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HOUSE BILL 407

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY

Judy Vanderstar Russell

AN ACT

RELATING TO TAXATION; AMENDING THE SPECIAL FUELS SUPPLIER TAX
ACT TO SIMPLIFY THE REPORTING AND TAXATION OF DYED FUEL.

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

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

"7-16A-2. DEFINITIONS.--As used in the Special Fuels
Supplier Tax Act:

A. "bulk storage" means the storage of special
fuels in any tank or receptacle, other than a supply tank,
for the purpose of sale by a dealer or for use by a user or
for any other purpose;

B. "bulk storage user" means a user who operates,
owns or maintains bulk storage in this state from which the
user places special fuel into the supply tanks of motor
vehicles owned or operated by that user;

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

1 C. "dealer" means any person who sells and
2 delivers special fuel to a user;

3 D. "department" means the taxation and revenue
4 department, the secretary of taxation and revenue or any
5 employee of the department exercising authority lawfully
6 delegated to that employee by the secretary;

7 E. "dyed fuel" means diesel-engine fuel or
8 kerosene that has been dyed in accordance with federal or
9 state regulations and is used in any manner other than for
10 propulsion of motor vehicles on the highways of this state;

11 ~~[F.]~~ F. "government-licensed vehicle" means a
12 motor vehicle lawfully displaying a registration plate, as
13 defined in the Motor Vehicle Code issued by:

14 (1) the United States or any state,
15 identifying the motor vehicle as belonging to the United
16 States or any of its agencies or instrumentalities;

17 (2) the state of New Mexico, identifying the
18 vehicle as belonging to the state of New Mexico or any of its
19 political subdivisions, agencies or instrumentalities; or

20 (3) any state, identifying the motor vehicle
21 as belonging to an Indian nation, tribe or pueblo or an
22 agency or instrumentality thereof;

23 ~~[F.]~~ G. "gross vehicle weight" means the weight of
24 a motor vehicle or combination motor vehicle without load,
25 plus the weight of any load on the vehicle;

~~[G.]~~ H. "highway" means every road, highway,
thoroughfare, street or way, including toll roads, generally

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1 open to the use of the public as a matter of right for the
2 purpose of motor vehicle travel and notwithstanding that the
3 same may be temporarily closed for the purpose of
4 construction, reconstruction, maintenance or repair;

5 ~~[H.]~~ I. "motor vehicle" means any self-propelled
6 vehicle or device that is either subject to registration
7 pursuant to Section 66-3-1 NMSA 1978 or is used or may be
8 used on the public highways in whole or in part for the
9 purpose of transporting persons or property and includes any
10 connected trailer or semitrailer;

11 ~~[F.]~~ J. "person" means an individual or any other
12 entity, including, to the extent permitted by law, any
13 federal, state or other government or any department, agency,
14 instrumentality or political subdivision of any federal,
15 state or other government;

16 ~~[G.]~~ K. "rack operator" means the operator of a
17 refinery in this state, any person who blends special fuel in
18 this state or the owner of special fuel stored at a pipeline
19 terminal in this state;

20 ~~[K.]~~ L. "registrant" means any person who has
21 registered a motor vehicle pursuant to the laws of this state
22 or of another state;

23 ~~[L.]~~ M. "sale" means any delivery, exchange, gift
24 or other disposition;

25 ~~[M.]~~ N. "secretary" means the secretary of
taxation and revenue or the secretary's delegate;

~~[N.]~~ O. "special fuel" means diesel-engine fuel or

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1 kerosene used for the generation of power to propel a motor
2 vehicle;

3 ~~[O-]~~ P. "special fuel user" means any user who is
4 a registrant, owner or operator of a motor vehicle using
5 special fuel and having a gross vehicle weight in excess of
6 twenty-six thousand pounds;

7 ~~[P-]~~ Q. "state" or "jurisdiction" means a state,
8 territory or possession of the United States, the District of
9 Columbia, the commonwealth of Puerto Rico, a foreign country
10 or a state or province of a foreign country;

11 ~~[Q-]~~ R. "supplier" means any person, but not
12 including a rack operator or the United States or any of its
13 agencies except to the extent now or hereafter permitted by
14 the constitution of the United States and laws thereof, who
15 receives special fuel;

16 ~~[R-]~~ S. "supply tank" means any tank or other
17 receptacle in which or by which fuel may be carried and
18 supplied to the fuel-furnishing device or apparatus of the
19 propulsion mechanism of a motor vehicle when the tank or
20 receptacle either contains special fuel or special fuel is
21 delivered into it;

22 ~~[S-]~~ T. "tax" means the special fuel excise tax
23 imposed pursuant to the Special Fuels Supplier Tax Act; and

24 ~~[T-]~~ U. "user" means any person other than the
25 United States government or any of its agencies or
instrumentalities; the state of New Mexico or any of its
political subdivisions, agencies or instrumentalities; or an

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1 Indian nation, tribe or pueblo or any agency or
2 instrumentality of an Indian nation, tribe or pueblo, who
3 uses special fuel to propel a motor vehicle on the highways."

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

6 "7-16A-10. DEDUCTIONS--SPECIAL FUEL EXCISE TAX--SPECIAL
7 FUEL SUPPLIERS.--In computing the tax due, the following
8 amounts of special fuel may be deducted from the total amount
9 of special fuel received in New Mexico during the tax period,
10 provided that satisfactory proof thereof is furnished to the
11 department:

12 A. special fuel received in New Mexico, but
13 exported from this state for consumption outside this state
14 by a rack operator, special fuel supplier or dealer, other
15 than in the fuel supply tank of a motor vehicle or sold for
16 export by a rack operator or distributor; provided that, in
17 either case:

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

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

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

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1 B. special fuel sold to the United States or any
2 agency or instrumentality thereof for the exclusive use of
3 the United States or any agency or instrumentality thereof.
4 Special fuel sold to the United States includes special fuel
5 delivered into the supply tank of a government-licensed
6 vehicle;

7 C. special fuel sold to the state of New Mexico or
8 any political subdivision, agency or instrumentality thereof
9 for the exclusive use of the state of New Mexico or any
10 political subdivision, agency or instrumentality thereof.
11 Special fuel sold to the state of New Mexico includes special
12 fuel delivered into the supply tank of a government-licensed
13 vehicle;

14 D. special fuel sold to an Indian nation, tribe or
15 pueblo or any agency or instrumentality thereof for the
16 exclusive use of the Indian nation, tribe or pueblo or any
17 agency or instrumentality thereof. Special fuel sold to an
18 Indian nation, tribe or pueblo includes special fuel
19 delivered into the supply tank of a government-licensed
20 vehicle; and

21 ~~[E. special fuel sold to the holder of a special~~
22 ~~bulk storage user permit and delivered into special bulk~~
23 ~~storage pursuant to the provisions of Section 7-16A-8 NMSA~~
24 ~~1978; and~~

25 ~~F. special fuel dyed in accordance with federal~~
~~regulations and]~~

E. dyed fuel used in any manner other than for

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1 propulsion of motor vehicles on the highways of this state or
2 activities ancillary to that propulsion."

3 Section 3. A new section of the Special Fuels Supplier
4 Tax Act is enacted to read:

5 "[NEW MATERIAL] REFUNDS AND CREDITS.--A bulk storage
6 user may claim a refund of or a credit against his tax
7 liability for the tax paid on special fuel used by that bulk
8 storage user in any manner other than for propulsion of motor
9 vehicles on the highways of this state or activities
10 ancillary to that propulsion upon proof satisfactory to the
11 department of such use. The refund or credit shall be
12 claimed in a manner and form determined by the department."

13 Section 4. TEMPORARY PROVISION--REFUND OF PERMIT
14 FEES.--Each owner of a permit issued pursuant to the
15 provisions of Section 7-16A-8 NMSA 1978 as that section was
16 in effect prior to the effective date of this act may apply
17 for, and the taxation and revenue department shall grant, a
18 refund of the permit fee paid with respect to any period of
19 time after the effective date of this act for which the
20 permit would have been valid.

21 Section 5. REPEAL.--Section 7-16A-8 NMSA 1978 (being
22 Laws 1992, Chapter 51, Section 8, as amended) is repealed.

23 Section 6. EFFECTIVE DATE.--The effective date of the
24 provisions of this act is July 1, 2000.

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