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HOUSE BILL 199

**47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006**

INTRODUCED BY

Roberto "Bobby" J. Gonzales

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO SPECIAL FUELS; ELIMINATING SPECIAL BULK STORAGE  
USER PERMITS AND A SPECIAL FUEL EXCISE TAX DEDUCTION FOR  
SPECIAL BULK STORAGE USER PERMIT HOLDERS; AMENDING AND  
REPEALING SECTIONS OF THE NMSA 1978.

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

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

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

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

11 (3) the destination state's special fuel or  
12 equivalent fuel tax is paid to New Mexico in accordance with  
13 the terms of an agreement entered into pursuant to Section  
14 9-11-12 NMSA 1978 with the destination state;

15 B. special fuel sold to the United States or any  
16 agency or instrumentality thereof for the exclusive use of the  
17 United States or any agency or instrumentality thereof.

18 Special fuel sold to the United States includes special fuel  
19 delivered into the supply tank of a government-licensed  
20 vehicle;

21 C. special fuel sold to the state of New Mexico or  
22 any political subdivision, agency or instrumentality thereof  
23 for the exclusive use of the state of New Mexico or any  
24 political subdivision, agency or instrumentality thereof.

25 Special fuel sold to the state of New Mexico includes special

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1 fuel delivered into the supply tank of a government-licensed  
2 vehicle;

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

9 ~~[E. special fuel sold to the holder of a special~~  
10 ~~bulk storage user permit and delivered into special bulk~~  
11 ~~storage pursuant to the provisions of Section 7-16A-8 NMSA~~  
12 ~~1978;~~

13 ~~F.]~~ E. special fuel dyed in accordance with federal  
14 regulations; and

15 ~~[G.]~~ F. special fuel that is number 2 diesel fuel  
16 sold for the generation of power to propel a vehicle authorized  
17 by contract with the public education department as a school  
18 bus; provided that the fuel has a distillation temperature of  
19 five hundred degrees Fahrenheit at a ten percent recovery point  
20 and six hundred forty degrees Fahrenheit at a ninety percent  
21 recovery point."

22 Section 2. Section 7-16A-13.1 NMSA 1978 (being Laws 2001,  
23 Chapter 43, Section 2, as amended) is amended to read:

24 "7-16A-13.1. CLAIM FOR REFUND OF SPECIAL FUEL EXCISE TAX  
25 PAID ON SPECIAL FUEL.--

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1           A. Upon the submission of proof satisfactory to the  
2 department, a user of special fuel [~~other than a holder of a~~  
3 ~~bulk storage user permit~~] may submit and the department may  
4 allow a claim for refund of tax paid on special fuel used to  
5 propel a vehicle authorized by contract with the public  
6 education department as a school bus, to propel a vehicle off-  
7 road, to operate auxiliary equipment by a power take-off from  
8 the main engine or transmission of a vehicle or to operate a  
9 non-automotive apparatus mounted on a vehicle when the special  
10 fuel used for such purposes and the special fuel used to propel  
11 the vehicle on the highways are drawn from a common supply  
12 tank. The vehicle must be registered with the department. The  
13 user must be registered with the department for purposes of  
14 reporting and paying gross receipts tax.

15           B. No person may submit claims for refund pursuant  
16 to the provisions of this section more frequently than  
17 quarterly. No claim for refund may be submitted or allowed on  
18 less than one hundred gallons.

19           C. The department may prescribe the documents  
20 necessary to support a claim for refund pursuant to the  
21 provisions of this section. The department may prescribe the  
22 use of types of monitoring or measuring equipment.

23           D. This section applies to special fuel purchased  
24 on or after July 1, 2001, except for the refund for special  
25 fuel used to propel a school bus, which applies to special fuel

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1 purchased on or after July 1, 2005."

2 Section 3. REPEAL.--Section 7-16A-8 NMSA 1978 (being Laws  
3 1992, Chapter 51, Section 8, as amended) is repealed.

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