

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

HOUSE BILL NO. 2713

By: Hefner

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 1991, Section 508, which relates to exemptions from motor fuel tax; modifying exemptions from motor fuel tax; making certain aviation fuel subject to taxation; providing for certain motor fuel taxes to be collected and placed to credit of Oklahoma Aeronautics Commission Revolving Fund; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 68 O.S. 1991, Section 508, is amended to read as follows:

Section 508. (a) Every licensed distributor of motor fuel or diesel fuel within Oklahoma selling, to be used exclusively, or using, motor fuel or diesel fuel in aircraft or in aircraft engines used and operated on test stands for training, testing or research purposes, shall be entitled to sell or use such motor fuel or diesel fuel and the same shall not be subject to the excise tax levied by Sections 502, ~~516 and 502.1~~, 522 and 522.1 of this ~~Code and Sections 3 and 5 of this act~~ title, and the gross receipts from the sale of,

and the use of, all chemicals and petroleum products used as fuel to generate power in aircraft engines shall also be exempt from all state and local sales and use taxes levied by the Sales and Use Tax Codes, upon complying with the invoice requirements of this section. All taxes collected pursuant to the provisions of this article from the sale of aviation fuel, or motor or diesel fuel, or all chemicals and petroleum products used as fuel to generate power in aircraft engines, along with the appropriate penalties and interest, shall be paid monthly to the State Treasurer and placed to the credit of the Oklahoma Aeronautics Commission Revolving Fund.

(b) Every distributor shall show on the monthly report required by Section 505 of the Motor Fuel Tax Code the number of gallons of motor fuel or diesel fuel used or sold for which exemption is claimed under this section and such other information as the Tax Commission requires. An invoice shall be prepared covering each delivery of motor fuel, diesel fuel or other chemicals or petroleum products used as such aircraft fuel, for which exemption is claimed under this section, such invoice to be signed by the seller of the motor fuel, diesel fuel or other such fuels or products, to show the date of sale, the name of the seller, the name and address of the purchaser, the amount of motor fuel, diesel fuel or other such products delivered, and the place of delivery. Each such invoice shall contain a certification by the seller that the purchaser declared that it was his intention to use the motor fuel, diesel fuel or other such fuels or products for one of the purposes described in paragraph (a) of this section. A copy of the invoice shall be delivered to the purchaser or user.

(c) Any distributor selling or using motor fuel or diesel fuel that is exempt from motor fuel or diesel fuel taxes under this section may deduct the number of gallons of such motor fuel or diesel fuel from the total gallonage used, sold or distributed, only if copies of all invoices meeting the requirements of this section,

covering sales or use of such motor fuel or diesel fuel are retained by such distributor for a period of three (3) years from date of invoice. The deduction shall be made before computing the amount of motor fuel or diesel fuel excise tax due upon the basis of ninety-seven and one-half percent (97 1/2%) of the net gallonage subject to tax. Such invoices shall be legibly written and shall be void if any corrections or erasures appear on the face thereof. A distributor shall not deduct from his report invoices covering the sale of motor fuel or diesel fuel made by any other distributor. All such invoices and records of the distributor shall be open to inspection and audit by the Tax Commission. The failure of any distributor to file a report within ninety (90) days from the date due as provided in the Oklahoma Motor Fuel Tax Code may cause the deduction provided by this section to be disallowed by the Tax Commission.

(d) If any person uses any motor fuel, diesel fuel or other products exempt from motor fuel or diesel fuel excise tax or sales and use tax under paragraph (a) that was purchased under an invoice as described in this section in any manner other than for one of the uses set out in paragraphs (a) and (b) of this section such person shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than One Thousand Dollars (\$1,000.00), or shall be imprisoned not more than one (1) year in the county jail.

(e) If upon investigation it is determined by the Tax Commission that any deduction claimed by any distributor has been supported by any invoice fraudulently or falsely made or altered in any manner by such distributor, the Tax Commission shall disallow the deduction and cancel the distributor license of such person in the manner provided by law. Any distributor or agent of a distributor violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00), or by imprisonment in

the county jail for not more than one (1) year, or by both such fine and imprisonment.

SECTION 2. This act shall become effective July 1, 1996.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

45-2-8449

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