

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 1011

Short Title: Fuel Law Changes.

(Public)

Sponsors: Senators Winner, Carter, Plexico, Seymour, Staton; and Smith.

Referred to: Finance.

May 28, 1992

A BILL TO BE ENTITLED

AN ACT MAKING TECHNICAL AND OTHER CHANGES TO THE FUEL TAX LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-430 is amended by adding the following subdivisions to read:

"(5) Person. – An individual, a firm, a partnership, an association, a corporation, or any other organization or group acting as a unit.

(6) Secretary. – The Secretary of Revenue."

Sec. 2. G.S. 105-446.1 reads as rewritten:

"§ 105-446.1. Refund of tax paid on motor fuel by certain governmental entities and nonprofit organizations.

(a) A governmental entity or a nonprofit organization listed below that purchases and uses motor fuel may receive a quarterly refund, for the tax paid during the preceding quarter, at a rate equal to the amount of the flat cents-per-gallon rate plus the variable cents-per-gallon rate in effect during the quarter for which the refund is claimed, less one cent (1¢) per gallon. ~~The~~ Any of the following entities may receive a refund under this section:

~~(1) The Department of Transportation;~~

~~(2)(1) A county or a municipal corporation;~~ corporation.

~~(3)(2) A private, nonprofit organization that transports passengers under contract with or at the express designation of a unit of local government;~~ government.

~~(4)(3) A volunteer fire department;~~ department.

1 ~~(5)~~(4) A volunteer rescue ~~squad~~; squad.

2 ~~(6)~~(5) A sheltered workshop recognized by the Department of Human
3 Resources.

4 (b) An application for a refund allowed under this section must be made in
5 accordance with G.S. 105-440 and must be signed by the chief executive officer of the
6 entity. ~~The chief executive officer of the Department of Transportation is the Secretary of~~
7 ~~Transportation.~~—The chief executive officer of a county or municipal corporation is the
8 officer designated by the governing body of the county or municipal corporation, such
9 as the chair of a board of county commissioners or the mayor of a city. The chief
10 executive officer of a nonprofit organization is the president of the organization or
11 another officer of the organization designated in the charter or by-laws of the
12 organization."

13 Sec. 3. G.S. 105-442 is repealed.

14 Sec. 4. G.S. 105-445, as amended by Section 16 of Chapter 538 of the 1991
15 Session Laws, reads as rewritten:

16 **"§ 105-445. (Effective until January 1, 1995) Application of proceeds of gasoline**
17 **tax.**

18 The amount of revenue collected under this Article attributable to a per gallon excise
19 tax of one-half cent (1/2¢) a gallon shall be credited in equal amounts to the
20 Commercial Leaking Petroleum Underground Storage Tank Fund and the Groundwater
21 Protection Loan Fund. Of the remaining tax revenue collected under this Article,
22 seventy-five percent (75%) ~~tax~~ shall be credited to the Highway Fund and the remaining
23 twenty-five percent (25%) shall be credited to the Highway Trust Fund. A
24 proportionate share of a refund allowed under this Article shall be charged to the
25 Commercial Leaking Petroleum Underground Storage Tank Fund, the Groundwater
26 Protection Loan Fund, the Highway Fund, and the Highway Trust Fund. The Secretary
27 shall credit revenue or charge refunds to the appropriate Funds on a monthly basis."

28 Sec. 5. G.S. 105-445, as amended by Section 18 of Chapter 538 of the 1991
29 Session Laws, reads as rewritten:

30 **"§ 105-445. (Effective January 1, 1995, until January 1, 1999) Application of**
31 **proceeds of gasoline tax.**

32 The amount of revenue collected under this Article attributable to a per gallon excise
33 tax of one-quarter cent (1/4¢) a gallon shall be credited to the Commercial Leaking
34 Petroleum Underground Storage Tank Fund. Of the remaining tax revenue collected
35 under this Article, seventy-five percent (75%) ~~tax~~ shall be credited to the Highway Fund
36 and the remaining twenty-five percent (25%) shall be credited to the Highway Trust
37 Fund. A proportionate share of a refund allowed under this Article shall be charged to
38 the Commercial Leaking Petroleum Underground Storage Tank Fund, the Highway
39 Fund, and the Highway Trust Fund. The Secretary shall credit revenue or charge
40 refunds to the appropriate Funds on a monthly basis."

41 Sec. 6. G.S. 105-445, as amended by Section 20 of Chapter 538 of the 1991
42 Session Laws, reads as rewritten:

43 **"§ 105-445. (Effective January 1, 1999) Application of proceeds of gasoline tax.**

1 ~~Of the revenue collected under this Article, seventy-five~~ Seventy-five percent (75%) tax
2 ~~of the tax revenue collected under this Article shall be credited to the Highway Fund~~
3 ~~and the remaining twenty-five percent (25%) shall be credited to the Highway Trust~~
4 ~~Fund. A proportionate share of a refund allowed under this Article shall be charged to~~
5 ~~the the Highway Fund and the Highway Trust Fund. The Secretary shall credit revenue~~
6 ~~or charge refunds to the appropriate Funds on a monthly basis."~~

7 Sec. 7. G.S. 105-449.26 reads as rewritten:

8 **"§ 105-449.26. User-sellers and certain suppliers must give receipts for and keep**
9 **records of fuel sold at retail.**

10 (a) ~~Receipt.~~ Receipts and Records. —~~A~~ When required by this section, a user-seller
11 and a supplier who is also a reseller but is licensed only as a supplier must give a receipt
12 to each person who buys for and keep a record of certain fuel sold at retail from any of the
13 following locations either 25 gallons or more of fuel to propel a motor vehicle or any amount
14 of diesel for any other purpose: ~~locations:~~

- 15 (1) A retail service station or other retail establishment operated by the
16 user-seller or supplier.
- 17 (2) A bulk storage facility of the user-seller or supplier to which the buyer
18 came to buy the fuel.
- 19 (3) Any other location at which the user-seller or supplier dispenses fuel
20 into a motor vehicle.

21 If the fuel is sold to propel a motor vehicle, the user-seller or supplier must give the
22 buyer a receipt only when the buyer asks for a receipt and must keep a record of any
23 receipt given. If the fuel is diesel and is sold for a purpose other than to propel a motor
24 vehicle, the user-seller or supplier must give the buyer a receipt only when the buyer
25 asks for a receipt but must always keep a record of the sale unless subsection (c)

26 exempts the user-seller or supplier from the requirement of keeping a record.
27 ~~A user-seller or supplier shall prepare only one original receipt for each sale of fuel, shall give~~
28 ~~the original to the buyer at the time of the sale, and shall keep a copy of the receipt. A user-~~
29 ~~seller or supplier who gives a person a copy of a receipt shall clearly mark the copy as a~~
30 ~~duplicate.~~

31 ~~If the Secretary determines that a user-seller or a supplier has sold nontaxpaid fuel at~~
32 ~~retail to propel a motor vehicle, the Secretary may require the user-seller or supplier to~~
33 ~~give a receipt to each person who buys any amount of~~ keep a record of all fuel sold at retail
34 to propel a motor vehicle. A user-seller or supplier who is required to keep a record of
35 diesel sold at retail for a purpose other than to propel a motor vehicle is liable for the tax
36 and the inspection fee on the diesel sold for a purpose other than to propel a motor vehicle if
37 the user-seller or supplier does not have a receipt for ~~keep a record of the diesel sold.~~ sale.

38 (b) Content. — A record of a sale and a receipt for a sale shall include all of the
39 following information:

- 40 (1) The name and address of the user-seller or supplier.
- 41 (2) The name and address of the person buying the fuel.
- 42 (3) The date the fuel was sold.
- 43 (4) The amount of fuel sold.
- 44 (5) The type of fuel sold.

- 1 (6) The total sales price of the fuel.
 2 (7) Either of the following:
 3 a. The company name and company unit number of the motor
 4 vehicle into which the fuel was dispensed.
 5 b. The license plate number of the motor vehicle into which the
 6 fuel was dispensed and the state that issued the license plate.
 7 (8) If the fuel is diesel and is sold for a purpose other than to propel a
 8 motor vehicle, the type of container or equipment into which the fuel
 9 was dispensed.

10 (c) Exception. – A user-seller or supplier who sells diesel at a marina from a
 11 storage facility whose location makes it improbable that the diesel could be dispensed
 12 for a purpose other than to propel a watercraft must keep a record of a sale only if the
 13 user-seller or supplier gives the buyer a receipt for the sale."

14 Sec. 8. G.S. 105-449.37(a) reads as rewritten:

15 "(a) Definitions. – The following definitions apply in this Article:

16 (1) Motor carrier. —~~Every person, firm, or corporation~~ A person who
 17 operates or causes to be operated on any highway in this State a motor
 18 vehicle ~~used, designed, or maintained for transportation of persons or~~
 19 ~~property and (i) having two axles and a gross vehicle weight or~~
 20 ~~registered gross vehicle weight exceeding 26,000 pounds, (ii) having~~
 21 ~~three or more axles regardless of weight, or (iii) used in combination~~
 22 ~~when the weight of the combination exceeds 26,000 pounds gross~~
 23 ~~vehicle weight.~~ that is a qualified motor vehicle under the International
 24 Fuel Tax Agreement. The term does not include the United States, the
 25 State, or a political subdivision of the State.

26 (1a) Motor vehicle. – A motor vehicle as defined in G.S. ~~20-4.01(23)~~ except
 27 that the term does not include 20-4.01(23), other than special mobile
 28 equipment as defined in G.S. 20-4.01(44) or recreational vehicles. 20-
 29 4.01(44).

30 (2) Operations. – Operations of all motor vehicles described in
 31 subdivision (1), whether loaded or empty and whether or not
 32 operated for compensation.

33 (2a) Person. – An individual, a firm, a partnership, an association, a
 34 corporation, or any other organization or group acting as a unit.

35 (3) Secretary. – The Secretary of Revenue."

36 Sec. 9. G.S. 105-449.42A(c) reads as rewritten:

37 "(c) Liability. —~~Subsections (a) and (b) govern the primary liability of lessors and~~
 38 ~~lessees of motor vehicles under this Article. Both~~ An independent contractor who leases a
 39 motor vehicle to another for fewer than 30 days is liable for compliance with this
 40 Article and the person to whom the motor vehicle is leased is not liable. Otherwise,
 41 both the lessor and lessee, however, lessee of a motor vehicle are jointly and severally
 42 liable for compliance with this Article."

43 Sec. 10. G.S. 105-449.49 reads as rewritten:

44 "**§ 105-449.49. Temporary permits.**

1 Upon application to the Secretary and payment of a fee of ~~twenty-five dollars (\$25.00),~~
2 fifty dollars (\$50.00), a motor carrier may obtain a temporary permit authorizing the
3 carrier to operate a vehicle in the State without registering the vehicle in accordance
4 with G.S. 105-449.47 for not more than 20 days. A motor carrier to whom a temporary
5 permit has been issued may elect not to report its operation of the vehicle during the 20-
6 day period. The Secretary may refuse to issue a temporary permit to any of the
7 following:

8 (1) A motor carrier whose registration has been withheld or revoked.

9 (2) A motor carrier who the Secretary determines is evading payment of
10 tax through the successive purchase of temporary permits."

11 Sec. 11. G.S. 105-449.52(a) reads as rewritten:

12 "(a) Penalty. – A motor carrier who operates in this State or causes to be operated
13 in this State a motor vehicle that does not carry the registration card required by this
14 Article or does not display an identification marker in accordance with this Article is
15 subject to a civil penalty of ~~seventy-five dollars (\$75.00).~~ one hundred dollars (\$100.00).
16 The penalty is payable to the Department of Revenue or the Division of Motor Vehicles.
17 When a motor vehicle is found to be operating without a registration card or an
18 identification marker, the motor vehicle may not be driven for a purpose other than to
19 park the motor vehicle until the penalty imposed under this section is paid unless the
20 officer that imposes the penalty determines that operation of the motor vehicle will not
21 jeopardize collection of the penalty."

22 Sec. 12. G.S. 119-18 reads as rewritten:

23 "**§ 119-18. Inspection fee; allotments for administration expenses.**

24 For the purpose of defraying the expenses of enforcing the provisions of this Article
25 there shall be paid to the Secretary of Revenue a charge of one fourth of one cent (1/4
26 1¢) per gallon upon all kerosene and motor fuel. The inspection tax ~~shall be~~ is due and
27 payable to the Secretary of Revenue at the same time that the per gallon excise tax is
28 due and payable under ~~the provisions of G.S. 105-434 to 105-436, and payment shall be made~~
29 ~~concurrently with payment of said per gallon excise tax, unless the Secretary of Revenue shall~~
30 ~~by rule and regulation prescribe other methods for the collection of such tax.~~ Articles 36 and
31 36A of Chapter 105 of the General Statutes. There shall, from time to time, be allotted
32 by the Office of State Budget and Management, from the inspection fees collected under
33 authority of the inspection laws of this State, such sums as may be necessary to
34 administer and effectively enforce the provisions of the inspection laws.

35 No county, city, or town shall impose any inspection charge, tax, or fee, in the nature
36 of the charge prescribed by this section, upon kerosene and motor fuel. Distributors of
37 kerosene licensed under G.S. 119-16.2 shall file reports as required by the Secretary of
38 Revenue, by not later than the twentieth of each month, and remit to the Secretary of
39 Revenue one quarter of a cent (1/4 of 1¢) inspection fee per gallon on all kerosene
40 received during the preceding month."

41 Sec. 13. Section 5 of this act becomes effective January 1, 1995. Section 6
42 of this act becomes effective January 1, 1999. Sections 10 and 11 of this act become
43 effective July 1, 1992. The remaining sections of this act are effective upon ratification.