



States' Biofuels Statutes

STATE OF NEW MEXICO

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Current through the 2013 Legislative Session of the New Mexico General Assembly.

§ 7-16B-1. Short title

Chapter 7, Article 16B NMSA 1978 may be cited as the “Alternative Fuel Tax Act”.

Credits: L. 1995, Ch. 16, § 1, eff. Jan. 1, 1996; L. 2014, Ch. 34, § 1, eff. July 1, 2014.

§ 7-16B-2. Purpose

To encourage the use of alternative fuel for the propulsion of motor vehicles on the roads of New Mexico, thereby increasing the market for supplies of New Mexico natural gas and reducing harmful environmental emissions, it is the purpose of the Alternative Fuel Tax Act to provide for fair taxation of alternative fuel used for such purposes.

Credits: L. 1995, Ch. 16, § 2, eff. Jan. 1, 1996.

§ 7-16B-3. Definitions

As used in the Alternative Fuel Tax Act:

- A. “alternative fuel” means liquefied petroleum gas, compressed natural gas, liquefied natural gas or a water-phased hydrocarbon fuel emulsion consisting of a hydrocarbon base and water in an amount not less than twenty percent by volume of the total water-phased fuel emulsion, all of which may be used for the generation of power to propel a motor vehicle on the highways;
- B. “alternative fuel user” means any user who is a registrant, owner or operator of a motor vehicle propelled by alternative fuel;
- C. “department” means the taxation and revenue department, the secretary of taxation and revenue or

any employee of the department exercising authority lawfully delegated to that employee by the secretary;

D. “distributor” means any person who delivers or dispenses alternative fuel into the supply tank of a motor vehicle;

E. “gallon” means:

(1) for liquid alternative fuel, the quantity of liquid necessary to fill a standard United States gallon liquid measure, which is approximately 3.785 liters; provided that:

(a) in the case of a water-phased hydrocarbon fuel emulsion, a gallon shall be measured only with respect to the hydrocarbon base portion of the emulsion and not to the water base portion; and

(b) in the case of liquefied natural gas, a gallon shall be 6.06 pounds of liquefied natural gas; or

(2) for nonliquid alternative fuel, one hundred fourteen cubic feet; provided that in the case of compressed natural gas, a gallon shall be 5.66 pounds or 126.67 standard cubic feet of compressed natural gas;

F. “gross vehicle weight” means the weight of a motor vehicle or a combination motor vehicle without load, plus the weight of any load on the motor vehicle;

G. “highway” means every road, highway, thoroughfare, street or way, including toll roads, generally open to the use of the public as a matter of right for the purpose of motor vehicle travel and notwithstanding that the same may be temporarily closed for the purpose of construction, reconstruction, maintenance or repair;

H. “motor vehicle” means any self-propelled vehicle or device subject to registration under Section 66-3-1 NMSA 1978 that is used or may be used on the public highways in whole or in part for the purpose of transporting persons or property and includes any connected trailer or semitrailer;

I. “person” means an individual or any other legal entity; “person” also means, to the extent permitted by law, any federal, state or other government or any department, agency or instrumentality of the state, county, municipality or any political subdivision thereof;

J. “registrant” means any person who has registered a motor vehicle pursuant to the laws of this state or of another state;

K. “sale” means any delivery, exchange, gift or other disposition;

L. “secretary” means the secretary of taxation and revenue or the secretary’s delegate;

M. “supply tank” means any tank or other receptacle in which or by which fuel may be carried and supplied to the fuel-furnishing device or apparatus of the propulsion mechanism of a motor vehicle when the tank or receptacle either contains alternative fuel or alternative fuel is delivered into it;

N. “use” means:

- (1) the receipt or placing of alternative fuel by an alternative fuel user into the fuel supply tank of any motor vehicle registered, owned or operated by the alternative fuel user;
- (2) the consumption by an alternative fuel user of alternative fuel in the propulsion of a motor vehicle on the highways of this state and any activity ancillary to that propulsion; or
- (3) the importation of alternative fuel in the fuel supply tank of any motor vehicle as fuel for the propulsion of the motor vehicle on the highways;

O. “user” means any person other than the United States government or any of its agencies or instrumentalities; the state of New Mexico or any of its political subdivisions, agencies or instrumentalities; or an Indian nation, tribe or pueblo or any agency or instrumentality of an Indian nation, tribe or pueblo who uses alternative fuel to propel a motor vehicle on the highways; and

P. the definitions of “alternative fuel user” and “distributor” shall be construed so that a person may at the same time be an alternative fuel user and a distributor.

Credits: L. 1995, Ch. 16, § 3, eff. Jan. 1, 1996; L. 1997, Ch. 24, § 1; L. 2014, Ch. 34, § 2, eff. July 1, 2014.

§ 7-16B-4. Imposition and rate of tax; denomination as alternative fuel excise tax

A. For the privilege of distributing alternative fuel in this state, there is imposed an excise tax at a rate provided in Subsection C of this section on each gallon of alternative fuel distributed in New Mexico.

B. The tax imposed by this section may be called the “alternative fuel excise tax”.

C. For each gallon of alternative fuel distributed in New Mexico, the tax imposed by Subsection A of this section shall be:

- (1) for the period beginning January 1, 1996 and ending December 31, 1997, three cents (\$0.03) per gallon;
- (2) for the period beginning January 1, 1998 and ending December 31, 1999, six cents (\$0.06) per gallon;
- (3) for the period beginning January 1, 2000 and ending December 31, 2001, nine cents (\$0.09) per gallon;
- (4) for the period beginning January 1, 2002 and ending June 30, 2014, twelve cents (\$0.12) per gallon; and

(5) for the period beginning July 1, 2014 and thereafter:

(a) for alternative fuel that is compressed natural gas, thirteen and three-tenths cents (\$.133) per gallon;

(b) for alternative fuel that is liquefied natural gas, twenty and six-tenths cents (\$.206) per gallon; and

(c) for alternative fuel not described in Subparagraph (a) or (b) of this paragraph, twelve cents (\$.12) per gallon.

D. Alternative fuel purchased for distribution shall not be subject to the alternative fuel excise tax at the time of purchase or acquisition, but the tax shall be due on any alternative fuel at the time it is dispensed or delivered into the supply tank of a motor vehicle that is operated on the highways of this state.

Credits: L. 1995, Ch. 16, § 4, eff. Jan. 1, 1996; L. 2014, Ch. 34, § 3, eff. July 1, 2014.

§ 7-16B-5. Exemptions; alternative fuel excise tax

A. Alternative fuel distributed to or used by the United States or any agency or instrumentality thereof for the exclusive use of the United States or any agency or instrumentality thereof is exempt from the imposition of the alternative fuel excise tax.

B. Alternative fuel distributed to or used by the state of New Mexico or any political subdivision, agency or instrumentality thereof for the exclusive use of the state of New Mexico or any political subdivision, agency or instrumentality thereof is exempt from the imposition of the alternative fuel excise tax.

C. Alternative fuel distributed to or used by an Indian nation, tribe or pueblo or any agency or instrumentality thereof for the exclusive use of the Indian nation, tribe or pueblo or any agency or instrumentality thereof is exempt from the imposition of the alternative fuel excise tax.

Credits: L. 1995, Ch. 16, § 5, eff. Jan. 1, 1996.

§ 7-16B-6. Tax returns; payment of tax; alternative fuel distributors

A. Alternative fuel distributors shall file alternative fuel excise tax returns in form and content as prescribed by the secretary on or before the twenty-fifth day of the month following the month in which alternative fuel is distributed in New Mexico. Payment of the alternative fuel excise tax shall be made with or prior to filing of the return.

B. In computing the alternative fuel excise tax due, amounts of alternative fuel distributed to an alternative fuel user may be deducted from the total amount of alternative fuel distributed in New Mexico during the tax period provided the alternative fuel user can establish proof of compliance with

the provisions of Section 7 of the Alternative Fuel Tax Act.

Credits: L. 1995, Ch. 16, § 6, eff. Jan. 1, 1996.

§ 7-16B-7. Tax returns; payment of tax; alternative fuel user permit

A. Alternative fuel users who elect to be subject to the provisions of Subsection D of Section 4 of the Alternative Fuel Tax Act shall pay the annual tax concurrent with vehicle registration.

B. The department shall issue an alternative fuel user permit in a form designed by the department valid for one year from the month of issuance to each alternative fuel user upon the filing of an application by the alternative fuel user acceptable to the department.

C. The department may revoke, after due notice and hearing, the alternative fuel user permit of any alternative fuel user found to be in violation of any provision of the Alternative Fuel Tax Act.

Credits: L. 1995, Ch. 16, § 7, eff. Jan. 1, 1996.

§ 7-16B-8. Alternative fuel distributor license required

A. The department shall issue a license valid for up to three years to each alternative fuel distributor upon the filing of an application by the alternative fuel distributor acceptable to the department.

B. To secure an alternative fuel distributor license, an applicant shall:

- (1) register as an alternative fuel distributor under the provisions of Section 7-1-12 NMSA 1978;
- (2) file with the department on a form furnished by the department an application for an alternative fuel distributor license; and
- (3) accompany the application with payment of an alternative fuel distributor fee in the amount of twenty-five dollars (\$25.00).

C. The department may revoke, after due notice and hearing, the alternative fuel distributor license of any alternative fuel distributor found to be in violation of any provision of the Alternative Fuel Tax Act.

Credits: L. 1995, Ch. 16, § 8, eff. Jan. 1, 1996.

§ 7-16B-9. Delivery and use of alternative fuel; prohibited acts

It is a violation of the Alternative Fuel Tax Act to:

A. operate a motor vehicle upon the highways of this state with a connection between a cargo or other tank or container, not considered in the Alternative Fuel Tax Act as being the motor vehicle's fuel supply tank, and a carburetor or other fuel supply device. Fuel supply tanks, including auxiliary fuel supply tanks, shall be separate and apart from cargo tanks or other containers, with no connection by pipe, tube, valve or otherwise;

B. sell or deliver to any person alternative fuel from any alternative fuel supply tank or auxiliary alternative fuel supply tank;

C. deliver alternative fuel from a cargo tank into the alternative fuel supply tank of a motor vehicle; provided, however, delivery of liquefied alternative fuels may be made into the alternative fuel supply tank of a motor vehicle by a registered and licensed alternative fuel distributor when made by that distributor from the cargo tank of a vehicle operated by that distributor, which tank is specially designed to make this type of alternative fuel delivery; or

D. engage in the business of distributing alternative fuel in New Mexico without obtaining an alternative fuel distributor license under the provisions of Section 8 of the Alternative Fuel Tax Act.

Credits: L. 1995, Ch. 16, § 9, eff. Jan. 1, 1996.

§ 7-16B-10. Administration and enforcement of act

The department shall interpret the provisions of the Alternative Fuel Tax Act. The department shall administer and enforce the collection of the alternative fuel excise tax, and the Tax Administration Act¹ applies to the administration and enforcement of the tax.

Credits: L. 1995, Ch. 16, § 10, eff. Jan. 1, 1996.