

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1725
Committee Substitute Favorable 6/27/94
Senate Finance Committee Substitute Adopted 6/30/94

Short Title: Revenue Laws Changes.

(Public)

Sponsors:

Referred to:

May 26, 1994

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL AND CLARIFYING CHANGES TO THE REVENUE LAWS AND RELATED STATUTES, TO IMPROVE THE ADMINISTRATION OF THE SOFT DRINK EXCISE TAX, AND TO EXTEND THE SUNSET OF A TAX CREDIT, TO AMEND THE LAW REGARDING APPLICATION FOR CERTIFICATION AS A CLINICAL SOCIAL WORKER, TO RESTORE THE SOFT DRINK TAX EXEMPTION FOR NATURAL JUICE WITH NO ADDITIVES OTHER THAN VITAMINS, MINERALS, OR SUGAR, AND TO MAKE THE EFFECTIVE DATE OF CHANGES MADE DURING THE 1993 SESSION TO THE CONSUMER CREDIT SALE LAWS RETROACTIVE.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 543 of the 1993 Session Laws is repealed.

Sec. 2. G.S. 105-113.18(3) reads as rewritten:

"(3) Shipping Report. – Any person, except a licensed distributor, who transports cigarettes upon the public highways, roads, or streets of this State, upon notice from the Secretary, shall file a report in the form prescribed by the Secretary and containing the information required by the Secretary."

Sec. 3. G.S. 105-113.45 reads as rewritten:

"§ 105-113.45. Excise taxes on soft drinks and base products.

(a) Bottled Soft Drinks. – An excise tax of one cent (1¢) is levied on each bottled soft drink.

1 (b) Repealed by Session Laws 1991, c. 689, s. 276.

2 (c) Liquid Base Products. – An excise tax at the rate of one dollar (\$1.00) a
3 ~~gallon, or four-fifths of a cent (4/5¢) an ounce or a fraction of an ounce,~~ gallon is levied on
4 each individual container of a liquid base product. The tax applies regardless whether
5 the liquid base product is diverted to and used for a purpose other than making a soft
6 drink.

7 (d) Dry Base Products. – An excise tax is levied on each individual container of a
8 dry base product at the rate:

9 (1) Of one cent (1¢) an ounce ~~or a fraction of an ounce~~ if the dry base
10 product is not converted into a syrup or other liquid base product
11 before it is used to make a soft drink.

12 (2) That would apply under subsection (c) to the resulting liquid base
13 product if the dry base product is converted into a liquid base product
14 before it is used to make a soft drink.

15 (e) Repealed by Session Laws 1991, c. 689, s. 276."

16 Sec. 4. G.S. 105-130.5(a)(12) is reenacted and reads as rewritten:

17 "(12) The amount allowed under the Code for depreciation or as an
18 expense in lieu of depreciation for a utility plant acquired by a
19 natural gas local distribution company, to the extent the plant is
20 included in the company's rate base at zero cost in accordance with
21 G.S. 62-158."

22 Sec. 5. G. S. 105-130.5(b)(11) reads as rewritten:

23 "(11) ~~The amount by which~~ If a deduction for an ordinary and necessary
24 business expense was required to be reduced or was not allowed
25 under the Code for federal tax purposes or the amount of such a
26 deduction that was not allowed under the Code because the corporation
27 claimed a federal tax credit against its federal income tax liability
28 for the income year in lieu of a deduction, the amount by
29 which the deduction was reduced and the amount of the deduction
30 that was disallowed."

31 Sec. 6. G. S. 105-130.37(b)(3) reads as rewritten:

32 "(3) 'Nonprofit organization' means an organization ~~for which~~
33 ~~contributions are deductible under G.S. 105-130.9 or 105-147(15) or~~
34 ~~(16).~~ to which charitable contributions are deductible from gross
35 income under the Code."

36 Sec. 7. G.S. 105-134.6(b) is amended by adding a new subdivision to read:

37 "(10) The amount by which the basis of property under this Article
38 exceeds the basis of the property under the Code, in the year the
39 taxpayer disposes of the property."

40 Sec. 8. G.S. 105-163.012(d) reads as rewritten:

41 "(d) ~~For purposes of this Article,~~ Unless the taxpayer is required to add the amount
42 of allowable credit to federal taxable income under G.S. 105-130.5(a)(10), the
43 taxpayer's basis in the equity securities or subordinated debt acquired as a result of an
44 investment in a North Carolina Enterprise Corporation, qualified business venture, or

1 qualified grantee business shall be reduced for the purposes of this Article by the
2 amount of allowable credit. 'Allowable credit' means the amount of credit allowed
3 under G.S. 105-163.011 reduced as provided in subsection (c) of this section."

4 Sec. 9. G.S. 105-163.013(d) reads as rewritten:

5 "(d) Application Forms; Rules; Fees. Applications for registration, renewal of
6 registration, and reinstatement of registration under this section shall be in the form
7 required by the Secretary of State. The Secretary of State may, by rule, require
8 applicants to furnish supporting information in addition to the information required by
9 subsections ~~(a), (b),~~ (b) and (c) of this section. The Secretary of State may adopt rules in
10 accordance with Chapter 150B of the General Statutes that are needed to carry out the
11 Secretary's responsibilities under this Division. The Secretary of State shall prepare
12 blank forms for the applications and shall distribute them throughout the State and
13 furnish them on request. Each application shall be signed by the owners of the business
14 or, in the case of a corporation, by its president, vice-president, treasurer, or secretary.
15 There shall be annexed to the application the affirmation of the person making the
16 application in the following form: 'Under penalties prescribed by law, I certify and
17 affirm that to the best of my knowledge and belief this application is true and complete.'
18 A person who submits a false application is guilty of a misdemeanor and is punishable
19 as provided in G.S. 14-3.

20 The fee for filing an application for registration under this section ~~shall be~~ is one
21 hundred dollars (\$100.00). The fee for filing an application for renewal of registration
22 under this section ~~shall be~~ is fifty dollars (\$50.00). The fee for filing an application for
23 reinstatement of registration under this section ~~shall be~~ is fifty dollars (\$50.00).

24 An application for renewal of registration under this section shall indicate whether
25 the applicant is a minority business, as defined in G.S. 143-128, and shall include a
26 report of the number of jobs the business created during the preceding year that are
27 attributable to investments that qualify under this section for a tax credit and the average
28 wages paid by each job. An application that does not contain this information is
29 incomplete and the applicant's registration may not be renewed until the information is
30 provided."

31 Sec. 10. G.S. 105-163.013(g) reads as rewritten:

32 "(g) ~~[Report by Secretary of State]~~ Report by Secretary of State. – The Secretary of
33 State shall report to the Legislative Research Commission by October 1 of each odd-
34 numbered year and by February 1 of each even-numbered year all of the businesses that
35 have registered with the Secretary of State as qualified business ventures and qualified
36 grantee businesses. The report shall include the name and address of each business, a
37 detailed description of the types of business in which it engages, whether the business is
38 a minority business as defined in G.S. 143-128, the number of jobs created by the
39 business during the period covered by the report, and the average wages paid by these
40 jobs."

41 Sec. 11. Effective July 1, 1995, G.S. 105-213(b), as amended by Section
42 26(a) of Chapter 321 of the 1993 Session Laws, reads as rewritten:

43 "(b) Allocation of Distribution. – The amount of revenue to be distributed under
44 subsection (a) shall be allocated among the counties in proportion to the net amount of

1 taxes collected under this Article in each county during the preceding fiscal year. The
2 net amount of taxes collected in a county is the amount collected less the amount of
3 refunds made of taxes previously collected. The Secretary shall keep a separate record
4 by counties of the taxes collected under this Article. The Secretary shall allocate the
5 amount of revenue to be distributed under subsection (a) to the counties in accordance
6 with the tax records. The amounts so allocated to each county shall in turn be allocated
7 between the county and the municipalities in the county in proportion to the total
8 amount of ad valorem taxes levied by each during the fiscal year preceding the
9 distribution. In dividing these amounts between each county and its municipalities, the
10 Secretary shall treat taxes levied by a merged school administrative unit described in
11 G.S. 115C-513 in a part of the unit located in a county as taxes levied by the county in
12 which that part is located. After making these allocations, the Secretary shall certify to
13 the State Controller and to the State Treasurer the amount to be distributed to each
14 county and municipality in the State. The State Controller shall then issue a warrant on
15 the State Treasurer to each county and municipality in the amount certified.

16 For the purpose of computing the ~~distribution of the intangibles tax allocation of the~~
17 tax under this subsection to any county and the municipalities located in the county for
18 any quarter with respect to which the property valuation of a public service company is
19 the subject of an appeal and the Department of Revenue is restrained by law from
20 certifying the valuation to the county and the municipalities in the county, the
21 Department shall use the last property valuation of the public service company that has
22 been certified.

23 The chair of each board of county commissioners and the mayor of each
24 municipality shall report to the Secretary information requested by the Secretary to
25 enable the Secretary to allocate the amount distributed by this subsection. If a county or
26 municipality fails to make a requested report within the time allowed, the Secretary may
27 disregard the county or municipality in allocating the amount distributed by this
28 subsection."

29 Sec. 12. G.S. 105-228.4(a) reads as rewritten:

30 "(a) As a condition precedent to doing business in this State, an insurance
31 company must apply for and obtain a certificate of registration from the Commissioner
32 of Insurance by March 1 of each year. The certificate shall become effective the
33 following July 1 and shall remain in effect for one year. Except as provided in
34 subsections (b) and (c) of this section, the insurance company shall pay an annual fee
35 for the certificate as follows: Each insurance company shall, as a condition precedent for
36 doing business in this State, on or before the first day of March of each year apply for and
37 obtain from the Commissioner of Insurance a certificate of registration, or license, effective the
38 first day of July, and shall pay for such certificate the following annual fees except as
39 hereinafter provided in subsections (b) and (c):

40 For each domestic farmer's mutual assessment

41 fire insurance company ~~each~~ \$ 25.00

42 For each fraternal order 100.00

43 For each of all other insurance companies, except

44 mutual burial associations taxed under G.S.

1 105-121.1500.00

2 The fees levied ~~above~~ in this subsection shall be in addition to those specified in G.S.
3 58-6-5."

4 Sec. 13. G.S. 105-228.90 reads as rewritten:

5 **"§ 105-228.90. Scope and definitions.**

6 (a) Scope. – This Article applies to Subchapters I, V, and VIII of this Chapter
7 and to inspection ~~fees~~ taxes levied under Article 3 of Chapter 119 of the General
8 Statutes.

9 (b) Definitions. – The following definitions apply in this Article:

10 (1) Code. – The Internal Revenue Code as enacted as of January 1, 1993,
11 including any provisions enacted as of that date which become
12 effective either before or after that date.

13 (2) Reserved.

14 (3) Electronic Funds Transfer. – A transfer of funds initiated by using an
15 electronic terminal, a telephone, a computer, or magnetic tape to
16 instruct or authorize a financial institution or its agent to credit or debit
17 an account.

18 (4) Reserved.

19 (5) Person. – An individual, a fiduciary, a firm, an association, a
20 partnership, a limited liability company, a corporation, a unit of
21 government, or another group acting as a unit. The term includes an
22 officer or employee of a corporation, a member, a manager, or an
23 employee of a limited liability company, and a member or employee of
24 a partnership who, as officer, employee, member, or manager, is under
25 a duty to perform an act in meeting the requirements of Subchapter I,
26 V, or VIII of this Chapter or of Article 3 of Chapter 119 of the General
27 Statutes.

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

29 (7) Tax. – A tax levied under Subchapter I, V, or VIII of this Chapter or
30 an inspection ~~fee~~ tax levied under Article 3 of Chapter 119 of the
31 General Statutes. Unless the context clearly requires otherwise, the
32 terms 'tax' and 'additional tax' include penalties and interest as well as
33 the principal amount.

34 (8) Taxpayer. – A person subject to the tax or reporting requirements of
35 Subchapter I, V, or VIII of this Chapter or of Article 3 of Chapter 119
36 of the General Statutes."

37 Sec. 14. G.S. 105-241.1(e) reads as rewritten:

38 "(e) ~~Where~~ Statute of Limitations. – If a proper application for a license or a return
39 has been filed and in the absence of fraud, the Secretary ~~of Revenue~~ shall assess any tax
40 or additional tax due from a taxpayer within three years after the date upon which ~~such~~
41 the application or return ~~is was~~ is filed or within three years after the date upon which ~~such~~
42 the application or return was required by law to be filed, whichever is ~~the~~ later. If a
43 taxpayer forfeits a tax credit pursuant to G.S. 105-163.014, the Secretary shall assess
44 any tax or additional tax due as a result of the forfeiture within three years after the date

1 of the forfeiture. Any tax or additional tax due from the taxpayer may be assessed at
2 any time if (i) no proper application for a license or no return has been filed, (ii) a false
3 or fraudulent application or return has been filed, or (iii) there has been an attempt in
4 any manner to fraudulently defeat or evade tax.

5 ~~Provided, the~~ The taxpayer may make a written waiver of any of the limitations of
6 time set out in this section, for either a definite or an indefinite ~~time, and if such waiver is~~
7 ~~accepted by the Secretary he~~ time. If the Secretary accepts the waiver, the Secretary may
8 institute assessment procedures at any time within the time extended by such ~~the~~ waiver.
9 ~~This proviso shall apply to assessments made or undertaken under any provision of all~~
10 ~~schedules of the Revenue Act, and to assessments under Subchapter V of Chapter 105 and~~
11 ~~Chapter 18 of the General Statutes."~~

12 Sec. 15. G.S. 105-241.2(b) reads as rewritten:

13 "(b) Secretary to Provide Records. – Upon receipt by the Secretary of the
14 taxpayer's petition, the Secretary shall transmit to the Tax Review Board all of the
15 records, data, evidence, and other materials in the Secretary's possession pertaining to
16 the matters the Tax Review Board is being requested by the taxpayer to review. The
17 Secretary shall also transmit to the Board a copy of the decision of the ~~Board~~ Secretary
18 on the matters."

19 Sec. 16. G.S. 105-241.2(e) reads as rewritten:

20 "(e) ~~Jeopardy Assessments~~ Levies. – At any time the Secretary may, if in the
21 Secretary's opinion, such action is necessary for the protection of the interest of the
22 State, proceed at once to levy the assessment for the amount of the tax against the
23 property of the taxpayer seeking the administrative review. In levying the assessment
24 the Secretary shall make a certificate verifying the essential parts relating to the tax,
25 including the amount thereof asserted to be due, the date when same is asserted to have
26 become due and payable, the person, firm, or corporation chargeable therewith, and the
27 nature of the tax. The Secretary shall transmit this certificate to the clerk of the superior
28 court of any county in which the taxpayer resides or has property; whereupon, it shall be
29 the duty of the clerk of the superior court of the county to docket the certificate and to
30 index it on the cross index of judgments. When so docketed and indexed, the certificate
31 of tax liability shall constitute a lien upon the property of the taxpayer to the same
32 extent as that provided for by G.S. 105-241. No execution shall issue on the certificate
33 before final determination of the administrative review by the Tax Review Board;
34 provided, however, if the Secretary determines that the collection of the tax would be
35 jeopardized by delay, the Secretary may cause execution to be issued, as provided in
36 this Chapter, immediately against the personal property of the taxpayer unless the
37 taxpayer files with the Secretary a bond in the amount of the asserted liability for tax,
38 penalty and interest. If upon final administrative determination the tax asserted or any
39 part thereof is sustained, execution may issue on the certificate at the request of the
40 Secretary and the sheriff shall proceed to advertise and sell the property of the taxpayer.

41 Within five days after a jeopardy levy is made under this subsection that is not the
42 result of a criminal investigation or of a liability for a tax imposed under Article 2D of
43 this Chapter, the Secretary must provide the taxpayer with a written statement of the
44 information upon which the Secretary relied in making the levy. Within 30 days after

1 receipt of this statement or, if no statement was received, within 30 days after the
2 statement was due, the taxpayer may request the Secretary to review the action taken.
3 After receipt of this request, the Secretary shall determine whether the levy was
4 reasonable under the circumstances. The Secretary shall give the taxpayer written
5 notice of this determination within 30 days after the request. The taxpayer may seek
6 judicial review of this determination as provided in G.S. 105-241.5."

7 Sec. 17. G.S. 105-248 reads as rewritten:

8 **"§ 105-248. State taxes; purposes. Purpose of State taxes.**

9 The taxes levied in this Subchapter are for the expenses of the State government, the
10 appropriations to its educational, charitable, and penal institutions, ~~pensions for~~
11 ~~Confederate soldiers and widows,~~ the interest on the debt of the State, ~~for the~~ public
12 schools, and other specific appropriations made by law, and shall be collected and paid
13 into the ~~general fund of the State Treasurer.~~ General Fund.

14 ~~Whenever in any law or act of incorporation, granted either under the general law or~~
15 ~~by special act, there is any limitation or exemption of taxation, the same is hereby~~
16 ~~repealed, and all the property and effects of all such corporations, other than the bonds~~
17 ~~of this State and of the United States government, shall be liable to taxation, except~~
18 ~~property belonging to the United States and to municipal corporations, and property of~~
19 ~~churches, religious societies, charitable, educational, literary, or benevolent institutions~~
20 ~~or orders, and also cemeteries: Provided, that no property whatever, held or used for~~
21 ~~investment, speculation, or rent, shall be exempt, other than bonds of this State and of~~
22 ~~the United States government, unless said rent or the interest on or income from such~~
23 ~~investment shall be used exclusively for religious, charitable, educational, or benevolent~~
24 ~~purposes, or the interest upon the bonded indebtedness of said religious, charitable, or~~
25 ~~benevolent institutions."~~

26 Sec. 18. G.S. 105-258.1(e) reads as rewritten:

27 "(e) Suspension of Interview. – The Department shall suspend an interview
28 relating to the determination of a tax ~~if, if the taxpayer is not accompanied by a~~
29 representative and, at any time during the interview, ~~the taxpayer expresses the desire to~~
30 ~~consult with a person permitted to represent the taxpayer before the Department.~~ another
31 person."

32 Sec. 19. The catch line of G.S. 105-269.3 reads as rewritten:

33 **"§ 105-269.3. Enforcement of Subchapter V and fuel inspection fee. tax."**

34 Sec. 20. G.S. 105-446 reads as rewritten:

35 **"§ 105-446. Refund for tax on motor fuel used other than to ~~propel~~ operate a motor**
36 **vehicle.**

37 A person who purchases and uses motor fuel for a purpose other than to operate a
38 licensed motor vehicle may receive an annual refund for the tax the person paid on fuel
39 used during the preceding calendar year at a rate equal to the amount of the flat cents-
40 per-gallon rate in effect during the year for which the refund is claimed plus the average
41 of the two variable cents-per-gallon rates in effect during that year, less one cent (1¢)
42 per gallon. An application for a refund allowed under this section shall be made in
43 accordance with G.S. 105-440."

44 Sec. 21. G.S. 105-449.16(a) reads as rewritten:

1 "(a) A tax is imposed upon all of the following fuel:

- 2 (1) Fuel sold or delivered by a supplier to a licensed user-seller.
3 (2) Fuel used by a supplier in a motor vehicle owned, leased, or operated
4 by the supplier.
5 (3) Fuel delivered by a supplier directly into the fuel supply tank of a
6 motor vehicle.
7 (4) Fuel imported by a user-seller into this State, by a means other than
8 carrying the fuel in a fuel supply tank of a motor vehicle, for resale or
9 to ~~propel~~operate a motor vehicle.
10 (5) Fuel acquired tax free by a user-seller or user in this State for resale or
11 to ~~propel~~operate a motor vehicle.

12 The tax on liquid fuel is at the rate established under G.S. 105-434. The tax on non-
13 liquid fuel is at a rate equivalent to the rate of tax on liquid fuel, as determined by the
14 Secretary. A supplier who consigns fuel to a reseller may elect to report and pay the tax
15 due on the fuel when the reseller sells or dispenses the fuel instead of when the supplier
16 delivers the fuel to the reseller.

17 The primary purposes of this levy and this Article are to provide a more efficient and
18 effective method of collecting the tax now imposed and collected pursuant to G.S. 105-
19 435, by providing for the collection of the tax from the supplier instead of the user. The
20 tax levied by this Article is in lieu of rather than in addition to the tax levied by G.S.
21 105-435; payment of the tax levied by this Article constitutes compliance with G.S.
22 105-435."

23 Sec. 22. G.S. 105-449.17 reads as rewritten:

24 "**§ 105-449.17. Exemption for fuel sold for nonhighway use.**

25 The tax imposed by this Article does not apply to fuel sold or delivered by a supplier
26 to a user or user-seller when all of the following apply:

- 27 (1) The fuel is for a purpose other than to ~~propel~~operate a motor vehicle.
28 (2) The supplier dispenses the fuel into a storage facility that is not
29 required to be marked or is marked as follows with the phrase 'For
30 Nonhighway Use' or a similar phrase that clearly indicates the fuel is
31 not to be used to ~~propel~~operate a motor vehicle:
32 a. The storage tank of the storage facility must be marked if the
33 storage tank is visible.
34 b. The fillcap or spill containment box of the storage facility must
35 be marked.
36 c. The dispensing device that serves the storage facility must be
37 marked.

38 A storage facility must be marked unless it contains fuel used only in
39 heating, drying crops, or a manufacturing process and is installed in a
40 manner that makes use of the fuel for any other purpose improbable.

- 41 (3) The supplier does not know or have reason to know the fuel is to be
42 used to ~~propel~~operate a motor vehicle.

43 A supplier is liable for the tax due on fuel dispensed into a storage facility of a user
44 or user-seller that is required to be marked but is not marked to indicate the fuel is to be

1 used for a purpose other than to ~~propel~~operate a motor vehicle. A user or user-seller is
2 liable for the tax due on fuel dispensed by a supplier into a storage facility that is
3 marked for nonhighway use and is subsequently used or sold for use to ~~propel~~operate a
4 motor vehicle."

5 Sec. 23. G.S. 105-449.18 reads as rewritten:

6 **"§ 105-449.18. Liability for tax on non-tax-paid fuel sold or delivered to unlicensed**
7 **persons.**

8 A person who, knowing or having reason to know that the fuel is to be sold or used
9 to ~~propel~~operate a motor vehicle, sells or delivers to a person who is not licensed under
10 this Article fuel on which the tax due under this Article has not been paid is liable for
11 the tax imposed on the fuel by this Article."

12 Sec. 24. G.S. 105-449.19 reads as rewritten:

13 **"§ 105-449.19. Time when supplier must file return and pay any tax due.**

14 (a) Return. – A supplier of fuel who acquires, sells, delivers, or uses part or all of
15 the fuel to ~~propel~~operate a motor vehicle must file a monthly return. A supplier of fuel
16 who sells, delivers, or uses fuel only for a purpose other than to ~~propel~~operate a motor
17 vehicle must file a quarterly return. A return must be filed with the Secretary on a form
18 provided by the Secretary. A monthly return covers a calendar month and is due within
19 25 days after the end of each month. A quarterly return covers a calendar quarter and is
20 due within 30 days after the end of each quarter. Tax owed by a supplier on fuel
21 acquired, sold, delivered, or used by the supplier during a reporting period is due when
22 the return for that period is due.

23 (b) Information. – A return filed by a supplier must contain all of the following
24 information:

- 25 (1) The amount of fuel the supplier had on hand on the first and last days
26 of the reporting period.
- 27 (2) The amount of fuel the supplier received during the reporting period.
- 28 (3) The amount of fuel the supplier used during the reporting period to
29 ~~propel~~operate a motor vehicle and the amount of fuel the supplier used
30 during the reporting period for a purpose other than to ~~propel~~operate a
31 motor vehicle, stated separately.
- 32 (4) The amount of fuel the supplier sold or delivered to a licensed bulk-
33 user, a licensed reseller, a licensed user, or other persons, stated
34 separately."

35 Sec. 25. G.S. 105-449.20 reads as rewritten:

36 **"§ 105-449.20. When Secretary may estimate tax liability of supplier or user-seller.**

37 Whenever a supplier or a user-seller fails to file a report under G.S. 105-449.19 or
38 105-449.21 or files a false report under one of those statutes, the Secretary shall
39 determine, from any information obtainable, the number of gallons of fuel with respect
40 to which the supplier or user-seller owes tax under this Article. When a user-seller sells
41 or uses more fuel than the user-seller reports to the Secretary as having been purchased
42 from a supplier, the user-seller is presumed to have acquired the unreported fuel tax-free
43 to ~~propel~~operate a motor vehicle. When a user-seller sells or uses more fuel to ~~propel~~
44 operate a motor vehicle than the user-seller reports to the Secretary as having been

1 purchased from a supplier to ~~propel-operate~~ a motor vehicle, the user-seller is presumed
2 to have acquired tax-free to ~~propel-operate~~ a motor vehicle all fuel not reported as
3 having been acquired to ~~propel-operate~~ a motor vehicle."

4 Sec. 26. G.S. 105-449.26 reads as rewritten:

5 **"§ 105-449.26. User-sellers and certain suppliers must give receipts for and keep**
6 **records of fuel sold at retail.**

7 (a) Receipts and Records. – When required by this section, a user-seller and a
8 supplier who is also a reseller but is licensed only as a supplier must give a receipt for
9 and keep a record of certain fuel sold at retail from any of the following locations:

- 10 (1) A retail service station or other retail establishment operated by the
11 user-seller or supplier.
12 (2) A bulk storage facility of the user-seller or supplier to which the buyer
13 came to buy the fuel.
14 (3) Any other location at which the user-seller or supplier dispenses fuel
15 into a motor vehicle.

16 If the fuel is sold to ~~propel-operate~~ a motor vehicle, the user-seller or supplier must
17 give the buyer a receipt only when the buyer asks for a receipt and must keep a record
18 of any receipt given. If the fuel is diesel and is sold for a purpose other than to ~~propel-~~
19 ~~operate~~ a motor vehicle, the user-seller or supplier must give the buyer a receipt only
20 when the buyer asks for a receipt but must always keep a record of the sale unless
21 subsection (c) exempts the user-seller or supplier from the requirement of keeping
22 a record.

23 If the Secretary determines that a user-seller or a supplier has sold nontaxpaid fuel at
24 retail to ~~propel-operate~~ a motor vehicle, the Secretary may require the user-seller or
25 supplier to keep a record of all fuel sold at retail to ~~propel-operate~~ a motor vehicle. A
26 user-seller or supplier who is required to keep a record of diesel sold at retail for a
27 purpose other than to ~~propel-operate~~ a motor vehicle is liable for the excise tax and the
28 inspection fee-tax on the diesel if the user-seller or supplier does not keep a record of the
29 sale.

30 (b) Content. – A record of a sale and a receipt for a sale shall include all of the
31 following information:

- 32 (1) The name and address of the user-seller or supplier.
33 (2) The name and address of the person buying the fuel.
34 (3) The date the fuel was sold.
35 (4) The amount of fuel sold.
36 (5) The type of fuel sold.
37 (6) The total sales price of the fuel.
38 (7) Either of the following:
39 a. The company name and company unit number of the motor
40 vehicle into which the fuel was dispensed.
41 b. The license plate number of the motor vehicle into which the
42 fuel was dispensed and the state that issued the license plate.

1 (8) If the fuel is diesel and is sold for a purpose other than to ~~propel~~
2 operate a motor vehicle, the type of container or equipment into which
3 the fuel was dispensed.

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

8 Sec. 27. G.S. 105-449.32 is repealed.

9 Sec. 28. G.S. 18B-902(e) reads as rewritten:

10 "(e) Fee for Combined Applications. – If application is made at the same time for
11 retail malt beverage, unfortified wine and fortified wine permits for a single business
12 location, the total fee for those applications shall be two hundred dollars (\$200.00). If
13 application is made at the same time for brown-bagging and special occasion permits
14 for a single business location, the total fee for those applications shall be three hundred
15 dollars (\$300.00). If application is made at the same time for wine and malt beverage
16 importer permits, the total fee for those applications shall be one hundred fifty dollars
17 (\$150.00). If application is made at the same time for wine and malt beverage
18 wholesaler permits, the total fee for those applications shall be one hundred fifty dollars
19 (\$150.00). If application is made in the same year for vendor representative permits to
20 represent more than one vendor, only one fee shall be paid. If application is made at the
21 same time for nonresident malt beverage vendor and nonresident wine vendor permits,
22 the total fee for those applications shall be ~~twenty-five dollars (\$25.00).~~ fifty dollars
23 (\$50.00)."

24 Sec. 29. G.S. 119-16.2 reads as rewritten:

25 **"§ 119-16.2. Application for license.**

26 ~~Any person, firm or corporation having in his possession kerosene on which the~~
27 ~~inspection fee has not been paid, and who is not required to be licensed under the~~
28 ~~provisions of G.S. 105-433, shall, prior to the commencement of doing business, file a~~
29 ~~duly acknowledged application for a license with the Secretary of Revenue on a form~~
30 ~~prescribed by the Secretary setting forth the name under which such distributor transacts~~
31 ~~or intends to transact business within this State, the address of each place of business~~
32 ~~and a designation of the principal place of business. If such distributor is a firm or~~
33 ~~association, the application shall set forth the name and address of each person~~
34 ~~constituting the firm or association, and if a corporation, the names and addresses of the~~
35 ~~principal officers and such other information as the Secretary of Revenue may require.~~
36 ~~Each distributor shall at the same time file a bond in such amount, not exceeding twenty~~
37 ~~thousand dollars (\$20,000) in such form and with such surety or sureties as may be~~
38 ~~required by the Secretary of Revenue, conditioned upon the rendition of the reports and~~
39 ~~the payment of the tax hereinafter provided for. Upon approval of the application and~~
40 ~~bond, the Secretary of Revenue shall issue to the distributor a nonassignable license~~
41 ~~with a duplicate copy of each place of business of said distributor in this State, a copy of~~
42 ~~which shall be displayed conspicuously at each such place of business and shall~~
43 ~~continue in force until surrendered or cancelled. No distributor shall sell, offer for sale,~~
44 ~~or use any kerosene within this State, until such license has been issued. Any~~

1 distributor failing to comply with or violating any of the provisions of this section shall
2 be ~~A person may not engage in business as a kerosene distributor unless the person has~~
3 ~~either a license issued under G.S. 105-433 or a kerosene license issued under this~~
4 ~~section. To obtain a license under this section, an applicant must file an application~~
5 ~~with the Secretary of Revenue on a form provided by the Secretary and file with the~~
6 ~~Secretary a bond in the amount required by the Secretary, not to exceed twenty~~
7 ~~thousand dollars (\$20,000). An applicant must give the Secretary the same information~~
8 ~~the applicant would be required to give under G.S. 105-433 if the applicant were~~
9 ~~applying for a license under that section. A bond filed under this section must be~~
10 ~~conditioned on compliance with this Article, be payable to the State, and be in the form~~
11 ~~required by the Secretary. A license issued under this section remains in effect until~~
12 ~~surrendered or canceled, must be displayed in the same manner as a license issued under~~
13 ~~G.S. 105-433, and is subject to the same restrictions as a license issued under that~~
14 ~~section. A person who fails to comply with this section is guilty of a Class 1~~
15 ~~misdemeanor."~~

16 Sec. 30. G.S. 158-37(b)(3) reads as rewritten:

17 "(3) Except as otherwise provided in this Article, to exercise the powers
18 granted to a local government for development by G.S. ~~158-7.1 and the~~
19 ~~powers granted to certain local governments for development in G.S. 158-~~
20 ~~7.1(d1), 158-7.1, except the power to levy a property tax."~~

21 Sec. 31. G.S. 158-37(b)(10) reads as rewritten:

22 "(10) To exercise the powers of a regional planning commission as
23 provided in G.S. 153A-395 and ~~the powers of a regional economic~~
24 ~~development commission as provided in G.S. 158-13, Article 2 of~~
25 ~~this Chapter, but the Zone does not have the authority to establish~~
26 ~~land-use zoning in any county."~~

27 Sec. 32. Effective October 1, 1994, G.S. 105-113.51 reads as rewritten:

28 **"§ 105-113.51. Liability for and payment of excise taxes.**

29 (a) ~~Primary Liability.~~ Liability. – The distributor, wholesale dealer, or retail dealer
30 who first distributes, sells, consumes, or otherwise handles bottled soft drinks or base
31 products in this State is liable for the tax imposed by this Article. A distributor,
32 wholesale dealer, or retail dealer who brings into this State a bottled soft drink or base
33 product made outside the State is the first person to handle the bottled soft drink or base
34 product in this State. A distributor, wholesale dealer, or retail dealer who is the original
35 consignee of a bottled soft drink or base product that is made outside the State and is
36 shipped into the State is the first person to handle the bottled soft drink or base product
37 in this State.

38 Presentation of a soft drink certificate of liability to a distributor or a wholesale
39 dealer releases the distributor or wholesale dealer from liability under this subsection.
40 Subsection (b) of this section governs who is liable when a soft drink certificate of
41 liability is presented.

42 (b) ~~Secondary Liability.~~ Soft Drink Certificate of Liability. – ~~A retail dealer who~~
43 ~~acquires non-tax paid bottled soft drinks or non-tax paid base products from a~~
44 ~~distributor or a wholesale dealer is liable for any tax due on the bottled soft drinks or~~

1 ~~base products. A retail dealer who is liable for tax under this subsection may not deduct~~
2 ~~a discount from the amount of tax due when reporting the tax. A distributor, a wholesale~~
3 ~~dealer, or a retail dealer may apply to the Secretary for a soft drink certificate of~~
4 ~~liability. A distributor, a wholesale dealer, or a retail dealer who has a soft drink~~
5 ~~certificate of liability may purchase non-tax-paid bottled soft drinks or non-tax-paid~~
6 ~~base products from a distributor or a wholesale dealer by presenting the certificate to the~~
7 ~~distributor or wholesale dealer. Presentation of the certificate to a distributor or a~~
8 ~~wholesale dealer authorizes the distributor or wholesale dealer to sell non-tax-paid~~
9 ~~bottled soft drinks or non-tax-paid base products to the person who presents the~~
10 ~~certificate; it releases the distributor or wholesale dealer from liability for any tax due~~
11 ~~on the sale and transfers the liability to the person who presents the certificate.~~

12 ~~A distributor or a wholesale dealer to whom a soft drink certificate of liability is~~
13 ~~presented must accept the certificate. A soft drink certificate of liability is considered to~~
14 ~~have been presented to a distributor or a wholesale dealer when the person to whom it is~~
15 ~~issued gives a copy of it to the distributor or wholesale dealer. When a person presents~~
16 ~~a soft drink certificate of liability to a distributor or a wholesale dealer, it indicates the~~
17 ~~person's intent that the certificate apply to all future sales to the person by the distributor~~
18 ~~or wholesale dealer. Once presented, a soft drink certificate of liability remains in effect~~
19 ~~until the person who presented the certificate gives the distributor or wholesale dealer to~~
20 ~~whom it was presented written notice that the certificate no longer applies.~~

21 ~~(c) Monthly Report. —Except for tax on a designated sale under subsection (d), the~~
22 ~~The taxes levied by this Article are payable when a report is required to be filed. A~~
23 ~~report is due on a monthly basis. A monthly report covers sales and other activities~~
24 ~~occurring in a calendar month and is due within 15 days after the end of the month~~
25 ~~covered by the report. A report shall be filed on a form provided by the Secretary and~~
26 ~~shall contain the information required by the Secretary.~~

27 ~~(d) Designation of Exempt Sale. —A distributor or a wholesale dealer who sells a~~
28 ~~bottled soft drink or a base product to a person who has notified the distributor or~~
29 ~~wholesale dealer in writing that the person intends to resell the item in a transaction that~~
30 ~~is exempt from tax under G.S. 105-113.46(7) or (8) may, when filing a monthly report~~
31 ~~under subsection (c), designate the quantity of bottled soft drinks or base products sold~~
32 ~~to the person for resale. A distributor or wholesale dealer shall report a designated sale~~
33 ~~on a form provided by the Secretary.~~

34 ~~A distributor or a wholesale dealer is not required to pay tax on a designated sale~~
35 ~~when filing a monthly report. The distributor or wholesale dealer shall pay the tax due~~
36 ~~on all other sales in accordance with this section. A distributor, a wholesale dealer, or a~~
37 ~~customer of a distributor or wholesale dealer may not delay payment of the tax due on a~~
38 ~~bottled soft drink or base product by failing to pay tax on a sale that is not a designated~~
39 ~~sale or by overstating the quantity of bottled soft drinks or base products that will be~~
40 ~~resold in a transaction exempt under G.S. 105-113.46(7) or (8).~~

41 ~~A person who does not sell a bottled soft drink or base product in a transaction~~
42 ~~exempt under G.S. 105-113.46(7) or (8) after a distributor or a wholesale dealer has~~
43 ~~failed to pay the tax due on the sale of the item to the person in reliance on the person's~~
44 ~~written notification of intent is liable for the tax and any penalties and interest due on~~

1 the designated sale. If the Secretary determines that a bottled soft drink or a base
2 product reported as a designated sale is not sold as reported, the Secretary shall assess
3 the person who notified the distributor or wholesale dealer of an intention to resell the
4 item in an exempt transaction for the tax due on the sale and any applicable penalties
5 and interest. A distributor or a wholesale dealer who does not pay tax on a bottled soft
6 drink or base product in reliance on a person's written notification of intent to resell the
7 item in an exempt transaction is not liable for any tax assessed on the item.

8 (e) Repealed by Session Laws 1991 (Regular Session, 1992), c. 955, s. 16, effective
9 July 15, 1992."

10 Sec. 33. Effective October 1, 1994, G.S. 105-113.52(a) reads as rewritten:

11 "(a) Tax Reduction. – The tax on the first 15,000 gross of bottled soft drinks sold
12 at wholesale on or after October 1 of each year by a distributor or wholesale dealer who
13 is liable for the tax and who files a timely report under G.S. 105-113.51 is seventy-two
14 cents (72¢) a gross rather than the amount stated in G.S. 105-113.45. The tax reduction
15 does not apply to bottled soft drinks acquired by the distributor or wholesale dealer in a
16 sale in which the distributor or wholesale dealer presented a soft drink certificate of
17 liability, and it does not apply to sales made by a distributor or wholesale dealer who is
18 not licensed as required by this Article. When reporting tax due on bottled soft drinks
19 to which this reduced rate applies, a distributor or wholesale dealer shall pay the
20 reduced amount."

21 Sec. 34. G.S. 105-130.27(g) reads as rewritten:

22 "(g) Expiration. – This section applies only to costs incurred during taxable years
23 beginning prior to January 1, ~~1996-1998.~~"

24 Sec. 35. G.S. 105-151.6(g) reads as rewritten:

25 "(g) Expiration. – This section applies only to costs incurred during taxable years
26 beginning prior to January 1, ~~1996-1998.~~"

27 Sec. 36. Effective August 1, 1994, G.S. 130A-309.81 reads as rewritten:

28 "**§ 130A-309.81. Management of discarded white goods; ~~additional disposal fee~~**
29 **prohibited.**

30 (a) Duty. – Each county is responsible for providing at least one site for the
31 collection of discarded white goods. It must also provide for the disposal of discarded
32 white goods and for the removal of chlorofluorocarbon refrigerants from white goods.
33 A county may contract with another unit of local government or a private entity in
34 accordance with Article 15 of Chapter 153A of the General Statutes to provide for the
35 management of discarded white goods or for the removal of chlorofluorocarbon
36 refrigerants from white goods.

37 (b) Restrictions. – A unit of local government or a contracting party may not
38 charge a disposal fee for the disposal of white goods ~~that is in addition to the fee charged~~
39 ~~for the disposal of any other type of municipal solid waste goods.~~ A white good may not be
40 disposed of in a landfill, an incinerator, or a waste-to-energy facility.

41 (c) Plan. – Each county shall establish written procedures for the management
42 of white goods. The county shall include the procedures in any solid waste
43 management plan required by the Department under this Article."

44 Sec. 37. Section 6 of Chapter 471 of the 1993 Session Laws is repealed.

1 Sec. 38. Effective July 1, 1998, G.S. 130A-309.81, as amended by this act,
2 reads as rewritten:

3 **"§ 130A-309.81. Management of discarded white goods; disposal fee ~~prohibited.~~**
4 **allowed.**

5 (a) Duty. – Each county is responsible for providing at least one site for the
6 collection of discarded white goods. It must also provide for the disposal of discarded
7 white goods and for the removal of chlorofluorocarbon refrigerants from white goods.
8 A county may contract with another unit of local government or a private entity in
9 accordance with Article 15 of Chapter 153A of the General Statutes to provide for the
10 management of discarded white goods or for the removal of chlorofluorocarbon
11 refrigerants from white goods.

12 (b) Restrictions. – A unit of local government or a contracting party may ~~not~~
13 charge a disposal fee for the disposal of white goods. A white good may not be
14 disposed of in a landfill, an incinerator, or a waste-to-energy facility.

15 (c) Plan. – Each county shall establish written procedures for the management
16 of white goods. The county shall include the procedures in any solid waste
17 management plan required by the Department under this Article."

18 Sec. 38.1. G.S. 90B-10(b)(1) reads as rewritten:

19 "(1) A person who has engaged in clinical social work practice for
20 one year prior to the effective date of this act and who properly
21 applies for and pays the required fees for a certificate as a
22 certified clinical social worker prior to January 1, 1993.
23 Notwithstanding the foregoing provision of this subdivision,
24 any applicant who applied for certification pursuant to this
25 subdivision between December 1, 1993, and January 15, 1994,
26 and who is otherwise eligible for certification under this
27 subdivision but for the January 1, 1993, deadline shall be
28 certified."

29 Sec. 38.2. (a) G.S. 105-113.46 reads as rewritten:

30 **"§ 105-113.46. Exemptions.**

31 The taxes imposed by this Article do not apply to an item that is listed in this section
32 and, if the item is a bottled soft drink or a juice concentrate included in subdivision (2)
33 ~~or (3), (2), (3), or (3a),~~ is registered with the Secretary in accordance with
34 G.S. 105-113.47:

- 35 (1) A natural liquid milk drink produced by a farmer or a dairy.
36 (2) A bottled soft drink that contains at least thirty-five percent (35%)
37 natural milk measured by volume and is not exempt under
38 subdivision (1).
39 (3) Natural juice.
40 (3a) Juice that would be natural if it did not contain sugar.
41 (4) Natural water.
42 (5) A base product used to make a bottled soft drink subject to tax
43 under this Article.
44 (6) Coffee or tea in any form.

- 1 (7) A bottled soft drink or base product sold outside the State.
2 (8) A bottled soft drink or base product sold to the federal government.
3 (9) A base product for domestic use that either contains milk or,
4 according to directions on the base product's container, requires
5 milk to be added to make a soft drink."

6 (b) G.S. 105-113.47(a) reads as rewritten:

7 "(a) Requirement. – To be exempt from the tax imposed by this Article, the
8 following items must be registered with the Secretary as an exempt item:

- 9 (1) A bottled soft drink that contains at least thirty-five percent (35%)
10 natural milk measured by volume and is not exempt under G.S.
11 105-113.46(1).
12 (2) A natural juice bottled soft drink.
13 (3) A natural juice concentrate.
14 (4) A juice concentrate or juice bottled soft drink that would be natural
15 if it did not contain sugar.

16 To register an item as exempt, the person who controls the brand name or formula of
17 the item must file an application for registration with the Secretary on a form provided
18 by the Secretary. An application must include an affidavit stating the complete and
19 itemized formula by volume of the bottled soft drink or juice concentrate that is the
20 subject of the application."

21 (c) This section becomes effective October 1, 1994.

22 Sec. 38.3. G.S. 25A-27 is amended by adding a new subsection to read:

23 "(c) For payments received by a seller on or after October 1, 1988, but before
24 October 1, 1993, a seller may elect to apply the provisions of this section as the section
25 read October 1, 1993, or as the section read September 30, 1993. A seller made this
26 election when the seller determined, and disclosed to the buyer, how payments received
27 on a consumer credit sale would be applied: either on a proportional basis or on a 'first
28 in - first out' basis with the payments applied first to finance charges and then to
29 principal in the order that each obligation is assumed."

30 Sec. 39. Except as otherwise provided in this act, this act is effective upon
31 ratification.