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SENATE BILL 43

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

LEONARD LEE RAWSON

AN ACT

RELATING TO TAXATION; AMENDING THE GASOLINE TAX ACT, THE  
PETROLEUM PRODUCTS LOADING FEE ACT AND THE SPECIAL FUELS  
SUPPLIER TAX ACT TO CHANGE THE DEFINITION OF WHEN GASOLINE OR  
SPECIAL FUEL IS RECEIVED AND WHO RECEIVES IT FOR PURPOSES OF  
IMPOSING CERTAIN TAXES; AMENDING AND ENACTING SECTIONS OF THE  
NMSA 1978; DECLARING AN EMERGENCY.

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

Section 1. Section 7-13-2 NMSA 1978 (being Laws 1971,  
Chapter 207, Section 2, as amended) is amended to read:

"7-13-2. DEFINITIONS. --As used in the Gasoline Tax Act:

A. "aviation gasoline" means ~~[any flammable liquid  
used primarily as fuel for the propulsion of motor vehicles,  
motorboats or aircraft. "Gasoline" does not include diesel-  
engine fuel, kerosene, liquefied petroleum gas, natural gas and~~

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1 ~~products specially prepared and~~ gasoline sold for use in ~~[the]~~  
2 aircraft propelled by engines other than turbo-prop or jet-type  
3 engines;

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

8 ~~[C. "secretary" means the secretary of taxation and~~  
9 ~~revenue or the secretary's delegate;~~

10 ~~D. "motor vehicle" means any self-propelled vehicle~~  
11 ~~suitable for operation on highways;~~

12 ~~E. "highway" means every way or place, including~~  
13 ~~toll roads, generally open to or intended to be used for public~~  
14 ~~travel by motor vehicles, regardless of whether it is~~  
15 ~~temporarily closed;~~

16 ~~F.] C.~~ "distributor" means any person, but not  
17 including the United States of America or any of its agencies  
18 except to the extent now or hereafter permitted by the  
19 constitution and laws thereof, who receives gasoline ~~[within the~~  
20 ~~meaning of "received" as defined in this section;~~

21 ~~G. "wholesaler" means any person not a distributor~~  
22 ~~who sells gasoline in quantities of thirty-five gallons or more~~  
23 ~~and does not deliver such gasoline into the fuel supply tanks of~~  
24 ~~motor vehicles;~~

25 ~~H. "retailer" means any person who sells gasoline in~~

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1 ~~quantities of thirty-five gallons or less and delivers such~~  
2 ~~gasoline into the fuel supply tanks of motor vehicles;~~

3 ~~I. the definitions of "distributor", "wholesaler"~~  
4 ~~and "retailer" shall be construed so that a person may at the~~  
5 ~~same time be a retailer and a distributor or a retailer and a~~  
6 ~~wholesaler;~~

7 ~~J. "person" means:~~

8 ~~(1) any individual, estate, trust, receiver,~~  
9 ~~cooperative association, club, corporation, company, firm,~~  
10 ~~partnership, limited liability company, limited liability~~  
11 ~~partnership, joint venture, syndicate or other entity, including~~  
12 ~~any gas, water or electric utility owned or operated by a~~  
13 ~~county, municipality or other political subdivision of the~~  
14 ~~state; or~~

15 ~~(2) the United States or any agency or~~  
16 ~~instrumentality thereof or the state of New Mexico or any~~  
17 ~~political subdivision thereof;~~

18 ~~K. "received" means:~~

19 ~~(1)~~

20 ~~(a) gasoline which is produced, refined,~~  
21 ~~manufactured, blended or compounded at a refinery in this state~~  
22 ~~or stored at a pipeline terminal in this state by any person is~~  
23 ~~"received" by such person when it is loaded there into tank~~  
24 ~~cars, tank trucks, tank wagons or other types of transportation~~  
25 ~~equipment or when it is placed into any tank or other container~~

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1 ~~from which sales or deliveries not involving transportation are~~  
2 ~~made;~~

3 ~~(b) when, however, such gasoline is~~  
4 ~~shipped or delivered to another person registered as a~~  
5 ~~distributor under the Gasoline Tax Act, then it is "received" by~~  
6 ~~the distributor to whom it is so shipped or delivered; and~~

7 ~~(c) further, when such gasoline is~~  
8 ~~shipped or delivered to another person not registered as a~~  
9 ~~distributor under the Gasoline Tax Act for the account of a~~  
10 ~~person that is so registered, it is "received" by the~~  
11 ~~distributor for whose account it is shipped;~~

12 ~~(2) notwithstanding the provisions of Paragraph~~  
13 ~~(1) of this subsection, when gasoline is shipped or delivered~~  
14 ~~from a refinery or pipeline terminal to another refinery or~~  
15 ~~pipeline terminal, such gasoline is not "received" by reason of~~  
16 ~~such shipment or delivery;~~

17 ~~(3) any product other than gasoline that is~~  
18 ~~blended to produce gasoline other than at a refinery or pipeline~~  
19 ~~terminal in this state is "received" by a person who is the~~  
20 ~~owner thereof at the time and place the blending is completed;~~  
21 ~~and~~

22 ~~(4) except as otherwise provided, gasoline is~~  
23 ~~"received" at the time and place it is first unloaded in this~~  
24 ~~state and by the person who is the owner thereof immediately~~  
25 ~~preceding the unloading, unless the owner immediately after the~~

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1 ~~unloading is a registered distributor, in which case such~~  
2 ~~registered distributor is considered as having received the~~  
3 ~~gasoline;~~

4 L. ~~"drip gasoline" means a combustible hydrocarbon~~  
5 ~~liquid formed as a product of condensation from either~~  
6 ~~associated or nonassociated natural or casing head gas which~~  
7 ~~remains a liquid at existing atmospheric temperature and~~  
8 ~~pressure;~~

9 M. ~~"gallon" means the quantity of liquid necessary~~  
10 ~~to fill a standard United States gallon liquid measure or that~~  
11 ~~same quantity adjusted to a temperature of sixty degrees~~  
12 ~~fahrenheit at the election of any distributor, but a distributor~~  
13 ~~shall report on the same basis for a period of at least one~~  
14 ~~year; and~~

15 N. ~~"ethanol blended fuel" means gasoline received in~~  
16 ~~New Mexico containing a minimum of ten percent by volume of~~  
17 ~~denatured ethanol, of at least one hundred ninety nine proof,~~  
18 ~~exclusive of denaturants] in accordance with Section 7-13-2.1~~  
19 ~~NMSA 1978; "distributor" shall be construed so that a person~~  
20 ~~simultaneously may be both a distributor and a retailer;~~

21 D. "drip gasoline" means a combustible hydrocarbon  
22 liquid formed as a product of condensation from either  
23 associated natural or casing head gas and that remains a liquid  
24 at room temperature and pressure;

25 E. "ethanol-blended fuel" means gasoline received in

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1 New Mexico containing a minimum of ten percent by volume of  
2 denatured ethanol, of at least one hundred ninety-nine proof,  
3 exclusive of denaturants:

4 F. "gallon" means the quantity of liquid necessary  
5 to fill a standard United States gallon liquid measure or that  
6 same quantity adjusted to a temperature of sixty degrees  
7 fahrenheit at the election of any distributor, but a distributor  
8 shall report on the same basis for a period of at least one  
9 year:

10 G. "gasoline" means any flammable liquid used  
11 primarily as fuel for the propulsion of motor vehicles,  
12 motorboats or aircraft. "Gasoline" does not include diesel  
13 engine fuel, kerosene, liquefied petroleum gas, compressed or  
14 liquefied natural gas or products specially prepared and sold  
15 for use in aircraft propelled by turbo-prop or jet-type engines:

16 H. "highway" means every road, highway,  
17 thoroughfare, street or way, including toll roads, generally  
18 open to the use of the public as a matter of right for the  
19 purpose of motor vehicle travel regardless of whether it is  
20 temporarily closed for the purpose of construction,  
21 reconstruction, maintenance or repair:

22 I. "motor vehicle" means any self-propelled vehicle  
23 or device that is either subject to registration pursuant to  
24 Section 66-3-1 NMSA 1978 or used or may be used on the public  
25 highways in whole or in part for the purpose of transporting

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1 persons or property and includes any connected trailer or  
2 semi trailer;

3 J. "person" means an individual or any other entity,  
4 including, to the extent permitted by law, any federal, state or  
5 other government or any department, agency, instrumentality or  
6 political subdivision of any federal, state or other government;

7 K. "retailer" means a person who sells gasoline  
8 generally in quantities of thirty-five gallons or less and  
9 delivers such gasoline into the fuel supply tanks of motor  
10 vehicles. "Retailer" shall be construed so that a person  
11 simultaneously may be both a retailer and a distributor or  
12 wholesaler;

13 L. "secretary" means the secretary of taxation and  
14 revenue or the secretary's delegate;

15 M. "taxpayer" means a person required to pay  
16 gasoline tax; and

17 N. "wholesaler" means a person who is not a  
18 distributor and who sells gasoline in quantities of thirty-five  
19 gallons or more and does not deliver gasoline into the fuel  
20 supply tanks of motor vehicles. "Wholesaler" shall be construed  
21 so that a person simultaneously may be a wholesaler and a  
22 retailer. "

23 Section 2. A new section of the Gasoline Tax Act, Section  
24 7-13-2.1 NMSA 1978, is enacted to read:

25 "7-13-2.1. [NEW MATERIAL] WHEN GASOLINE RECEIVED--WHO

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1 RECEIVES GASOLINE. --

2 A. Gasoline produced, refined, manufactured, blended  
3 or compounded at a refinery or other facility in this state or  
4 stored at a pipeline terminal in this state is received in this  
5 state when it is first loaded into tank cars, tank trucks, tank  
6 wagons or any other type of transportation equipment or when it  
7 is placed into any tank or other container from which sales or  
8 deliveries not involving transportation are made. If the  
9 loading or placement takes place within the exterior boundaries  
10 of an Indian reservation or pueblo grant and the person  
11 receiving the gasoline is immune from state taxation, the  
12 gasoline is also received when the gasoline is transported by  
13 any means other than by pipeline off the Indian reservation or  
14 pueblo grant.

15 B. Gasoline is received in New Mexico when it is  
16 imported by any means other than by pipeline into New Mexico.  
17 If the importation takes place within the exterior boundaries of  
18 an Indian reservation or pueblo grant and the person receiving  
19 the gasoline is immune from state taxation, the gasoline is also  
20 received when the gasoline is transported by any means other  
21 than by pipeline off the Indian reservation or pueblo grant.

22 C. The person who owns gasoline at the time the  
23 gasoline is received is the person who has received the gasoline  
24 in New Mexico. Any person, other than the owner of the gasoline  
25 or a pipeline or common carrier transporting the gasoline for

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1 another, who possesses the gasoline at the time the gasoline is  
2 received has also received the gasoline and is liable for paying  
3 the gasoline tax due with respect to the gasoline received if  
4 the owner of the gasoline at the time the gasoline is received  
5 fails to report or pay in accordance with Subsection D of this  
6 section.

7 D. A person who receives gasoline in New Mexico is  
8 required to file gasoline tax returns and to pay gasoline tax on  
9 the gasoline the person receives except that, if the person  
10 receiving gasoline within the exterior boundaries of an Indian  
11 reservation or pueblo grant is immune from the imposition of  
12 gasoline tax, that person shall collect the gasoline tax from  
13 any person not immune who next receives the gasoline and shall  
14 report and pay over the collected tax pursuant to Section 7-13-5  
15 NMSA 1978. "

16 Section 3. Section 7-13A-2 NMSA 1978 (being Laws 1990,  
17 Chapter 124, Section 15, as amended) is amended to read:

18 "7-13A-2. DEFINITIONS. --As used in the Petroleum Products  
19 Loading Fee Act:

20 A. "department" means the taxation and revenue  
21 department, the secretary of taxation and revenue or any  
22 employee of the department exercising authority lawfully  
23 delegated to that employee by the secretary;

24 B. "distributor" means any person registered as a  
25 distributor for purposes of the Gasoline Tax Act and any person

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1 who receives special fuel in this state for the purposes of the  
2 Special Fuels Supplier Tax Act;

3 C. "gallon" means the quantity of liquid necessary  
4 to fill a standard United States gallon liquid measure, which is  
5 approximately 3.785 liters, or that same quantity adjusted to a  
6 temperature of sixty degrees fahrenheit at the election of any  
7 distributor, but a distributor shall report on the same basis  
8 for a period of at least one year;

9 D. "gasoline" means any flammable liquid used  
10 primarily as fuel for the propulsion of motor vehicles,  
11 motorboats or aircraft. "Gasoline" does not include diesel  
12 engine fuel, kerosene and products specially prepared and sold  
13 for use in [~~the~~] turbo-prop or jet-type engines;

14 E. "highway" means every road, highway,  
15 thoroughfare, street or way, including toll roads, generally  
16 open to the use of the public as a matter of right for the  
17 purpose of motor vehicle travel, and notwithstanding that the  
18 same may be temporarily closed for the purpose of construction,  
19 reconstruction, maintenance or repair;

20 F. "motor vehicle" means any self-propelled vehicle  
21 or device that is either subject to registration pursuant to  
22 Section 66-3-1 NMSA 1978 or is used or may be used on the public  
23 highways in whole or in part for the purpose of transporting  
24 persons or property and includes any connected trailer or  
25 semi trailer;

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1           G. "person" means an individual or any other legal  
2 entity, including any gas, water or electric utility owned or  
3 operated by a county, municipality or other political  
4 subdivision of the state. "Person" also means, to the extent  
5 permitted by law, any federal, state or other government or any  
6 department, agency or instrumentality of the state, county,  
7 municipality or any political subdivision thereof;

8           H. "petroleum product" means gasoline and special  
9 fuels;

10           ~~I. "received" means:~~

11                           ~~(1)~~

12   ~~(a) a petroleum product that is produced,~~  
13 ~~refined, manufactured, blended or compounded at a refinery in~~  
14 ~~this state or stored at a pipeline terminal in this state by any~~  
15 ~~person is "received" by such person when it is loaded there into~~  
16 ~~tank cars, tank trucks, tank wagons or other types of~~  
17 ~~transportation equipment or when it is placed into any tank or~~  
18 ~~other container from which sales or deliveries not involving~~  
19 ~~transportation are made;~~

20   ~~(b) when, however, such a petroleum~~  
21 ~~product is shipped or delivered to another distributor, then it~~  
22 ~~is "received" by the distributor to whom it is so shipped or~~  
23 ~~delivered; and~~

24   ~~(c) further, when such petroleum product~~  
25 ~~is shipped or delivered to another person not a distributor for~~

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1 ~~the account of a person that is a distributor, it is "received"~~  
2 ~~by the distributor for whose account it is shipped;~~

3 ~~(2) notwithstanding the provisions of Paragraph~~  
4 ~~(1) of this subsection, when a petroleum product is shipped or~~  
5 ~~delivered from a refinery or pipeline terminal to another~~  
6 ~~refinery or pipeline terminal, the petroleum product is not~~  
7 ~~"received" by reason of such shipment or delivery;~~

8 ~~(3) any product other than gasoline that is~~  
9 ~~blended to produce gasoline other than at a refinery or pipeline~~  
10 ~~terminal in this state is "received" by a person who is the~~  
11 ~~owner thereof at the time and place the blending is completed;~~  
12 ~~and~~

13 ~~(4) except as otherwise provided, a petroleum~~  
14 ~~product is "received" at the time and place it is first unloaded~~  
15 ~~in this state and by the person who is the owner thereof~~  
16 ~~immediately preceding the unloading, unless the owner~~  
17 ~~immediately after the unloading is a distributor, in which case~~  
18 ~~the distributor is considered as having "received" the petroleum~~  
19 ~~product;~~

20 ~~J.]~~ I. "secretary" means the secretary of taxation  
21 and revenue or the secretary's delegate; and

22 ~~[K.]~~ J. "special fuel" means diesel engine fuel,  
23 kerosene and all other liquid fuels used for the generation of  
24 power to propel a motor vehicle, except:

25 (1) gasoline as defined in Section 7-13-2 NMSA

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1 1978;

2 (2) alternative fuel as defined in [~~the~~  
3 ~~Alternative Fuel Tax Act~~] Section 7-16B-3 NMSA 1978;

4 (3) products specially prepared and sold for  
5 use in turbo-prop or jet-type aircraft; and

6 (4) liquefied petroleum gases and natural gas. "

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

9 "7-16A-2. DEFINITIONS. --As used in the Special Fuels  
10 Supplier Tax Act:

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

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

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

21 D. "department" means the taxation and revenue  
22 department, the secretary of taxation and revenue or any  
23 employee of [~~that~~] the department exercising authority lawfully  
24 delegated to that employee by the secretary;

25 E. "government-licensed vehicle" means a motor

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1 vehicle lawfully displaying a registration plate, as defined in  
2 the Motor Vehicle Code, issued by:

3 (1) [~~issued by~~] the United States or [~~by~~] any  
4 state identifying the motor vehicle as belonging to the United  
5 States or any of its agencies or instrumentalities [~~or to~~];

6 (2) the state of New Mexico identifying the  
7 vehicle as belonging to the state of New Mexico or any of its  
8 political subdivisions, agencies or instrumentalities; or

9 [~~(2) issued by~~] (3) any state identifying the  
10 motor vehicle as belonging to an Indian nation, tribe or pueblo  
11 or an agency or instrumentality thereof;

12 F. "gross vehicle weight" means the weight of a  
13 motor vehicle or combination motor vehicle without load, plus  
14 the weight of any load on the vehicle;

15 G. "highway" means every road, highway,  
16 thoroughfare, street or way, including toll roads, generally  
17 open to the use of the public as a matter of right for the  
18 purpose of motor vehicle travel and notwithstanding that the  
19 same may be temporarily closed for the purpose of construction,  
20 reconstruction, maintenance or repair;

21 H. "motor vehicle" means any self-propelled vehicle  
22 or device that is either subject to registration pursuant to  
23 Section 66-3-1 NMSA 1978 or is used or may be used on the public  
24 highways in whole or in part for the purpose of transporting  
25 persons or property and includes any connected trailer or

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1 semi trailer;

2 I. "person" means an individual or any other [legal]  
3 entity, [~~"person" also means~~] including, to the extent permitted  
4 by law, any federal, state or other government or any  
5 department, agency, [~~or~~] instrumentality [~~of the state, county,~~  
6 ~~municipality~~] or [any] political subdivision [~~thereof~~];

7 J. ~~"received" means:~~

8 (1) ~~special fuel that is produced, refined,~~  
9 ~~manufactured, blended or compounded at a refinery in this state~~  
10 ~~or stored at a pipeline terminal in this state by any person is~~  
11 ~~"received" by that person when it is loaded there into tank~~  
12 ~~cars, tank trucks, tank wagons or other types of transportation~~  
13 ~~equipment or when it is placed into any tank or other container~~  
14 ~~from which sales or deliveries not involving transportation are~~  
15 ~~made; but when such special fuel is shipped or delivered to~~  
16 ~~another person:~~

17 (a) ~~registered as a special fuel supplier~~  
18 ~~under the Special Fuels Supplier Tax Act, then it is "received"~~  
19 ~~by the special fuel supplier to whom it is so shipped or~~  
20 ~~delivered; or~~

21 (b) ~~not registered as a special fuel~~  
22 ~~supplier under the Special Fuels Supplier Tax Act for the~~  
23 ~~account of a person who is so registered, it is "received" by~~  
24 ~~the special fuel supplier for whose account it is shipped;~~

25 (2) ~~notwithstanding the provisions of Paragraph~~

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1 ~~(1) of this subsection, when special fuel is shipped or~~  
2 ~~delivered from a refinery or pipeline terminal to another~~  
3 ~~refinery or pipeline terminal, such special fuel is not~~  
4 ~~"received" by reason of such shipment or delivery;~~

5 ~~(3) any product other than special fuel that is~~  
6 ~~blended to produce special fuel other than at a refinery or~~  
7 ~~pipeline terminal in this state is "received" by a person who is~~  
8 ~~the owner of the special fuel at the time and place the blending~~  
9 ~~is completed;~~

10 ~~(4) except as otherwise provided, special fuel~~  
11 ~~is "received" at the time and place it is first unloaded in this~~  
12 ~~state and by the person who is the owner thereof immediately~~  
13 ~~preceding the unloading, unless the owner immediately after the~~  
14 ~~unloading is a registered special fuel supplier, in which case~~  
15 ~~the registered special fuel supplier is considered as having~~  
16 ~~"received" the special fuel; and~~

17 ~~(5) with respect to a motor vehicle that is not~~  
18 ~~registered pursuant to the laws of this state or a motor vehicle~~  
19 ~~for which the operator cannot produce a valid tax identification~~  
20 ~~card, entry of the motor vehicle into the state. The amount of~~  
21 ~~special fuel "received" upon entry into this state shall be~~  
22 ~~determined in accordance with regulations of the secretary] of~~  
23 any federal, state or other government;

24 [K.] J. "registrant" means any person who has  
25 registered a motor vehicle pursuant to the laws of this state or



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1 of another state;

2 [L-] K. "sale" means any delivery, exchange, gift or  
3 other disposition;

4 [M-] L. "secretary" means the secretary of taxation  
5 and revenue or the secretary's delegate;

6 [N-] M. "special fuel" means diesel engine fuel,  
7 kerosene and any other liquid fuel used for the generation of  
8 power to propel a motor vehicle, except gasoline as defined in  
9 Section 7-13-2 NMSA 1978 or alternative fuel as defined in [~~the~~  
10 ~~Alternative Fuel Tax Act~~] Section 7-16B-3 NMSA 1978;

11 [O-] N. "special fuel user" means any user who is a  
12 registrant, owner or operator of a motor vehicle using special  
13 fuel and having a gross vehicle weight in excess of twenty-six  
14 thousand pounds;

15 [P-] O. "state" or "jurisdiction" means a state,  
16 territory or possession of the United States, the District of  
17 Columbia, the commonwealth of Puerto Rico, a foreign country or  
18 a state or province of a foreign country;

19 [Q-] P. "supplier" means any person, but not  
20 including the United States or any of its agencies except to the  
21 extent now or hereafter permitted by the constitution of the  
22 United States and laws thereof, who receives special fuel  
23 [~~within the meaning of "received" as defined in this section~~];

24 [R-] Q. "supply tank" means any tank or other  
25 receptacle in which or by which fuel may be carried and supplied

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1 to the fuel-furnishing device or apparatus of the propulsion  
2 mechanism of a motor vehicle when the tank or receptacle either  
3 contains special fuel or special fuel is delivered into it;

4 [S-] R. "tax" means the special fuel excise tax  
5 imposed [under] pursuant to the Special Fuels Supplier Tax Act;

6 [T-] "use" means:-

7 ~~(1) the receipt or placing of special fuels by~~  
8 ~~a special fuel user into the fuel supply tank of any motor~~  
9 ~~vehicle registered, owned or operated by the special fuel user;~~

10 ~~(2) the consumption by a special fuel user of~~  
11 ~~special fuels in the propulsion of a motor vehicle on the~~  
12 ~~highways of this state and any activity ancillary to that~~  
13 ~~propulsion; or~~

14 ~~(3) the importation of special fuels in the~~  
15 ~~fuel supply tank of any motor vehicle as fuel for the propulsion~~  
16 ~~of the motor vehicle on the highways] and~~

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

24 Section 5. A new section of the Special Fuels Supplier Tax  
25 Act, Section 7-16A-2.1 NMSA 1978, is enacted to read:

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1 "7-16A-2.1. [NEW MATERIAL] WHEN SPECIAL FUEL RECEIVED OR  
2 USED. --

3 A. Special fuel produced, refined, manufactured,  
4 blended or compounded at a refinery or other facility in this  
5 state or stored at a pipeline terminal in this state is received  
6 in this state when it is first loaded into tank cars, tank  
7 trucks, tank wagons or any other type of transportation  
8 equipment or when it is placed into any tank or other container  
9 from which sales or deliveries not involving transportation are  
10 made. If the loading or placement takes place within the  
11 exterior boundaries of an Indian reservation or pueblo grant and  
12 the person receiving the special fuel is immune from state  
13 taxation, the special fuel is also received when the special  
14 fuel is transported by any means other than by pipeline off the  
15 reservation or pueblo grant.

16 B. Special fuel is received in New Mexico when it is  
17 imported by any means other than by pipeline into New Mexico.  
18 If the importation takes place within the exterior boundaries of  
19 an Indian reservation or pueblo grant and the person receiving  
20 the special fuel is immune from state taxation, the special fuel  
21 is also received when the special fuel is transported by any  
22 means other than by pipeline off the reservation or pueblo  
23 grant.

24 C. The person who has possession of the special  
25 fuel, other than a pipeline or common carrier transporting the

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1 special fuel for another, or who owns the special fuel at the  
2 time the special fuel is received is the person who has received  
3 the special fuel in New Mexico.

4 D. Any person who receives special fuel in New  
5 Mexico is required to file special fuel excise tax returns and  
6 to pay special fuel excise tax on the special fuel the person  
7 received except that, if the person receiving special fuel  
8 within the exterior boundaries of an Indian reservation or  
9 pueblo grant is immune from the imposition of special fuel  
10 excise tax, that person shall collect the special fuel excise  
11 tax from the persons who next receive the special fuel and shall  
12 report and pay over the collected tax pursuant to Section  
13 7-16A-9 NMSA 1978.

14 E. Special fuel is used in New Mexico when it is put  
15 into the supply tank of any motor vehicle registered, owned or  
16 operated by a special fuel user, consumed by a special fuel user  
17 in the propulsion of a motor vehicle on the highways of this  
18 state or any activity ancillary to that propulsion or imported  
19 into the state in the fuel supply tank of any motor vehicle for  
20 the propulsion of the motor vehicle on New Mexico highways. "

21 Section 6. Section 7-16A-10 NMSA 1978 (being Laws 1992,  
22 Chapter 51, Section 10, as amended) is amended to read:

23 "7-16A-10. DEDUCTIONS--SPECIAL FUEL EXCISE TAX--SPECIAL  
24 FUEL SUPPLIERS.--In computing the special fuel excise tax due,  
25 the following amounts of special fuel may be deducted from the

Underscored material = new  
[bracketed material] = delete

1 total amount of special fuel received in New Mexico during the  
2 tax period, provided that satisfactory proof thereof is  
3 furnished to the department:

4 A. special fuel received in New Mexico, but [~~sold~~  
5 ~~for export or~~] exported from this state by a special fuel  
6 supplier, other than in the fuel supply tank of a motor vehicle;

7 B. special fuel sold to the United States or any  
8 agency or instrumentality thereof for the exclusive use of the  
9 United States or any agency or instrumentality thereof; special  
10 fuel sold to the United States includes special fuel delivered  
11 into the supply tank of a government-licensed vehicle;

12 C. special fuel sold to the state of New Mexico or  
13 any political subdivision, agency or instrumentality thereof for  
14 the exclusive use of the state of New Mexico or any political  
15 subdivision, agency or instrumentality thereof; special fuel  
16 sold to the state of New Mexico includes special fuel delivered  
17 into the supply tank of a government-licensed vehicle;

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

24 E. special fuel sold to the holder of a special bulk  
25 storage user permit and delivered into special bulk storage

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1 [under] pursuant to the provisions of Section 7-16A-8 NMSA 1978;  
2 and

3 F. special fuel sold for nonhighway use. "

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

6 "7-16A-19. TEMPORARY SPECIAL FUEL USER PERMITS. --

7 A. [~~The department may issue temporary special fuel~~  
8 ~~user permits for the privilege of using special fuel in New~~  
9 ~~Mexico]~~ To prevent evasion of the special fuel excise tax,  
10 special fuel users whose vehicles are not registered with the  
11 department must acquire a temporary special fuel user permit  
12 from the department before operating the unregistered motor  
13 vehicle on the highways of New Mexico. The temporary special  
14 fuel user permit shall be valid for one entrance and one exit of  
15 the state, within a period that shall not exceed forty-eight  
16 hours from the time of issuance.

17 [~~B. Temporary special fuel user permits shall be~~  
18 ~~secured from the department.~~

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

21 [~~D.]~~ C. It is a violation of the Special Fuels  
22 Supplier Tax Act for any person to act as a temporary special  
23 fuel user without obtaining a valid temporary special fuel user  
24 permit from the department. "

25 Section 8. A new section of the Special Fuels Supplier Tax

Underscored material = new  
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1 Act is enacted to read:

2 " [NEW MATERIAL] MANIFEST OR BILL OF LADING REQUIRED WHEN  
3 TRANSPORTING SPECIAL FUELS. -- Every person transporting special  
4 fuels from a refinery or other facility at which special fuel is  
5 produced, refined, manufactured, blended or compounded or from a  
6 pipeline terminal in this state, importing special fuels into  
7 this state or exporting special fuels from this state, other  
8 than by pipeline or in the fuel supply tanks of motor vehicles,  
9 shall carry a manifest or bill of lading in form and content as  
10 prescribed by or acceptable to the department. The manifest or  
11 bill of lading shall be signed by the consignor and by every  
12 person accepting the special fuel or any part of it, with a  
13 notation as to the amount accepted. If a manifest or bill of  
14 lading is not required to be carried by the terms of this  
15 section, any person transporting special fuels without such a  
16 manifest or bill of lading shall, upon demand, furnish proof  
17 acceptable to the department that the special fuels so  
18 transported were legally acquired by a registered supplier or  
19 dealer who assumed liability for payment of the tax imposed by  
20 the Special Fuels Supplier Tax Act. "

21 Section 9. EFFECTIVE DATE. -- The effective date of the  
22 provisions of this act is March 1, 1996.

23 Section 10. EMERGENCY. -- It is necessary for the public  
24 peace, health and safety that this act take effect immediately.

1 FORTY- SECOND LEGI SLATURE  
2 SECOND SESSI ON, 1996  
3  
4

5 JANUARY 18, 1996  
6

7 Mr. President:  
8

9 Your COMMI TTEES' COMMI TTEE, to whom has been referred  
10

11 SENATE BILL 43  
12

13 has had it under consideration and finds same to be GERMANE, PURSUANT  
14 TO CONSTITUTIONAL PROVISIONS, and thence referred to the SENATE WAYS  
15 AND MEANS COMMI TTEE.  
16

17 Respectfully submit ted,  
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20  
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22 \_\_\_\_\_  
23 SENATOR MANNY M. ARAGON, Chai rman  
24  
25



Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

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Date \_\_\_\_\_

The roll call vote was \_\_ For \_\_ Against

Yes:

No:

Excused:

Absent:

S0043CC1

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

1 FORTY-SECOND LEGISLATURE  
2 SECOND SESSION, 1996  
3  
4

5 January 31, 1996  
6

7 Mr. President:  
8

9 Your WAYS AND MEANS COMMITTEE, to whom has been referred  
10

11 SENATE BILL 43  
12

13 has had it under consideration and reports same with recommendation that  
14 it DO PASS, amended as follows:  
15

16 1. On page 8, line 12, after the word "transported" strike the  
17 remainder of the line and all of lines 13 and 14 and insert in lieu  
18 thereof "off the reservation or pueblo grant by any means other than in  
19 the supply tank of a motor vehicle or by pipeline."  
20

21 2. On page 8, line 20, after the word "transported" strike the  
22 remainder of the line and all of line 21 and insert in lieu thereof "off  
23 the reservation or pueblo grant by any means other than in the supply  
24 tank of a motor vehicle or by pipeline."  
25

3. On page 19, line 14, after the word "transported" strike the

**FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996**

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SWMC/SB 43

Page 27

remainder of the line and all of line 15 and insert in lieu thereof "off the reservation or pueblo grant by any means other than in the supply tank of a motor vehicle or by pipeline."

4. On page 19, line 21, after the word "transported" strike the remainder of the line and all of lines 22 and 23 and insert in lieu thereof "off the reservation or pueblo grant by any means other than in the supply tank of a motor vehicle or by pipeline".,

and thence referred to the FINANCE COMMITTEE.

Respectfully submitted,

\_\_\_\_\_  
TITO D. CHAVEZ, Chairman

Underscored material = new  
[bracketed material] = delete

**FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996**

SWMC/SB 43

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Riley, Wiener, Campos

Absent: None

S0043WM1

Underscored material = new  
[bracketed material] = delete

**FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996**

SWMC/SB 43

Page 29

**FORTY- SECOND LEGI SLATURE  
SECOND SESSI ON, 1996**

**February 8, 1996**

**Mr. President:**

**Your FINANCE COMMI TTEE, to whom has been referred**

**SENATE BILL 43, as amended**

**has had it under consideration and reports same with recommendation that  
it DO PASS.**

**Respectfully submitted,**

---

**Ben D. Altami rano, Chair man**

**FORTY-SECOND LEGISLATURE  
SECOND SESSION, 1996**

SWMC/SB 43

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 9 For 0 Against

Yes: 9

No: 0

Excused: Fidel, Donisthorpe, Macias, Nava

Absent: None

S0043FC1

Underscored material = new  
[bracketed material] = delete