C. one percent of the total number of gallons of
6 gasoline received during the tax period, to reimburse the
7 taxpayer for the expenses incurred on behalf of the state in
8 collecting and remitting the gasoline tax and preparing and
9 maintaining reports and records for purposes of the Gasoline
10 Tax Act; and

11 D. one percent of the total number of gallons of
12 gasoline received during the tax period, to cover the
13 shrinkage, evaporation, spillage and handling losses of
14 retailers. The deduction in this subsection shall be allowed
15 only upon filing with the report to the department for the tax
16 period evidence satisfactory to the department that the
17 taxpayer has made a corresponding credit allowance or payment
18 to the retailer for such losses. A distributor who sells and
19 delivers gasoline directly to the consumer and not for resale
20 shall with respect to those sales be deemed a retailer for
21 purposes of this subsection. "

22 Section 2. Section 7-16A-10 NMSA 1978 (being Laws 1992,
23 Chapter 51, Section 10, as amended) is amended to read:

24 "7-16A-10. DEDUCTIONS--SPECIAL FUEL EXCISE TAX--SPECIAL
25 FUEL SUPPLIERS.--In computing the tax due, the following

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underscored material = new
[bracketed material] = delete

1 amounts of special fuel may be deducted from the total amount
2 of special fuel received in New Mexico during the tax period,
3 provided that satisfactory proof thereof is furnished to the
4 department:

5 A. special fuel received in New Mexico, but
6 exported from this state by a rack operator, special fuel
7 supplier or dealer, other than in the fuel supply tank of a
8 motor vehicle or sold for export by a rack operator or
9 distributor; provided that, in either case:

10 (1) the person exporting the special fuel is
11 registered in or licensed by the destination state to pay that
12 state's special fuel or equivalent fuel tax;

13 (2) proof is submitted that the destination
14 state's special fuel or equivalent fuel tax has been paid or
15 is not due with respect to the special fuel; or

16 (3) the destination state's special fuel or
17 equivalent fuel tax is paid to New Mexico in accordance with
18 the terms of an agreement entered into pursuant to Section
19 9-11-12 NMSA 1978 with the destination state;

20 B. special fuel sold to the United States or any
21 agency or instrumentality thereof for the exclusive use of the
22 United States or any agency or instrumentality thereof.
23 Special fuel sold to the United States includes special fuel
24 delivered into the supply tank of a government-licensed
25 vehicle;

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underscored material = new
[bracketed material] = delete

1 C. special fuel sold to the state of New Mexico or
2 any political subdivision, agency or instrumentality thereof
3 for the exclusive use of the state of New Mexico or any
4 political subdivision, agency or instrumentality thereof.

5 Special fuel sold to the state of New Mexico includes special
6 fuel delivered into the supply tank of a government-licensed
7 vehicle;

8 D. special fuel sold to an Indian nation, tribe or
9 pueblo or any agency or instrumentality thereof for the
10 exclusive use of the Indian nation, tribe or pueblo or any
11 agency or instrumentality thereof. Special fuel sold to an
12 Indian nation, tribe or pueblo includes special fuel delivered
13 into the supply tank of a government-licensed vehicle;

14 E. special fuel sold to the holder of a special
15 bulk storage user permit and delivered into special bulk
16 storage pursuant to the provisions of Section 7-16A-8 NMSA
17 1978; [and]

18 F. special fuel dyed in accordance with federal
19 regulations and used in any manner other than for propulsion
20 of motor vehicles on the highways of this state or activities
21 ancillary to that propulsion;

22 G. special fuel lost or destroyed by fire,
23 lightning, flood, tornado, windstorm, explosion or other
24 casualty;

25 H. special fuel for which the taxpayer was not

underscored material = new
[bracketed material] = delete

1 paid and the account has been determined to be worthless and
2 claimed as a bad debt deduction for federal income tax
3 purposes;

4 I. one percent of the total number of gallons of
5 special fuel received during the tax period, to reimburse the
6 taxpayer for the expenses incurred on behalf of the state in
7 collecting and remitting the special fuel excise tax and
8 preparing and maintaining reports and records for purposes of
9 the Special Fuels Supplier Tax Act; and

10 J. one percent of the total number of gallons of
11 special fuel received during the tax period, to cover the
12 shrinkage, evaporation, spillage and handling losses of a
13 dealer. The deduction in this subsection shall be allowed
14 only upon filing with the report to the department for the tax
15 period evidence satisfactory to the department that the
16 taxpayer has made a corresponding credit allowance or payment
17 to the dealer for such losses. A supplier who sells and
18 delivers special fuel directly to the user and not for resale
19 shall with respect to those sales be deemed a dealer for
20 purposes of this subsection."

21 Section 3. EFFECTIVE DATE. -- The effective date of the
22 provisions of this act is July 1, 2001.