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SENATE BILL 119

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

INTRODUCED BY

Lidi o G. Rainaldi

AN ACT

RELATING TO TAXATION; AMENDING THE GASOLINE TAX ACT REGARDING
THE DEDUCTION FOR GASOLINE SOLD BY REGISTERED INDIAN TRIBAL
DISTRIBUTORS.

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

Section 1. Section 7-13-4 NMSA 1978 (being Laws 1991,
Chapter 9, Section 32, as amended) is amended to read:

"7-13-4. DEDUCTIONS--GASOLINE TAX.--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 exported
from this state by a rack operator, distributor or wholesaler
other than in the fuel supply tank of a motor vehicle or sold

underscored material = new
[bracketed material] = delete

1 for export by a rack operator or distributor; provided that,
2 in either case:

3 (1) the person exporting the gasoline is
4 registered in or licensed by the destination state to pay that
5 state's gasoline or equivalent fuel tax;

6 (2) proof is submitted that the destination
7 state's gasoline or equivalent fuel tax has been paid or is
8 not due with respect to the gasoline; or

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

13 B. gasoline received in New Mexico sold to the
14 United States or any agency or instrumentality thereof for the
15 exclusive use of the United States or any agency or
16 instrumentality thereof. Gasoline sold to the United States
17 includes gasoline delivered into the supply tank of a
18 government-licensed vehicle of the United States;

19 C. gasoline received in New Mexico sold to an
20 Indian nation, tribe or pueblo or ~~[any]~~ a political
21 subdivision, agency or instrumentality of that Indian nation,
22 tribe or pueblo for the exclusive use of the Indian nation,
23 tribe or pueblo or any political subdivision, agency or
24 instrumentality thereof. Gasoline sold to an Indian nation,
25 tribe or pueblo includes gasoline delivered into the supply

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1 tank of a government-licensed vehicle of the Indian nation,
2 tribe or pueblo;

3 D. gasoline received in New Mexico, dyed in
4 accordance with department [~~regulations~~] rules and used in
5 [~~any~~] a manner other than for propulsion of motor vehicles on
6 the highways of this state or motorboats or activities
7 ancillary to that propulsion;

8 E. gasoline received in New Mexico and sold at
9 retail by a registered Indian tribal distributor if:

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

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

16 (3) the Indian nation, tribe or pueblo has
17 certified to the department that it has in effect an excise,
18 privilege or similar tax on the gasoline; provided that the
19 volume of gasoline deducted pursuant to this subsection shall
20 be the total gallons sold in accordance with the provisions of
21 this subsection multiplied by a fraction the numerator of
22 which is the rate of the tribal tax certified to the
23 department by the Indian nation, tribe or pueblo and the
24 denominator of which is the rate of the gasoline tax imposed
25 pursuant to the Gasoline Tax Act, but if the fraction exceeds

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[bracketed material] = delete

1 one, it shall be one for purposes of determining the
2 deduction; and

3 F. gasoline received in New Mexico and sold by a
4 registered Indian tribal distributor from a nonmobile storage
5 ~~[container]~~ facility certified by the department, that is
6 located within that distributor's Indian reservation, pueblo
7 grant or trust land for resale outside that distributor's
8 Indian reservation, pueblo grant or trust land; provided the
9 department certifies that the distributor claiming the
10 deduction ~~[sold no less than one million gallons of gasoline~~
11 ~~from a nonmobile storage container located within that~~
12 ~~distributor's Indian reservation, pueblo grant or trust land~~
13 ~~for resale outside that distributor's Indian reservation,~~
14 ~~pueblo grant or trust land during the period of May through~~
15 ~~August 1998]~~ was certified by the department as a registered
16 Indian tribal distributor prior to January 1, 1997; and
17 provided further that the amount of gasoline deducted by a
18 registered Indian tribal distributor pursuant to this
19 subsection shall not exceed two million five hundred thousand
20 gallons per month, calculated as a monthly average during the
21 calendar year. Volumes deducted pursuant to Subsection E of
22 this section shall not be deducted pursuant to this
23 subsection. "