HOUSE BILL 465

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

W. Ken Martinez

AN ACT

RELATING TO TAXATION; CLARIFYING THE TREATMENT OF SPECIAL FUEL
SHIPPED FROM ONE REFINERY OR PIPELINE TERMINAL TO ANOTHER
REFINERY OR PIPELINE TERMINAL PURSUANT TO THE SPECIAL FUELS
SUPPLIER TAX ACT.

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

SECTION 1. Section 7-16A-2.1 NMSA 1978 (being Laws 1997,
Chapter 192, Section 6) is amended to read:

"7-16A-2.1. WHEN SPECIAL FUEL RECEIVED OR USED--WHO IS
REQUIRED TO PAY TAX.--

A. A rack operator receives special fuel at the
time and place when the rack operator first loads the special
fuel at the refinery or pipeline terminal into tank cars, tank
trucks, tank wagons or any other type of transportation
equipment or when the rack operator places the special fuel

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1   into any tank or other container in this state from which sales

2   or deliveries not involving transportation are made. A rack

3   operator who receives special fuel is required to pay [special

4   fuel excise] the tax on the special fuel received, except as

5   provided otherwise in Subsection B of this section. Special

6   fuel is not received when it is loaded at a refinery or

7   pipeline terminal into tank cars, tank trucks, tank wagons or

8   any other type of transportation equipment for the sole purpose

9   of being shipped from one pipeline terminal or refinery or

10   other facility that produces, refines, manufactures, distills

11   and blends or compounds special fuel, to another pipeline

12   terminal [to another] or refinery or [pipeline terminal] other

13   facility that produces, refines, manufactures, distills and

14   blends or compounds special fuel.

15   B.   When the rack operator first loads special fuel

16   at the refinery or pipeline terminal into tank cars, tank

17   trucks, tank wagons or any other type of transportation

18   equipment for the account of another person who is registered

19   with the department as a supplier and is taxable under the

20   Special Fuels Supplier Tax Act, [however] that person receives

21   the special fuel and is required to pay the [special fuel

22   excise] tax.

23   C.   Special fuel imported into New Mexico by any

24   means other than in the supply tank of a motor vehicle or by

25   pipeline is received at the time and place it is imported into

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1 this state. The person who owns the special fuel at the time

2 of importation receives the special fuel and is required to pay

3 the [special fuel excise] tax.

4 D. If special fuel is received within the exterior

5 boundaries of an Indian reservation or pueblo grant and the

6 person required to pay the [special fuel excise] tax is immune

7 from state taxation, the special fuel is also received when the

8 special fuel is transported off the reservation or pueblo grant

9 by any means other than in the fuel supply tank of a motor

10 vehicle or by pipeline. Any person who owns special fuel after

11 the special fuel is transported off the reservation or pueblo

12 grant receives the special fuel and is the person required to

13 pay the [special fuel excise] tax, unless the [special fuel

14 excise] tax has been paid by a previous owner.

15 E. Special fuel is used in New Mexico when it is

16 put into the supply tank of any motor vehicle registered, owned

17 or operated by a special fuel user, consumed by a special fuel

18 user in the propulsion of a motor vehicle on the highways of

19 this state or any activity ancillary to that propulsion, or

20 imported into the state in the fuel supply tank of any motor

21 vehicle for the propulsion of the motor vehicle on New Mexico

22 highways."

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