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SENATE BILL 319

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

John Arthur Smith

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; AMENDING THE GASOLINE TAX ACT PROVISIONS  
ON DEDUCTIONS FOR SALES BY INDIAN TRIBAL DISTRIBUTORS.

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

Section 1. Section 7-13-4 NMSA 1978 (being Laws 1991,  
Chapter 9, Section 32, as amended) is amended to read:

"7-13-4. DEDUCTIONS--GASOLINE TAX.--In computing the  
gasoline tax due, the following amounts of gasoline may be  
deducted from the total amount of gasoline received in New  
Mexico during the tax period, provided satisfactory proof  
thereof is furnished to the department:

A. gasoline received in New Mexico, but exported  
from this state by a rack operator, distributor or wholesaler  
other than in the fuel supply tank of a motor vehicle or sold  
for export by a rack operator or distributor; provided that,

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1 in either case:

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

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

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

12 B. gasoline received in New Mexico sold to the  
13 United States or any agency or instrumentality thereof for the  
14 exclusive use of the United States or any agency or  
15 instrumentality thereof. Gasoline sold to the United States  
16 includes gasoline delivered into the supply tank of a  
17 government-licensed vehicle of the United States;

18 C. gasoline received in New Mexico sold to an  
19 Indian nation, tribe or pueblo or ~~[any]~~ a political  
20 subdivision, agency or instrumentality of that Indian nation,  
21 tribe or pueblo for the exclusive use of the Indian nation,  
22 tribe or pueblo or any political subdivision, agency or  
23 instrumentality thereof. Gasoline sold to an Indian nation,  
24 tribe or pueblo includes gasoline delivered into the supply  
25 tank of a government-licensed vehicle of the Indian nation,

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1 tribe or pueblo;

2 D. gasoline received in New Mexico, dyed in  
3 accordance with department regulations and used in ~~[any]~~ a  
4 manner other than for propulsion of motor vehicles on the  
5 highways of this state or motorboats or activities ancillary  
6 to that propulsion;

7 E. gasoline received in New Mexico and sold ~~[at~~  
8 ~~retail by]~~ to a registered Indian tribal distributor for sale  
9 at retail if:

10 (1) the sale at retail occurs on the Indian  
11 reservation, pueblo grant or trust land of the distributor's  
12 Indian nation, tribe or pueblo;

13 (2) the gasoline is placed into the fuel  
14 supply tank of a motor vehicle on that reservation, pueblo  
15 grant or trust land; ~~[and]~~

16 (3) the Indian nation, tribe or pueblo has  
17 certified to the department that it has in effect an excise,  
18 privilege or similar tax on the gasoline; provided that the  
19 volume of gasoline deducted pursuant to this subsection shall  
20 be the total gallons sold in accordance with the provisions of  
21 this subsection multiplied by a fraction the numerator of  
22 which is the rate of the tribal tax certified to the  
23 department by the Indian nation, tribe or pueblo and the  
24 denominator of which is the rate of the gasoline tax imposed  
25 pursuant to the Gasoline Tax Act, but if the fraction exceeds

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1 one, it shall be one for purposes of determining the  
2 deduction; and

3 (4) the Indian nation, tribe or pueblo has  
4 entered into a joint powers agreement with the department that  
5 allows both parties to the agreement to verify information  
6 contained in the gasoline tax returns of distributors or  
7 wholesalers who deliver gasoline to Indian distributors or  
8 retailers located on the reservation, pueblo grant or trust  
9 land of the Indian nation, tribe or pueblo. The joint powers  
10 agreement may authorize the department to collect tax on  
11 behalf of the Indian nation, tribe or pueblo and remit to the  
12 appropriate taxing authority; and

13 F. gasoline received in New Mexico and sold by a  
14 registered Indian tribal distributor from a nonmobile storage  
15 container located within that distributor's Indian  
16 reservation, pueblo grant or trust land for resale outside  
17 that distributor's Indian reservation, pueblo grant or trust  
18 land; provided the department certifies that the distributor  
19 claiming the deduction sold no less than one million gallons  
20 of gasoline from a nonmobile storage container located within  
21 that distributor's Indian reservation, pueblo grant or trust  
22 land for resale outside that distributor's Indian reservation,  
23 pueblo grant or trust land during the period of May through  
24 August 1998; and provided further that the Indian nation,  
25 tribe or pueblo has entered into a joint powers agreement with

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1 the department that allows both parties to the agreement to  
2 verify information contained in the gasoline tax returns of  
3 distributors or wholesalers who deliver gasoline to Indian  
4 distributors or retailers located on the reservation, pueblo  
5 grant or trust land of the Indian nation, tribe or pueblo.  
6 The joint powers agreement may authorize the department to  
7 collect tax on behalf of the Indian nation, tribe or pueblo  
8 and remit to the appropriate taxing authority; and provided  
9 further that the amount of gasoline deducted by a registered  
10 Indian tribal distributor pursuant to this subsection shall  
11 not exceed two million five hundred thousand gallons per  
12 month, calculated as a monthly average during the calendar  
13 year. Volumes deducted pursuant to Subsection E of this  
14 section shall not be deducted pursuant to this subsection. "

15 Section 2. APPLICABILITY. -- The provisions of this act  
16 apply to taxable years beginning on or after July 1, 2002.

17 Section 3. EFFECTIVE DATE. -- The effective date of the  
18 provisions of this act is July 1, 2002.