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AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
ESTABLISHING BORDER CROSSING SPECIAL FUEL USER PERMITS FOR
SPECIAL FUEL USERS MAKING LIMITED-DISTANCE TRIPS ACROSS THE
NEW MEXICO-MEXICO BORDER; ADJUSTING THE TERMS APPLICABLE TO
TEMPORARY SPECIAL FUEL USER PERMITS; PRESCRIBING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Special Fuels Supplier
Tax Act is enacted to read:

"BORDER CROSSING SPECIAL FUEL USER
PERMIT.--

A. A special fuel user who operates a commercial
motor carrier vehicle registered or titled in Mexico, who is
engaged primarily in movement across the New Mexico-Mexico
border and into or from an international border commercial
zone and whose exclusive use of New Mexico highways is
limited to an area within ten miles of the New Mexico-Mexico
border may apply for, on a form approved by the department, a
quarterly, semi-annual or annual border crossing special fuel
user permit. The department shall issue the permit if it
approves the application and upon payment of the fee for the
permit.

B. The department shall establish by rule the
amount, which shall not exceed the following, of fees for

1 border crossing special fuel user permits:

2 (1) for a quarterly permit, one hundred
3 twenty-five dollars (\$125);

4 (2) for a semi-annual permit, two hundred
5 dollars (\$200); and

6 (3) for an annual permit, three hundred
7 fifty dollars (\$350).

8 C. The department may revoke, after notice and a
9 hearing, the border crossing special fuel user permit of a
10 special fuel user found to have violated the Special Fuels
11 Supplier Tax Act.

12 D. As used in this section, "international border
13 commercial zone" means that part of a commercial zone
14 established by a law of the United States that extends into
15 New Mexico."

16 **SECTION 2.** Section 7-16A-2.1 NMSA 1978 (being Laws
17 1997, Chapter 192, Section 6) is amended to read:

18 "7-16A-2.1. WHEN SPECIAL FUEL RECEIVED OR USED--WHO IS
19 REQUIRED TO PAY TAX.--

20 A. A rack operator receives special fuel at the
21 time and place when the rack operator first loads the special
22 fuel at the refinery or pipeline terminal into tank cars,
23 tank trucks, tank wagons or any other type of transportation
24 equipment or when the rack operator places the special fuel
25 into any tank or other container in this state from which

1 sales or deliveries not involving transportation are made. A
2 rack operator who receives special fuel is required to pay
3 the tax on the special fuel received, except as provided
4 otherwise in Subsection B of this section. Special fuel is
5 not received when it is shipped from one refinery or pipeline
6 terminal to another refinery or pipeline terminal.

7 B. When the rack operator first loads special fuel
8 at the refinery or pipeline terminal into tank cars, tank
9 trucks, tank wagons or any other type of transportation
10 equipment for the account of another person who is registered
11 with the department as a supplier and is taxable under the
12 Special Fuels Supplier Tax Act, that person receives the
13 special fuel and is required to pay the tax.

14 C. Special fuel imported into New Mexico by any
15 means other than in the supply tank of a motor vehicle or by
16 pipeline is received at the time and place it is imported
17 into this state. The person who owns the special fuel at the
18 time of importation receives the special fuel and is required
19 to pay the tax.

20 D. If special fuel is received within the exterior
21 boundaries of an Indian reservation or pueblo grant and the
22 person required to pay the tax is immune from state taxation,
23 the special fuel is also received when the special fuel is
24 transported off the reservation or pueblo grant by any means
25 other than in the fuel supply tank of a motor vehicle or by

1 pipeline. Any person who owns special fuel after the special
2 fuel is transported off the reservation or pueblo grant
3 receives the special fuel and is the person required to pay
4 the tax, unless the tax has been paid by a previous owner.

5 E. Except as provided in Subsection F of this
6 section, special fuel is used in New Mexico when it is put
7 into the supply tank of any motor vehicle registered, owned
8 or operated by a special fuel user, consumed by a special
9 fuel user in the propulsion of a motor vehicle on the
10 highways of this state or any activity ancillary to that
11 propulsion, or imported into the state in the fuel supply
12 tank of any motor vehicle for the propulsion of the motor
13 vehicle on New Mexico highways.

14 F. To the extent that a special fuel user whose
15 use of New Mexico highways is limited to that for which the
16 special fuel user holds a valid border crossing special fuel
17 user permit, as provided for in Section 1 of this 2018 act,
18 the special fuel user does not use special fuel in this
19 state."

20 SECTION 3. Section 7-16A-11 NMSA 1978 (being Laws 1992,
21 Chapter 51, Section 11, as amended) is amended to read:

22 "7-16A-11. TAX RETURNS--PAYMENT OF TAX--SPECIAL FUEL
23 USERS--EXCEPTION.--

24 A. Except as otherwise provided in this section, a
25 special fuel user shall file a special fuel excise tax return

1 in form and content as prescribed by the secretary to conform
2 to the due date for the special fuel excise tax return
3 required by an interstate agreement to which the state is a
4 party.

5 B. A special fuel user may elect to file and pay
6 the special fuel excise tax annually by conforming to the
7 annual filing requirements of an international fuel tax
8 agreement to which the state is a party.

9 C. A special fuel user shall file a return in
10 accordance with the conditions and terms of the international
11 fuel tax agreement to which the state is a party.

12 D. To the extent that a special fuel user whose
13 use of New Mexico highways is limited to that for which the
14 special fuel user holds a valid border crossing special fuel
15 user permit, as provided for in Section 1 of this 2018 act,
16 the special fuel user is exempt from the requirements of this
17 section."

18 SECTION 4. Section 7-16A-19 NMSA 1978 (being Laws 1992,
19 Chapter 51, Section 19, as amended) is amended to read:

20 "7-16A-19. SPECIAL FUEL USER PERMITS--VIOLATION.--

21 A. A special fuel user whose vehicle is not
22 registered with the department shall acquire from the
23 department, before operating the vehicle on New Mexico
24 highways:

25 (1) a temporary special fuel user permit

1 valid for one calendar day only or for one entry into and one
2 exit out of New Mexico; or

3 (2) a border crossing special fuel user
4 permit, as provided for in Section 1 of this 2018 act.

5 B. A special fuel user applying for a temporary
6 special fuel user permit shall apply for the permit on a form
7 approved by the department.

8 C. The fee for a temporary special fuel user
9 permit is five dollars (\$5.00) for each motor vehicle.

10 D. It is a violation of the Special Fuels Supplier
11 Tax Act for a person to act as a temporary special fuel user
12 without possessing a valid temporary special fuel user permit
13 issued by the department.

14 E. It is a violation of the Special Fuels Supplier
15 Tax Act for a person holding a valid border crossing special
16 fuel user permit to travel in the motor carrier vehicle for
17 which the permit was issued on New Mexico highways outside
18 the area in which the permit authorizes travel, unless the
19 person may otherwise under law engage in that travel. In
20 addition to any other penalty that may apply, a person who
21 violates this provision is subject to a fine of three hundred
22 dollars (\$300)."

23 SECTION 5. EFFECTIVE DATE.--The effective date of the
24 provisions of this act is July 1, 2018. _____