

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 1535

By: Fields

AS INTRODUCED

An Act relating to motor fuels; amending Section 10, Chapter 345, O.S.L. 1996, and Section 14, Chapter 345, O.S.L. 1996 (68 O.S. Supp. 1996, Sections 500.10 and 500.14), which relate to the Motor Fuel Tax Code; providing exemption from motor fuel taxes for certain turnpike use; providing for refund of motor fuel taxes; and providing an effective date.

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

SECTION 1. AMENDATORY Section 10, Chapter 345, O.S.L. 1996 (68 O.S. Supp. 1996, Section 500.10), is amended to read as follows:

Section 500.10 Subject to the procedural requirements and conditions set out in Sections ~~40~~ 500.10 through ~~47~~ 500.17 of this ~~act~~ title, the following are exempt from the tax imposed by Section ~~4~~ 500.4 of this ~~act~~ title on motor fuel:

1. Motor fuel for which proof of export is available in the form of a terminal-issued destination state shipping paper:

- a. exported by a supplier who is licensed in the destination state, or

b. sold by a supplier to a licensed exporter for immediate export;

2. Motor fuel which was acquired by an unlicensed exporter and as to which the tax imposed by this act has previously been paid or accrued and was subsequently exported by transport truck by or on behalf of the licensed exporter in a diversion across state boundaries properly reported in conformity with Section ~~46~~ 500.46 of this ~~act~~ title;

3. Motor fuel exported out of a bulk plant in this state in a tank wagon if the destination of that vehicle does not exceed twenty-five (25) miles from the border of this state and as to which the tax imposed by this act has previously been paid or accrued, subject to gallonage limits and other conditions established by the Commission;

4. K-1 kerosene sold at retail through dispensers which have been designed and constructed to prevent delivery directly from the dispenser into a vehicle fuel supply tank, and K-1 kerosene sold at retail through nonbarricaded dispensers in quantities of not more than twenty-one (21) gallons for use other than for highway purposes, under such rules as the Commission shall reasonably require;

5. Motor fuel sold to the United States or any agency or instrumentality thereof;

6. Motor fuel used solely and exclusively in district-owned public school vehicles or FFA and 4-H Club trucks for the purpose of legally transporting public school children, and motor fuel purchased by any school district for use exclusively in school buses leased or hired for the purpose of legally transporting public school children, or in the operation of vehicles used in driver training;

7. Motor fuel used solely and exclusively as fuel to propel motor vehicles on the public roads and highways of this state, when

leased or owned and being operated for the sole benefit of a county, city, town, a volunteer fire department with a state certification and rating, rural electric cooperatives, rural water and sewer districts, rural ambulance service districts, or federally recognized Indian tribes;

8. Motor fuel used as fuel for farm tractors or stationary engines owned or leased and operated by any person and used exclusively for agricultural purposes, except as to two and eight one-hundredths cents (\$0.0208) per gallon of gasoline as provided in subsection C of Section 4 500.4 of this ~~act~~ title;

9. Gasoline, diesel fuel and kerosene sold for use as fuel to generate power in aircraft engines, whether in aircraft or for training, testing or research purposes of aircraft engines, except as to eight one-hundredths of one cent (\$0.0008) per gallon as provided in subsection B of Section 4 500.4 of this ~~act~~ title;

10. Motor fuel sold within an Indian reservation or within Indian country by a federally recognized Indian tribe to a member of that tribe and used in motor vehicles owned by that member of the tribe. This exemption does not apply to sales within an Indian reservation or within Indian country by a federally recognized Indian tribe to non-Indian consumers or to Indian consumers who are not members of the tribe selling the motor fuel;

11. Subject to determination by the Commission, that portion of diesel fuel:

- a. used to operate equipment attached to a motor vehicle, if the diesel fuel was placed into the fuel supply tank of a motor vehicle that has a common fuel reservoir for travel on a highway and for the operation of equipment, or
- b. consumed by the vehicle while the vehicle is parked off the highways of this state;

12. Motor fuel acquired by a consumer out of state and carried into this state, retained within and consumed from the same vehicle fuel supply tank within which it was imported;

13. Diesel fuel used as heating oil, or in railroad locomotives or any other motorized flanged-wheel rail equipment, or used for other nonhighway purposes other than as expressly exempted under another provision;

14. Motor fuel which was lost or destroyed as a direct result of a sudden and unexpected casualty;

15. Taxable diesel which had been accidentally contaminated by dye so as to be unsaleable as highway fuel as proved by proper documentation; ~~and~~

16. Dyed diesel fuel; and

17. Motor fuel purchased in this state by a consumer and consumed on any turnpike or highway constructed by or under the authority of the Oklahoma Turnpike Authority.

SECTION 2. AMENDATORY Section 14, Chapter 345, O.S.L. 1996 (68 O.S. Supp. 1996, Section 500.14), is amended to read as follows:

Section 500.14 A. The exemption for use pursuant to paragraph 11 of Section ~~49~~ 500.10 of this ~~act~~ title shall be perfected by a refund claim filed by the consumer who shall provide evidence of an allocation of use satisfactory to the Commission.

B. The exemption for motor fuel pursuant to paragraphs 14 and 15 of Section ~~49~~ 500.10 of this ~~act~~ title which fuel was purchased tax paid for a taxable use and was, after the purchase, contaminated by the presence of a dye or marker or subject to a sudden and unexpected casualty loss shall be refunded to the person responsible for the contamination or loss event upon application therefor and on proof shown acceptable to the Commission.

C. Motor fuel tax that has otherwise been erroneously paid by a person shall be refunded by the Commission upon proof shown

satisfactory to the Commission. The authority of the Commission under this section shall be broadly construed to prevent unjust and unintended payment of taxes on exempt uses or by exempt users.

D. The consumer shall apply for a refund with respect to motor fuel purchased by the consumer for consumption in an exempt use described under paragraphs 8 ~~and~~, 13, and 17 of Section ~~40~~ 500.10 of this ~~act~~ title as to which the tax imposed by this act had been previously paid and no refund previously issued.

E. The exemption from taxation set forth in paragraph 10 of Section ~~40~~ 500.10 of this ~~act~~ title shall be perfected by the consumer applying for a refund with respect to motor fuel purchased by the consumer for consumption as to which the tax imposed by this act had been previously paid and no refund previously issued. The Commission shall promulgate any necessary rules to administer this exemption.

F. Motor fuel tax that has been paid more than once with respect to the same gallon of motor fuel shall be refunded by the Commission to the person who last paid the tax upon proof satisfactory to the Commission.

SECTION 3. This act shall become effective November 1, 1997.

46-1-5782

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