STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

HOUSE BILL 2817 By: Shoemake

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 2001, Section 500.10, which relates to exemptions from motor fuel taxation; providing exemption from levy of tax upon diesel fuels for transportation in furtherance of purpose related to raising livestock or production of agricultural commodities; 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. 2001, Section 500.10, is amended to read as follows:

Section 500.10 Subject to the procedural requirements and conditions set out in this section and Sections 500.11 through 500.17 of this title, the following are exempt from the tax imposed by Section 500.4 of this 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 Section 500.4 of this title 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 500.46 of this 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 Section 500.4 of this title has previously been paid or accrued, subject to gallonage limits and other conditions established by the Oklahoma Tax 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 Tax 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 500.4 of this 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 500.4 of this 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 Tax 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;

16. Dyed diesel fuel; ~~and~~

17. Motor fuel sold to the Oklahoma Space Industry Development Authority or any spaceport user as defined in the Oklahoma Space Industry Development Act; and

18. Diesel fuel consumed in a motor vehicle owned by an individual or a business entity having fewer than fifty shareholders or other equity interest owners for the purpose of raising cattle, horses, sheep, goats, chickens or other livestock or consumed in motor vehicles for the purpose of the production of wheat, barley, cotton, peanuts, rye or any other growing crop, including, but not limited to transportation the purpose of which is the acquisition of food, medicine, equipment or other purposes necessary for the raising of such livestock or the production of such growing crops.

SECTION 2. This act shall become effective July 1, 2006.

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.

50-2-7886 MAH 01/17/06