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HOUSE BILL 568

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

INTRODUCED BY

Donald L. Whitaker

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

**RELATING TO TAXATION; AMENDING THE SPECIAL FUELS SUPPLIER TAX
ACT TO SIMPLIFY A DEDUCTION TO PROVIDE A CREDIT FOR CERTAIN
FUEL USED OFF-ROAD.**

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

**Section 1. Section 7-16A-10 NMSA 1978 (being Laws 1992,
Chapter 51, Section 10, as amended) is amended to read:**

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

**A. special fuel received in New Mexico, but
exported from this state by a rack operator, special fuel**

underscored material = new
[bracketed material] = delete

1 supplier or dealer, other than in the fuel supply tank of a
2 motor vehicle or sold for export by a rack operator or
3 distributor; provided that, in either case:

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

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

10 (3) the destination state's special fuel or
11 equivalent fuel tax is paid to New Mexico in accordance with
12 the terms of an agreement entered into pursuant to Section
13 9-11-12 NMSA 1978 with the destination state;

14 B. special fuel sold to the United States or any
15 agency or instrumentality thereof for the exclusive use of the
16 United States or any agency or instrumentality thereof.
17 Special fuel sold to the United States includes special fuel
18 delivered into the supply tank of a government-licensed
19 vehicle;

20 C. special fuel sold to the state of New Mexico or
21 any political subdivision, agency or instrumentality thereof
22 for the exclusive use of the state of New Mexico or any
23 political subdivision, agency or instrumentality thereof.
24 Special fuel sold to the state of New Mexico includes special
25 fuel delivered into the supply tank of a government-licensed

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1 vehicle;

2 D. special fuel sold to an Indian nation, tribe or
3 pueblo or any agency or instrumentality thereof for the
4 exclusive use of the Indian nation, tribe or pueblo or any
5 agency or instrumentality thereof. Special fuel sold to an
6 Indian nation, tribe or pueblo includes special fuel delivered
7 into the supply tank of a government-licensed vehicle;

8 E. special fuel sold to the holder of a special
9 bulk storage user permit and delivered into special bulk
10 storage pursuant to the provisions of Section 7-16A-8 NMSA
11 1978; and

12 F. special fuel dyed in accordance with federal
13 regulations [~~and used in any manner other than for propulsion~~
14 ~~of motor vehicles on the highways of this state or activities~~
15 ~~ancillary to that propulsion]. "~~

16 Section 2. A new section of the Special Fuels Supplier
17 Tax Act, Section 7-16A-13.1 NMSA 1978, is enacted to read:

18 "7-16A-13.1. [NEW MATERIAL] CLAIM FOR REFUND OF SPECIAL
19 FUEL EXCISE TAX PAID ON SPECIAL FUEL USED OFF-ROAD. --

20 A. Upon the submission of proof satisfactory to
21 the department, a user of special fuel, other than a holder of
22 a bulk storage user permit, may submit and the department may
23 allow a claim for refund of tax paid on special fuel used to
24 propel a vehicle off-road, to operate auxiliary equipment by a
25 power take-off from the main engine or transmission of a

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1 vehicle or to operate a non-automotive apparatus mounted on a
2 vehicle when the special fuel used for such purposes and the
3 special fuel used to propel the vehicle on the highways are
4 drawn from a common supply tank. The vehicle must be
5 registered with the department. The user must be registered
6 with the department for purposes of reporting and paying gross
7 receipts tax.

8 B. No person may submit claims for refund pursuant
9 to the provisions of this section more frequently than
10 quarterly. No claim for refund may be submitted or allowed on
11 less than one hundred gallons.

12 C. The department may prescribe the documents
13 necessary to support a claim for refund pursuant to the
14 provisions of this section. The department may prescribe the
15 use of types of monitoring or measuring equipment.

16 D. This section applies to special fuel purchased
17 on or after July 1, 2001. "