

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 1682

By: Hefner

AS INTRODUCED

An Act relating to revenue and taxation; amending Section 13, Chapter 345, O.S.L. 1996, and Section 14, Chapter 345, O.S.L. 1996 (68 O.S. Supp. 1996, Sections 500.13 and 500.14), which relate to the Motor Fuel Tax Code; modifying procedure for tax exempt motor fuel sales for agricultural use; and providing an effective date.

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

SECTION 1. AMENDATORY Section 13, Chapter 345, O.S.L. 1996 (68 O.S. Supp. 1996, Section 500.13), is amended to read as follows:

Section 500.13 The exemption for sales of motor fuel for use by the United States or any agency or instrumentality thereof, as provided in paragraph 5 of Section ~~40~~ 500.10 of this ~~act~~ title, district-owned public school vehicles and buses or FFA and 4-H Club trucks used for the purpose of legally transporting public school children and in the operation of vehicles used in driver training, as provided in paragraph 6 of Section ~~40~~ 500.10 of this ~~act~~ title, ~~and~~ for use by a county, city, town, volunteer fire department, rural electric cooperative, rural water and sewer district, rural ambulance service district, or federally recognized Indian tribe, as

provided in paragraph 7 of Section ~~40~~ 500.10 of this ~~act~~ title, and for use for agricultural purposes as provided in paragraph 8 of Section 500.10 of this title, shall be perfected as follows:

1. The ultimate vendor shall obtain a certificate signed by the purchasing entity listed in this section setting forth:

- a. the name and address of the purchasing entity,
- b. the quantity of motor fuel, or if the certificate is for all the motor fuel purchased by the purchasing entity, the certificate shall be for a period not to exceed three (3) years,
- c. the exempt use of the motor fuel,
- d. the name and address of the ultimate vendor from whom the motor fuel was purchased,
- e. the federal employer identification number of the purchasing entity, and
- f. a statement that the purchasing entity understands that the fraudulent use of the certificate to obtain fuel without paying the tax levied pursuant to this act shall result in the purchaser paying the tax, with penalties and interest, as well as such other penalties provided in this act;

2. The ultimate vendor, having obtained from the purchasing entity the certificate, which the ultimate vendor shall retain for a period of not less than three (3) years, shall execute an ultimate vendor certificate which shall contain the following information:

- a. the name and address of the ultimate vendor,
- b. the federal employment identification number of the ultimate vendor,
- c. the quantity of motor fuel sold and the date of the sale,
- d. a certification that the ultimate vendor sold motor fuel to the purchasing entity for the exempt purpose,

- e. that the ultimate vendor has the necessary records to support the sale of the motor fuel, and
- f. that the ultimate vendor understands and agrees that the fraudulent use of the certificate to obtain fuel without paying the tax levied pursuant to this act, or paying a refund of the tax, whether for the ultimate vendor or others, shall result in the payment of the tax by the ultimate vendor, with penalties and interest, as well as such other penalties provided in this act;

3. The ultimate vendor shall give the executed ultimate vendor certificate to the supplier who, having made reasonable commercial inquiries into the accuracy of the information in the certificate, shall be eligible to claim a credit against the tax liability on the ensuing monthly report of the supplier. As a condition of obtaining the credit, the supplier shall credit or refund the tax to the ultimate vendor who made the sale to the purchasing entity. If there is an intermediate vendor, or vendors, in the distribution chain between the supplier and the ultimate vendor, each vendor shall endorse the certificate, subject to rules promulgated by the Commission, and transmit the certificate to the supplier and remit the credit, once received, to the customer of the intermediate vendor. The supplier and all vendors, if they accept the certificate in good faith and make a reasonable inquiry as to the accuracy of the information contained in the certificate, shall be held harmless if the purchasing entity has made a fraudulent claim; and

4. If the sale of motor fuel to the purchasing entity occurs at a fixed retail pump available to the general public, the ultimate vendor, having made the sale to the purchasing entity without the tax, may apply for a refund from the Commission by submitting the application and supporting documentation as the Commission shall

reasonably prescribe by regulation. However, if the purchase is charged to a fleet or government fueling credit card, or to an oil company credit card issued to the purchasing entity, the ultimate vendor may bill the purchasing entity without the tax and seek a refund, or utilize the provisions of paragraph 1, 2, or 3 of this section if the issuer of the card is a supplier.

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 ~~40~~ 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 ~~40~~ 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~~ paragraph 13 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.

46-1-5893

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