

HOUSE FLOOR SUBSTITUTE FOR
HOUSE RULES AND ORDER OF BUSINESS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 329

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
ESTABLISHING BORDER CROSSING SPECIAL FUEL USER PERMITS FOR
SPECIAL FUEL USERS MAKING LIMITED-DISTANCE TRIPS ACROSS THE NEW
MEXICO-MEXICO BORDER; ADJUSTING THE TERMS APPLICABLE TO
TEMPORARY SPECIAL FUEL USER PERMITS; PRESCRIBING PENALTIES.

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

SECTION 1. A new section of the Special Fuels Supplier
Tax Act is enacted to read:

"[NEW MATERIAL] BORDER CROSSING SPECIAL FUEL USER
PERMIT.--

A. A special fuel user who operates a commercial
motor carrier vehicle registered or titled in Mexico, who is
engaged primarily in movement across the New Mexico-Mexico
border and into or from an international border commercial zone

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underscored material = new
~~[bracketed material] = delete~~

1 and whose exclusive use of New Mexico highways is limited to an
2 area within ten miles of the New Mexico-Mexico border may apply
3 for, on a form approved by the department, a quarterly, semi-
4 annual or annual border crossing special fuel user permit. The
5 department shall issue the permit if it approves the
6 application and upon payment of the fee for the permit.

7 B. The department shall establish by rule the
8 amount, which shall not exceed the following, of fees for
9 border crossing special fuel user permits:

10 (1) for a quarterly permit, one hundred
11 twenty-five dollars (\$125);

12 (2) for a semi-annual permit, two hundred
13 dollars (\$200); and

14 (3) for an annual permit, three hundred fifty
15 dollars (\$350).

16 C. The department may revoke, after notice and a
17 hearing, the border crossing special fuel user permit of a
18 special fuel user found to have violated the Special Fuels
19 Supplier Tax Act.

20 D. As used in this section, "international border
21 commercial zone" means that part of a commercial zone
22 established by a law of the United States that extends into New
23 Mexico."

24 SECTION 2. Section 7-16A-2.1 NMSA 1978 (being Laws 1997,
25 Chapter 192, Section 6) is amended to read:

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1 "7-16A-2.1. WHEN SPECIAL FUEL RECEIVED OR USED--WHO IS
2 REQUIRED TO PAY TAX.--

3 A. A rack operator receives special fuel at the
4 time and place when the rack operator first loads the special
5 fuel at the refinery or pipeline terminal into tank cars, tank
6 trucks, tank wagons or any other type of transportation
7 equipment or when the rack operator places the special fuel
8 into any tank or other container in this state from which sales
9 or deliveries not involving transportation are made. A rack
10 operator who receives special fuel is required to pay [~~special~~
11 ~~fuel-excise~~] the tax on the special fuel received, except as
12 provided otherwise in Subsection B of this section. Special
13 fuel is not received when it is shipped from one refinery or
14 pipeline terminal to another refinery or pipeline terminal.

15 B. When the rack operator first loads special fuel
16 at the refinery or pipeline terminal into tank cars, tank
17 trucks, tank wagons or any other type of transportation
18 equipment for the account of another person who is registered
19 with the department as a supplier and is taxable under the
20 Special Fuels Supplier Tax Act, [~~however~~] that person receives
21 the special fuel and is required to pay the [~~special fuel~~
22 ~~excise~~] tax.

23 C. Special fuel imported into New Mexico by any
24 means other than in the supply tank of a motor vehicle or by
25 pipeline is received at the time and place it is imported into

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1 this state. The person who owns the special fuel at the time
2 of importation receives the special fuel and is required to pay
3 the ~~[special fuel excise]~~ tax.

4 D. If special fuel is received within the exterior
5 boundaries of an Indian reservation or pueblo grant and the
6 person required to pay the ~~[special fuel excise]~~ tax is immune
7 from state taxation, the special fuel is also received when the
8 special fuel is transported off the reservation or pueblo grant
9 by any means other than in the fuel supply tank of a motor
10 vehicle or by pipeline. Any person who owns special fuel after
11 the special fuel is transported off the reservation or pueblo
12 grant receives the special fuel and is the person required to
13 pay the ~~[special fuel excise]~~ tax, unless the ~~[special fuel~~
14 ~~excise]~~ tax has been paid by a previous owner.

15 E. Except as provided in Subsection F of this
16 section, special fuel is used in New Mexico when it is put into
17 the supply tank of any motor vehicle registered, owned or
18 operated by a special fuel user, consumed by a special fuel
19 user in the propulsion of a motor vehicle on the highways of
20 this state or any activity ancillary to that propulsion, or
21 imported into the state in the fuel supply tank of any motor
22 vehicle for the propulsion of the motor vehicle on New Mexico
23 highways.

24 F. To the extent that a special fuel user whose use
25 of New Mexico highways is limited to that for which the special

1 fuel user holds a valid border crossing special fuel user
 2 permit, as provided for in Section 1 of this 2018 act, the
 3 special fuel user does not use special fuel in this state."

4 SECTION 3. Section 7-16A-11 NMSA 1978 (being Laws 1992,
 5 Chapter 51, Section 11, as amended) is amended to read:

6 "7-16A-11. TAX RETURNS--PAYMENT OF TAX--SPECIAL FUEL
 7 USERS--EXCEPTION.--

8 A. Except as otherwise provided in this section, a
 9 special fuel user shall file a special fuel excise tax return
 10 in form and content as prescribed by the secretary to conform
 11 to the due date for the special fuel excise tax return required
 12 by an interstate agreement to which the state is a party.

13 B. A special fuel user may elect to file and pay
 14 the special fuel excise tax annually by conforming to the
 15 annual filing requirements of an international fuel tax
 16 agreement to which the state is a party.

17 C. A special fuel user shall file a return in
 18 accordance with the conditions and terms of the international
 19 fuel tax agreement to which the state is a party.

20 D. To the extent that a special fuel user whose use
 21 of New Mexico highways is limited to that for which the special
 22 fuel user holds a valid border crossing special fuel user
 23 permit, as provided for in Section 1 of this 2018 act, the
 24 special fuel user is exempt from the requirements of this
 25 section."

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1 SECTION 4. Section 7-16A-19 NMSA 1978 (being Laws 1992,
2 Chapter 51, Section 19, as amended) is amended to read:

3 "7-16A-19. ~~[TEMPORARY]~~ SPECIAL FUEL USER PERMITS--
4 VIOLATION--

5 A. ~~[To prevent evasion of the special fuel excise~~
6 ~~tax]~~ A special fuel [users] user whose [vehicles are] vehicle
7 is not registered with the department shall acquire [a
8 ~~temporary special fuel user permit]~~ from the department, before
9 operating the ~~[unregistered motor]~~ vehicle on ~~[the]~~ New Mexico
10 highways [of New Mexico. The]:

11 (1) a temporary special fuel user permit valid
12 for one calendar day only or for one entry into and one exit
13 out of New Mexico; or

14 (2) a border crossing special fuel user
15 permit, as provided for in Section 1 of this 2018 act.

16 B. A special fuel user applying for a temporary
17 special fuel user permit shall [be valid for one entrance and
18 ~~one exit of the state within a period that shall not exceed~~
19 ~~forty-eight hours from the time of issuance]~~ apply for the
20 permit on a form approved by the department.

21 ~~[B.]~~ C. The fee for a temporary special fuel user
22 permit is five dollars (\$5.00) for each motor vehicle.

23 ~~[G.]~~ D. It is a violation of the Special Fuels
24 Supplier Tax Act for ~~[any]~~ a person to act as a temporary
25 special fuel user without [obtaining] possessing a valid

1 temporary special fuel user permit [~~from~~] issued by the
2 department.

3 E. It is a violation of the Special Fuels Supplier
4 Tax Act for a person holding a valid border crossing special
5 fuel user permit to travel in the motor carrier vehicle for
6 which the permit was issued on New Mexico highways outside the
7 area in which the permit authorizes travel, unless the person
8 may otherwise under law engage in that travel. In addition to
9 any other penalty that may apply, a person who violates this
10 provision is subject to a fine of three hundred dollars
11 (\$300)."

12 SECTION 5. EFFECTIVE DATE.--The effective date of the
13 provisions of this act is July 1, 2018.