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SENATE BILL 559

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

INTRODUCED BY

Leonard Tsosie

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

**RELATING TO TAXATION; AMENDING THE SPECIAL FUELS SUPPLIER TAX
ACT TO PROVIDE A DEDUCTION FOR CERTAIN VOLUMES SOLD BY
REGISTERED TRIBAL SUPPLIERS; AMENDING SECTIONS OF THE NMSA
1978.**

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,

1 owns or maintains bulk storage in this state from which the
2 user places special fuel into the supply tanks of motor
3 vehicles owned or operated by that user;

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

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

10 E. "government-licensed vehicle" means a motor
11 vehicle lawfully displaying a registration plate, as defined
12 in the Motor Vehicle Code issued by:

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

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

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

22 F. "gross vehicle weight" means the weight of a
23 motor vehicle or combination motor vehicle without load, plus
24 the weight of any load on the vehicle;

25 G. "highway" means every road, highway,

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

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

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

17 J. "rack operator" means the operator of a
18 refinery in this state, any person who blends special fuel in
19 this state or the owner of special fuel stored at a pipeline
20 terminal in this state;

21 K. "registered Indian tribal supplier" means a
22 tribe, a corporation or other enterprise wholly owned by a
23 tribe, or a corporation or other enterprise wholly owned by
24 one or more members of a tribe, any one of which is registered
25 with the department as a supplier pursuant to the Special

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1 Fuels Supplier Tax Act; provided that the department shall
2 register a corporation or other enterprise as an Indian tribal
3 supplier only upon certification by the tribe that the
4 corporation or other enterprise is wholly owned by that tribe
5 or wholly owned by one or more of its members;

6 [K-] L. "registrant" means any person who has
7 registered a motor vehicle pursuant to the laws of this state
8 or of another state;

9 [L-] M. "sale" means any delivery, exchange, gift
10 or other disposition;

11 [M-] N. "secretary" means the secretary of
12 taxation and revenue or the secretary's delegate;

13 [N-] O. "special fuel" means diesel-engine fuel or
14 kerosene used for the generation of power to propel a motor
15 vehicle;

16 [O-] P. "special fuel user" means any user who is
17 a registrant, owner or operator of a motor vehicle using
18 special fuel and having a gross vehicle weight in excess of
19 twenty-six thousand pounds;

20 [P-] Q. "state" or "jurisdiction" means a state,
21 territory or possession of the United States, the District of
22 Columbia, the commonwealth of Puerto Rico, a foreign country
23 or a state or province of a foreign country;

24 [Q-] R. "supplier" means any person, but not
25 including a rack operator or the United States or any of its

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1 agencies except to the extent now or hereafter permitted by
2 the constitution of the United States and laws thereof, who
3 receives special fuel;

4 ~~[R.]~~ S. "supply tank" means any tank or other
5 receptacle in which or by which fuel may be carried and
6 supplied to the fuel-furnishing device or apparatus of the
7 propulsion mechanism of a motor vehicle when the tank or
8 receptacle either contains special fuel or special fuel is
9 delivered into it;

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

12 U. "tribe" means an Indian nation, tribe or pueblo
13 recognized by the United States whose reservation or pueblo
14 grant lies wholly or partly in New Mexico; and

15 ~~[T.]~~ V. "user" means any person other than the
16 United States government or any of its agencies or
17 instrumentalities; the state of New Mexico or any of its
18 political subdivisions, agencies or instrumentalities; or an
19 Indian nation, tribe or pueblo or any agency or
20 instrumentality of an Indian nation, tribe or pueblo, who uses
21 special fuel to propel a motor vehicle on the highways. "

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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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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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; and

22 G. special fuel sold at retail by a registered
23 Indian tribal supplier if the sale occurs on the reservation,
24 pueblo grant or trust land of the supplier's tribe and the
25 special fuel is placed into the fuel supply tank of a motor

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1 vehicle on that tribe's reservation, pueblo grant or trust
2 land. "

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

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