

1 **CLEAN SPECIAL FUEL TAX CERTIFICATE**

2 **- EXEMPTION**

3 2003 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: David H. Steele**

6 **This act modifies the Revenue and Taxation Code by clarifying that government vehicles**
7 **are exempt from purchasing the clean special fuel tax certificate. This act makes**
8 **technical corrections.**

9 This act affects sections of Utah Code Annotated 1953 as follows:

10 AMENDS:

11 **59-13-301**, as last amended by Chapter 232, Laws of Utah 2001

12 **59-13-303**, as last amended by Chapter 128, Laws of Utah 2002

13 **59-13-304**, as last amended by Chapter 287, Laws of Utah 2000

14 **59-13-305**, as last amended by Chapter 128, Laws of Utah 2002

15 **59-13-314**, as last amended by Chapter 271, Laws of Utah 1997

16 **59-13-320**, as last amended by Chapter 271, Laws of Utah 1997

17 *Be it enacted by the Legislature of the state of Utah:*

18 Section 1. Section **59-13-301** is amended to read:

19 **59-13-301. Tax basis -- Rate -- Exemptions -- Revenue deposited with treasurer**
20 **and credited to Transportation Fund -- Reduction of tax in limited circumstances.**

21 (1) (a) Except as provided in Subsections (2), (3), and (11) and Section 59-13-304, a
22 tax is imposed at the same rate imposed under Subsection 59-13-201(1)(a) on the:

23 (i) removal of undyed diesel fuel from any refinery;

24 (ii) removal of undyed diesel fuel from any terminal;

25 (iii) entry into the state of any undyed diesel fuel for consumption, use, sale, or
26 warehousing;

27 (iv) sale of undyed diesel fuel to any person who is not registered as a supplier under



28 this part unless the tax has been collected under this section;

29 (v) any untaxed special fuel blended with undyed diesel fuel; or

30 (vi) use of untaxed special fuel, other than a clean special fuel.

31 (b) The tax imposed under this section shall only be imposed once upon any special
32 fuel.

33 (2) (a) No special fuel tax is imposed or collected upon dyed diesel fuel which:

34 (i) is sold or used for any purpose other than to operate or propel a motor vehicle upon
35 the public highways of the state, but this exemption applies only in those cases where the
36 purchasers or the users of special fuel establish to the satisfaction of the commission that the
37 special fuel was used for purposes other than to operate a motor vehicle upon the public
38 highways of the state; or

39 (ii) is sold to this state or any of its political subdivisions.

40 (b) No special fuel tax is imposed on undyed diesel fuel which:

41 (i) is sold to the United States government or any of its instrumentalities or to this state
42 or any of its political subdivisions;

43 (ii) is exported from this state if proof of actual exportation on forms prescribed by the
44 commission is made within 180 days after exportation;

45 (iii) is used in a vehicle off-highway;

46 (iv) is used to operate a power take-off unit of a vehicle;

47 (v) is used for off-highway agricultural uses;

48 (vi) is used in a separately fueled engine on a vehicle that does not propel the vehicle
49 upon the highways of the state; or

50 (vii) is used in machinery and equipment not registered and not required to be
51 registered for highway use.

52 (3) No tax is imposed or collected on special fuel if it is:

53 (a) purchased for business use in machinery and equipment not registered and not
54 required to be registered for highway use; and

55 (b) used pursuant to the conditions of a state implementation plan approved under Title
56 19, Chapter 2, Air Conservation Act.

57 (4) Upon request of a buyer meeting the requirements under Subsection (3), the
58 Division of Air Quality shall issue an exemption certificate that may be shown to a seller.

59 (5) The special fuel tax shall be paid by the supplier.

60 (6) (a) The special fuel tax shall be paid by every user who is required by Sections
61 59-13-303 and 59-13-305 to obtain a special fuel user permit and file special fuel tax reports.

62 (b) The user shall receive a refundable credit for special fuel taxes paid on purchases
63 which are delivered into vehicles and for which special fuel tax liability is reported.

64 (7) (a) All revenue received by the commission from taxes and license fees under this
65 part shall be deposited daily with the state treasurer and credited to the Transportation Fund.

66 (b) An appropriation from the Transportation Fund shall be made to the commission to
67 cover expenses incurred in the administration and enforcement of this part and the collection of
68 the special fuel tax.

69 (8) The commission may either collect no tax on special fuel exported from the state
70 or, upon application, refund the tax paid.

71 (9) (a) The United States government or any of its instrumentalities, this state, or a
72 political subdivision of this state that has purchased special fuel from a supplier or from a retail
73 dealer of special fuel and has paid the tax on the special fuel as provided in this section is
74 entitled to a refund of the tax and may file with the commission for a quarterly refund in a
75 manner prescribed by the commission.

76 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
77 commission shall make rules governing the application and refund provided for in Subsection
78 (9)(a).

79 (10) (a) The purchaser shall pay the tax on diesel fuel purchased for uses under
80 Subsections (2)(b)(i), (iii), (iv), (v), (vi), and (vii) and apply for a refund for the tax paid as
81 provided in Subsections (9) and (10).

82 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
83 commission shall make rules governing the application and refund for off-highway and
84 nonhighway uses provided under Subsections (2)(b)(iii), (iv), (vi), and (vii).

85 (c) A refund of tax paid under this part on diesel fuel used for nonhighway agricultural
86 uses shall be made in accordance with the tax return procedures under Section 59-13-202.

87 (11) (a) Beginning on April 1, 2001, a tax imposed under this section on special fuel is
88 reduced to the extent provided in Subsection (11)(b) if:

89 (i) the Navajo Nation imposes a tax on the special fuel;

90 (ii) the tax described in Subsection (11)(a)(i) is imposed without regard to whether the
91 person required to pay the tax is an enrolled member of the Navajo Nation; and

92 (iii) the commission and the Navajo Nation execute and maintain an agreement as
93 provided in this Subsection (11) for the administration of the reduction of tax.

94 (b) (i) If but for Subsection (11)(a) the special fuel is subject to a tax imposed by this
95 section:

96 (A) the state shall be paid the difference described in Subsection (11)(b)(ii) if that
97 difference is greater than \$0; and

98 (B) a person may not require the state to provide a refund, a credit, or similar tax relief
99 if the difference described in Subsection (11)(b)(ii) is less than or equal to \$0.

100 (ii) The difference described in Subsection (11)(b)(i) is equal to the difference
101 between:

102 (A) the amount of tax imposed on the special fuel by this section; less

103 (B) the tax imposed and collected by the Navajo Nation on the special fuel.

104 (c) For purposes of Subsections (11)(a) and (b), the tax paid to the Navajo Nation on
105 the special fuel does not include any interest or penalties a taxpayer may be required to pay to
106 the Navajo Nation.

107 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
108 commission shall make rules governing the procedures for administering the reduction of tax
109 provided under this Subsection (11).

110 (e) The agreement required under Subsection (11)(a):

111 (i) may not:

112 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

113 (B) provide a reduction of taxes greater than or different from the reduction described
114 in this Subsection (11); or

115 (C) affect the power of the state to establish rates of taxation;

116 (ii) shall:

117 (A) be in writing;

118 (B) be signed by:

119 (I) the chair of the commission or the chair's designee; and

120 (II) a person designated by the Navajo Nation that may bind the Navajo Nation;

- 121 (C) be conditioned on obtaining any approval required by federal law;
- 122 (D) state the effective date of the agreement; and
- 123 (E) state any accommodation the Navajo Nation makes related to the construction and
124 maintenance of state highways and other infrastructure within the Utah portion of the Navajo
125 Nation; and
- 126 (iii) may:
- 127 (A) notwithstanding Section 59-1-403, authorize the commission to disclose to the
128 Navajo Nation information that is:
- 129 (I) contained in a document filed with the commission; and
- 130 (II) related to the tax imposed under this section;
- 131 (B) provide for maintaining records by the commission or the Navajo Nation; or
- 132 (C) provide for inspections or audits of suppliers, distributors, carriers, or retailers
133 located or doing business within the Utah portion of the Navajo Nation.
- 134 (f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax
135 imposed on special fuel, any change in the amount of the reduction of taxes under this
136 Subsection (11) as a result of the change in the tax rate is not effective until the first day of the
137 calendar quarter after a 60-day period beginning on the date the commission receives notice:
- 138 (A) from the Navajo Nation; and
- 139 (B) meeting the requirements of Subsection (11)(f)(ii).
- 140 (ii) The notice described in Subsection (11)(f)(i) shall state:
- 141 (A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
142 special fuel;
- 143 (B) the effective date of the rate change of the tax described in Subsection
144 (11)(f)(ii)(A); and
- 145 (C) the new rate of the tax described in Subsection (11)(f)(ii)(A).
- 146 (g) If the agreement required by Subsection (11)(a) terminates, a reduction of tax is not
147 permitted under this Subsection (11) beginning on the first day of the calendar quarter after a
148 30-day period beginning on the day the agreement terminates.
- 149 (h) If there is a conflict between this Subsection (11) and the agreement required by
150 Subsection (11)(a), this Subsection (11) governs.
- 151 Section 2. Section **59-13-303** is amended to read:

152 **59-13-303. Bond requirements -- Special fuel user permits -- Application --**
153 **Revocation of permits under certain circumstances.**

154 (1) The commission may require a user to furnish a bond.

155 (2) (a) Except as provided in Subsection (2)(b), each user shall, prior to the use of the
156 fuel in a qualified motor vehicle, apply to the commission on forms prescribed by the
157 commission for a special fuel user permit. When the application is approved by the
158 commission, a single special fuel user permit shall be issued to the user.

159 (b) In place of the special fuel user permit issued under Subsection (2)(a), a user may
160 purchase a special fuel user trip permit. A special fuel user trip permit is valid for 96 hours or
161 until the qualified vehicle leaves the state, whichever occurs first.

162 (3) A special fuel user permit number shall be assigned to each licensed user and is
163 nontransferable and valid until surrendered by the user for nonuse or until revoked by the
164 commission.

165 (4) The special fuel user permit expires December 31 of each year. Special fuel user
166 permits for the calendar year shall be honored until February 28 of the following year. An
167 application shall be filed with the commission each year for a new special fuel user permit for
168 vehicles operated by a licensed user.

169 (5) (a) The special fuel [~~vehicle~~] user permit shall be kept in the passenger
170 compartment of each vehicle, or as otherwise authorized by the commission.

171 (b) A user that does not comply with the requirements of this section may be required
172 to purchase a special fuel user trip permit.

173 (6) The commission may revoke the special fuel user permit issued under this section
174 from any person refusing or neglecting to comply with this part.

175 (7) Any user reporting Utah special fuel tax liability under Part 5, Interstate
176 Agreements, is exempted from the permit requirements of this section.

177 Section 3. Section **59-13-304** is amended to read:

178 **59-13-304. Exemptions from Special Fuel Tax -- Clean Special Fuel Tax --**
179 **Certificate required -- Fees for certificates -- Inspection of vehicles -- Exemptions.**

180 (1) (a) [A] Except as provided in Subsection (4), a user of special fuel who owns a
181 vehicle powered by a clean special fuel as defined under Section 59-13-102 shall pay a clean
182 special fuel tax as provided under this section for use of clean special fuel.

183 (b) A user of special fuel who qualifies for the clean special fuel tax shall annually
184 purchase from the commission a clean special fuel tax certificate for each vehicle owned or
185 leased that is [~~described under Subsection (1)(a)~~] powered by a clean special fuel.

186 (c) Clean special fuel tax certificates are provided to encourage the use of clean fuels to
187 reduce air pollution.

188 (2) (a) The fee for a clean special fuel tax certificate is:

189 (i) 70/.19 of the tax per gallon imposed under Subsection 59-13-201(1)(a), rounded up
190 to the nearest dollar, for qualified motor vehicles as defined under Section 59-13-102; and

191 (ii) 36/.19 of the tax per gallon imposed under Subsection 59-13-201(1)(a), rounded up
192 to the nearest dollar, for other vehicles.

193 (b) The commission may require each vehicle to be inspected for safe operation before
194 issuing the certificate.

195 (c) Each vehicle shall be equipped with an approved and properly installed carburetion
196 system if it is powered by a fuel that is gaseous at standard atmospheric conditions.

197 (3) (a) Beginning January 1, 2001 through December 31, 2005, there is imposed a
198 surcharge of \$35 on each clean special fuel tax certificate issued under this section.

199 (b) Surcharges imposed under Subsection (3)(a) shall be deposited into the Centennial
200 Highway Fund created under Section 72-2-118.

201 (4) A governmental entity identified in Subsection 59-13-301(9) that owns or leases a
202 vehicle powered by a special fuel that qualifies as a clean special fuel is exempt from the clean
203 special fuel tax imposed under this section.

204 Section 4. Section **59-13-305** is amended to read:

205 **59-13-305. User report required -- Contents of report -- Signature -- Penalties --**
206 **Exemptions from requirements -- Change of exemption status -- Duty to notify**
207 **commission.**

208 (1) Unless exempted by Subsection (5), each user shall file with the commission, on or
209 before the last day of the month following the end of a reporting period, a report on forms
210 prescribed by the commission showing:

211 (a) the amount of fuel purchased and the amount of fuel used during the preceding
212 reporting period by that user in the state; and

213 (b) any other information the commission may require to carry out the purposes of this

214 part.

215 (2) The report shall be signed by the user or a responsible representative. This
216 signature need not be notarized, but when signed is considered to have been made under oath.

217 (3) A penalty is imposed under Section 59-1-401 for failure to file reports as provided
218 in this section for each report not filed, regardless of the imposition of other penalties under
219 this part.

220 (4) (a) Each user that has a registered special fuel-powered motor vehicle other than a
221 qualified motor vehicle and has facilities for bulk storage of special fuels shall declare special
222 fuel tax liability for any nonqualified motor vehicle on the user report required by Subsection
223 (1).

224 (b) Credit shall be given on the report for any special fuel taxes paid on purchases for
225 any nonqualified vehicle. Purchase records must be maintained to substantiate the amount of
226 any credit claimed.

227 (5) (a) The following users are exempt from the filing requirements of Subsections (1)
228 and (2) for the motor vehicles specified:

229 (i) a user who purchases a special fuel user trip permit for all of its operations for
230 qualified vehicles for the reporting period, except a user having a special fuel user permit under
231 Subsection 59-13-303(2)(a);

232 (ii) a user that has a registered special fuel-powered motor vehicle other than a
233 qualified motor vehicle and does not have facilities for bulk storage of special fuels;

234 (iii) a user of special fuel, for which the tax imposed by this chapter has already been
235 paid; or

236 (iv) a user that has a motor vehicle powered by special fuel for which the tax is paid
237 under an interstate fuel tax agreement under Section 59-13-502.

238 (b) (i) The exemption under Subsection (5)(a)(iii) applies only when the user retains
239 records verifying that all special fuel purchases for the exempt vehicle were taxed as required
240 under this part.

241 (ii) The commission may at the time of application or renewal of a special fuel user
242 permit under Section 59-13-303 require that the user certify:

243 (A) that the user qualifies for an exemption under Subsection (5)(a)(iii); and

244 (B) whether the user has facilities for bulk storage of special fuel.

245 (c) A user of a motor vehicle that qualifies for an exemption under Subsections
246 (5)(a)(ii) and (iii) is also exempt from the requirements of Subsection 59-13-303(1) for that
247 motor vehicle.

248 Section 5. Section **59-13-314** is amended to read:

249 **59-13-314. Special fuel user permit required before registration of vehicle.**

250 Before registering any motor vehicle which is operated by special fuels, the registered
251 owner or lessee of the vehicle shall obtain:

252 (1) a valid special fuel [~~vehicle~~] user permit for the current year if required under
253 Section 59-13-303; or

254 (2) a valid clean special fuel tax certificate [~~as provided by~~] for the current year if
255 required under Section 59-13-304.

256 Section 6. Section **59-13-320** is amended to read:

257 **59-13-320. Penalties for violations of the special fuel tax provisions.**

258 (1) The following offenses, unless otherwise provided, are class B misdemeanors:

259 (a) failing or refusing to pay the tax imposed by this part;

260 (b) engaging in business in this state as a supplier without being the holder of an
261 uncanceled license to engage in this business;

262 (c) operating a motor vehicle, which requires special fuel, upon the highways of this
263 state without a valid special fuel [~~vehicle~~] user permit;

264 (d) failing to make any of the reports required by this part;

265 (e) making any false statement in any application, report, or statement required by this
266 part;

267 (f) refusing to permit the commission or any employee to examine records as provided
268 by this part;

269 (g) failing to keep proper records of quantities of fuel received, produced, refined,
270 manufactured, compounded, used, or delivered in this state as required by this part;

271 (h) making any false statement in connection with an application for the refund of any
272 moneys or taxes provided in this part; or

273 (i) violating any of the provisions of this part for which no penalty is provided.

274 (2) Any person required to make, render, sign, or verify any report and who makes any
275 false or fraudulent report with intent to defeat or evade the assessment required by law to be

276 made, is subject to a criminal violation under Section 59-1-401.

277 (3) The remedies of the state are cumulative and no action taken by the commission or
278 any of its officers to pursue any remedy may be construed to be an election on the part of the
279 state to exclude any other allowed by law.

Legislative Review Note
as of 9-19-02 3:05 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-11-02 9:00 AM

The Transportation Interim Committee recommended this bill.

Fiscal Note
Bill Number SB0004

Clean Special Fuel Tax Certificate - Exemption

07-Jan-03

4:18 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst