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**SENATE BILL 16**

**46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2003**

**INTRODUCED BY**

Clinton D. Harden

**AN ACT**

**RELATING TO TAXATION; AMENDING AND REPEALING CERTAIN SECTIONS  
OF THE GASOLINE TAX ACT CONCERNING DEDUCTIONS.**

**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, in

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1 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 not  
7 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; and

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 to  
6 that propulsion.

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

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

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

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

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1                   ~~F. gasoline received in New Mexico and sold by a~~  
2 ~~registered Indian tribal distributor from a nonmobile storage~~  
3 ~~container located within that distributor's Indian reservation,~~  
4 ~~pueblo grant or trust land for resale outside that~~  
5 ~~distributor's Indian reservation, pueblo grant or trust land;~~  
6 ~~provided the department certifies that the distributor claiming~~  
7 ~~the deduction sold no less than one million gallons of gasoline~~  
8 ~~from a nonmobile storage container located within that~~  
9 ~~distributor's Indian reservation, pueblo grant or trust land~~  
10 ~~for resale outside that distributor's Indian reservation,~~  
11 ~~pueblo grant or trust land during the period of May through~~  
12 ~~August 1998; and provided further that the amount of gasoline~~  
13 ~~deducted by a registered Indian tribal distributor pursuant to~~  
14 ~~this subsection shall not exceed two million five hundred~~  
15 ~~thousand gallons per month, calculated as a monthly average~~  
16 ~~during the calendar year. Volumes deducted pursuant to~~  
17 ~~Subsection E of this section shall not be deducted pursuant to~~  
18 ~~this subsection.] "~~

19                   Section 2. REPEAL. -- Section 7-13-4.4 NMSA 1978 (being  
20 Laws 2000, Chapter 50, Section 1) is repealed.

21                   Section 3. EFFECTIVE DATE. -- The effective date of the  
22 provisions of this act is July 1, 2004.