

AN ACT

RELATING TO TAXATION; CHANGING THE DEFINITION OF "ALTERNATIVE FUEL" IN THE ALTERNATIVE FUEL TAX ACT TO INCLUDE AN ENERGY EQUIVALENCE FORMULA FOR COMPRESSED AND LIQUEFIED NATURAL GAS; ELIMINATING THE OPTION TO PAY THE ALTERNATIVE FUEL EXCISE TAX ON AN ANNUAL BASIS; AMENDING SECTIONS OF THE ALTERNATIVE FUEL TAX ACT.

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

SECTION 1. Section 7-16B-1 NMSA 1978 (being Laws 1995, Chapter 16, Section 1) is amended to read:

"7-16B-1. SHORT TITLE.--Chapter 7, Article 16B NMSA 1978 may be cited as the "Alternative Fuel Tax Act"."

SECTION 2. Section 7-16B-3 NMSA 1978 (being Laws 1995, Chapter 16, Section 3, as amended) is amended to read:

"7-16B-3. DEFINITIONS.--As used in the Alternative Fuel Tax Act:

A. "alternative fuel" means liquefied petroleum gas, compressed natural gas, liquefied natural gas or a water-phased hydrocarbon fuel emulsion consisting of a hydrocarbon base and water in an amount not less than twenty percent by volume of the total water-phased fuel emulsion, all of which may be used for the generation of power to propel a motor vehicle on the highways;

B. "alternative fuel user" means any user who is a

registrant, owner or operator of a motor vehicle propelled by alternative fuel;

C. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

D. "distributor" means any person who delivers or dispenses alternative fuel into the supply tank of a motor vehicle;

E. "gallon" means:

(1) for liquid alternative fuel, the quantity of liquid necessary to fill a standard United States gallon liquid measure, which is approximately 3.785 liters; provided that:

(a) in the case of a water-phased hydrocarbon fuel emulsion, a gallon shall be measured only with respect to the hydrocarbon base portion of the emulsion and not to the water base portion; and

(b) in the case of liquefied natural gas, a gallon shall be 6.06 pounds of liquefied natural gas; or

(2) for nonliquid alternative fuel, one hundred fourteen cubic feet; provided that in the case of compressed natural gas, a gallon shall be 5.66 pounds or 126.67 standard cubic feet of compressed natural gas;

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

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

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

I. "person" means an individual or any other legal entity; "person" also means, to the extent permitted by law, any federal, state or other government or any department, agency or instrumentality of the state, county, municipality or any political subdivision thereof;

J. "registrant" means any person who has registered a motor vehicle pursuant to the laws of this state or of another state;

K. "sale" means any delivery, exchange, gift or other disposition;

L. "secretary" means the secretary of taxation and

revenue or the secretary's delegate;

M. "supply tank" means any tank or other receptacle in which or by which fuel may be carried and supplied to the fuel-furnishing device or apparatus of the propulsion mechanism of a motor vehicle when the tank or receptacle either contains alternative fuel or alternative fuel is delivered into it;

N. "use" means:

(1) the receipt or placing of alternative fuel by an alternative fuel user into the fuel supply tank of any motor vehicle registered, owned or operated by the alternative fuel user;

(2) the consumption by an alternative fuel user of alternative fuel in the propulsion of a motor vehicle on the highways of this state and any activity ancillary to that propulsion; or

(3) the importation of alternative fuel in the fuel supply tank of any motor vehicle as fuel for the propulsion of the motor vehicle on the highways;

O. "user" means any person other than the 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 Indian nation, tribe or pueblo or any agency or instrumentality of an Indian nation, tribe or pueblo who uses alternative fuel to propel a motor

vehicle on the highways; and

P. the definitions of "alternative fuel user" and "distributor" shall be construed so that a person may at the same time be an alternative fuel user and a distributor."

SECTION 3. Section 7-16B-4 NMSA 1978 (being Laws 1995, Chapter 16, Section 4) is amended to read:

"7-16B-4. IMPOSITION AND RATE OF TAX--DENOMINATION AS ALTERNATIVE FUEL EXCISE TAX.--

A. For the privilege of distributing alternative fuel in this state, there is imposed an excise tax at a rate provided in Subsection C of this section on each gallon of alternative fuel distributed in New Mexico.

B. The tax imposed by this section may be called the "alternative fuel excise tax".

C. For each gallon of alternative fuel distributed in New Mexico, the tax imposed by Subsection A of this section shall be:

(1) for the period beginning January 1, 1996 and ending December 31, 1997, three cents (\$0.03) per gallon;

(2) for the period beginning January 1, 1998 and ending December 31, 1999, six cents (\$0.06) per gallon;

(3) for the period beginning January 1, 2000 and ending December 31, 2001, nine cents (\$0.09) per gallon;

(4) for the period beginning January 1, 2002 and ending June 30, 2014, twelve cents (\$0.12) per gallon; and

