

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED  
5 HOUSE BILL 1916

By: Richardson, Dorman, Hoskin,  
Kiesel and Renegar of the  
House

6 and

7 Justice of the Senate

8  
9  
10 COMMITTEE SUBSTITUTE

11 [ revenue and taxation - motor fuel tax - biodiesel -  
12 exemption - effective date -  
13 emergency ]

14  
15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. AMENDATORY 68 O.S. 2001, Section 500.4, is  
17 amended to read as follows:

18 Section 500.4 A. A tax is imposed on all gasoline and all  
19 diesel fuel used or consumed in this state as follows:

- 20 1. Gasoline, sixteen cents (\$0.16) per gallon; ~~and~~  
21 2. ~~Diesel~~ Except as provided in paragraph 3 of this subsection,  
22 diesel fuel, thirteen cents (\$0.13) per gallon; and

1        3. From the effective date of this act through June 30, 2009,  
2 biodiesel fuel, ten and four-tenths cents (\$0.104) per gallon of  
3 biodiesel which is contained in motor fuel.

4        B. A tax is imposed on all gasoline, diesel fuel and kerosene  
5 used or consumed in this state for use as fuel to generate power in  
6 aircraft engines or for training, testing or research on aircraft  
7 engines in the amount of eight one-hundredths of one cent (\$0.0008)  
8 per gallon. All gasoline, diesel fuel and kerosene sold for use  
9 under this subsection shall not be subject to the excise tax levied  
10 in subsection A of this section.

11        C. Notwithstanding any exemption provided in Section 500.1 et  
12 seq. of this title, all gasoline used or consumed in this state for  
13 use as fuel for farm tractors or stationary engines and used  
14 exclusively for agricultural purposes shall be subject to a tax in  
15 the amount of two and eight one-hundredths cents (\$0.0208) per  
16 gallon. All gasoline sold for use pursuant to this subsection shall  
17 not be subject to the excise tax levied in subsection A of this  
18 section. The term "farm tractor", as used herein, shall include all  
19 tractor-type, motorized farm implements and equipment but shall not  
20 include motor vehicles of the truck-type, pickup truck-type,  
21 automobiles and other motor vehicles required to be registered and  
22 licensed each year under the Oklahoma Vehicle License and  
23 Registration Act.

1 D. It is the intent of this section to amend, revise,  
2 incorporate and recodify the tax imposed on motor fuel and that the  
3 tax shall be conclusively presumed to be a direct tax and shall be a  
4 direct tax on the retail or ultimate consumer precollected for the  
5 purpose of convenience and facility to the consumer. The levy and  
6 assessment on other persons as specified in this act shall be as  
7 agents of the state for the precollection of the tax. The  
8 provisions of this section shall in no way affect the method of  
9 collecting the tax as provided in this act. The tax imposed by this  
10 section shall be collected and paid at those times, in the manner,  
11 and by those persons specified in this act.

12 E. For purposes of this section, "biodiesel" means a fuel  
13 derived from animal fats, grain components, coproducts or byproducts  
14 which may be used alone or blended with other fuels.

15 SECTION 2. AMENDATORY 68 O.S. 2001, Section 500.10, is  
16 amended to read as follows:

17 Section 500.10 Subject to the procedural requirements and  
18 conditions set out in this section and Sections 500.11 through  
19 500.17 of this title, the following are exempt from the tax imposed  
20 by Section 500.4 of this title on motor fuel:

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

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

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

3           2.     Motor fuel which was acquired by an unlicensed exporter and  
4 as to which the tax imposed by Section 500.4 of this title has  
5 previously been paid or accrued and was subsequently exported by  
6 transport truck by or on behalf of the licensed exporter in a  
7 diversion across state boundaries properly reported in conformity  
8 with Section 500.46 of this title;

9           3.     Motor fuel exported out of a bulk plant in this state in a  
10 tank wagon if the destination of that vehicle does not exceed  
11 twenty-five (25) miles from the border of this state and as to which  
12 the tax imposed by Section 500.4 of this title has previously been  
13 paid or accrued, subject to gallonage limits and other conditions  
14 established by the Oklahoma Tax Commission;

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

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

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

8           7. Motor fuel used solely and exclusively as fuel to propel  
9 motor vehicles on the public roads and highways of this state, when  
10 leased or owned and being operated for the sole benefit of a county,  
11 city, town, a volunteer fire department with a state certification  
12 and rating, rural electric cooperatives, rural water and sewer  
13 districts, rural ambulance service districts, or federally  
14 recognized Indian tribes;

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

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

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

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

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

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

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

24

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

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

6 16. Dyed diesel fuel; ~~and~~

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

10 18. Biofuels or biodiesel produced by an individual with crops  
11 grown on property owned by the same individual and used in a vehicle  
12 owned by the same individual on the public roads and highways of  
13 this state.

14 SECTION 3. This act shall become effective July 1, 2007.

15 SECTION 4. It being immediately necessary for the preservation  
16 of the public peace, health and safety, an emergency is hereby  
17 declared to exist, by reason whereof this act shall take effect and  
18 be in full force from and after its passage and approval.

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