

AN ACT

RELATING TO TAXATION; CHANGING THE DEDUCTION IN THE GASOLINE TAX ACT AND THE SPECIAL FUELS SUPPLIER TAX ACT FOR OFF-ROAD USE OF GASOLINE OR SPECIAL FUEL; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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 either case:

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

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

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

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

C. gasoline received in New Mexico sold to an Indian nation, tribe or pueblo or any political subdivision, agency or instrumentality of that Indian nation, tribe or pueblo for the exclusive use of the Indian nation, tribe or pueblo or any political subdivision, agency or instrumentality thereof. Gasoline sold to an Indian nation, tribe or pueblo includes gasoline delivered into the supply tank of a government-licensed vehicle of the Indian nation, tribe or pueblo; and

D. gasoline received in New Mexico, dyed in accordance with department regulations and used in any manner other than for propulsion of motor vehicles on the highways of this state or motorboats or activities ancillary to that propulsion. "

Section 2. A new section of the Gasoline Tax Act is

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enacted to read:

"PERMIT TO PURCHASE UNDYED GASOLINE FOR CERTAIN OFF-ROAD USE AND TO CLAIM REFUND OF TAX. --

A. Any person using gasoline in the operation of a clothes cleaning establishment, in stoves or other appliances burning gasoline, or operators of aircraft using aviation gasoline exclusively in the operation of aircraft, upon proper showing of the permit provided for in this section, may purchase gasoline to which dye has not been added and may claim a refund thereon under the provisions of this section.

B. Upon submission of proof satisfactory to the department that the requirements of this subsection have been met, the department shall allow a claim for refund of gasoline tax paid on gasoline purchased and used in the manner described in Subsection A of this section by holders of permits issued under this section. The individual purchases of gasoline, other than that used for aviation fuel, must have been made in quantities of fifty gallons or more. Purchasers of aviation fuel may accumulate invoices to reach the fifty gallon minimum. No claim for refund may be presented or allowed on less than one hundred gallons so purchased. The secretary may prescribe by regulation or instruction the documents necessary to support a claim for refund made pursuant to the provisions of this subsection.

C. The department shall create permits, in form and content as the secretary may prescribe, that will allow persons to purchase gasoline to which dye has not been added for the uses specified in Subsection A of this section. The secretary shall prescribe the method by which a person may apply for a permit.

D. The secretary, upon notice and after hearing, may suspend for a period of up to one year or revoke the gasoline tax refund permit of any person who makes any false statement on an application for a permit or on a claim for refund made pursuant to the provisions of this section, who uses the gasoline in a motor boat or in a vehicle registered to operate on the highways of this state or who violates any other provision of the Gasoline Tax Act. "

Section 3. A new section of the Gasoline Tax Act is enacted to read:

"DYED GASOLINE-- PERMISSIBLE USES-- PENALTIES FOR MISUSE. --

A. Gasoline distributors and wholesalers who are registered as distributors or wholesalers with the department may sell gasoline to be used other than in motor boats or in vehicles licensed to operate on the highways. These distributors and wholesalers shall mix with the gasoline an identifying dye in a manner consistent with state and federal law and regulations. The department shall furnish without

charge the dye upon request. Such dyed gasoline may not be used in motor boats or in vehicles registered to be operated upon the highways of this state.

B. Any person who uses dyed gasoline in a motor boat or in a vehicle registered to be operated upon the highways of this state is liable for a civil penalty for each occurrence in an amount equal to the greater of one hundred dollars (\$100) or the rate of the gasoline tax multiplied by the capacity in gallons of the fuel supply tank or tanks of the motor boat or vehicle."

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

(1) the person exporting the special fuel is registered in or licensed by the destination state to pay

that state's special fuel or equivalent fuel tax;

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

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

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

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

D. special fuel sold to an Indian nation, tribe or pueblo or any agency or instrumentality thereof for the exclusive use of the Indian nation, tribe or pueblo or any agency or instrumentality thereof. Special fuel sold to an

Indian nation, tribe or pueblo includes special fuel delivered into the supply tank of a government-licensed vehicle;

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

F. special fuel dyed in accordance with federal regulations and used in any manner other than for propulsion of motor vehicles on the highways of this state or activities ancillary to that propulsion. "

Section 5. TEMPORARY PROVISION--TRANSITION PROVISION.--Until January 1, 1999, holders of permits issued pursuant to the provisions of Sections 7-13-13 through 7-13-15 NMSA 1978 may submit and the department shall allow, in accordance with the provisions of those sections, claims for refund of gasoline tax paid on dyed or undyed gasoline purchased prior to the effective date of this act as if the provisions of those sections were still in effect.

Section 6. REPEAL.--Sections 7-13-13 through 7-13-15 NMSA 1978 (being Laws 1971, Chapter 207, Sections 12 through 14, as amended) are repealed.

Section 7. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1998. _____

