

NORTH CAROLINA GENERAL ASSEMBLY
1979 SESSION

CHAPTER 1187
HOUSE BILL 1556

AN ACT TO GRANT TO GASOHOL A PARTIAL EXEMPTION FROM THE GASOLINE
AND SPECIAL FUELS TAX.

The General Assembly of North Carolina enacts:

Section 1. A new section is added to the General Statutes to read:

"§ 105-437. **Taxation of alcohol fuels.** — (a) Sale, distribution, and use of a blend of motor fuel and a minimum of ten percent (10%) anhydrous ethanol are subject to the tax described in G.S. 105-434 except:

- (1) from January 1, 1981, through June 30, 1981, the tax is five cents (5¢);
- (2) from July 1, 1981, through June 30, 1982, the tax is six cents (6¢);
- (3) from July 1, 1982, through June 30, 1983, the tax is seven cents (7¢);
- (4) from July 1, 1983, through June 30, 1984, the tax is eight cents (8¢).

No refund or rebate allowed under this Article for the purchase of such a blend shall exceed the motor fuels tax on that blend, reduced by one cent (1¢).

(b) Non-anhydrous ethanol is exempt from the tax described in this section and in G.S. 105-434 if that ethanol is not for sale or distribution."

Sec. 2. A new section is added to the General Statutes to read:

"§ 105-446.4. **Refund of taxes paid on gasohol.** — (a) Any person, association, firm, or corporation not licensed as a distributor with the North Carolina Department of Revenue who purchases motor fuel and blends it with a minimum of 10 percent (10%) anhydrous ethanol and who pays more tax thereon than is required by G.S. 105-437 is entitled to reimbursement for the overpayment upon the following conditions and in the following manner:

- (1) All claims for refunds under this section shall be filed with the Secretary of Revenue on forms prescribed by him on or before the last day of January, April, July, and October of each year, covering motor fuel purchased during the quarterly period immediately preceding the month in which the application is filed. In all applications for reimbursement, the applicant shall state whether or not he has filed a North Carolina income tax return with the Secretary of Revenue, and all applications shall be made upon oath or affirmation. Each application shall show on its face that the purchase price has been secured to the seller's satisfaction. Refunds made pursuant to claims filed after the dates specified above are subject to the following late filing penalties: applications filed within 30 days after those dates, twenty-five percent (25%); applications filed after 30 days but within six months, fifty percent (50%); but refunds applied for after six months following those dates are barred.
- (2) The Secretary of Revenue has authority to issue rules as to how claims are filed and the information that is submitted with the claims and the records required to support the claims.
- (3) If, upon the filing of an application, the Secretary of Revenue is satisfied that it is made in good faith and the motor fuel upon which the tax refund is requested has been or is to be used exclusively for purposes set forth in the

application, he shall issue to the applicant a warrant upon the State Treasurer for the tax refund.

- (4) If the Secretary of Revenue is satisfied that the applicant for any refund authorized by this section has collected or sought to collect any refund of tax on motor fuel which has not been blended with a minimum of ten percent (10%) anhydrous ethanol, he shall issue to the applicant notice to show cause why the application should not be disallowed. The notice shall state a time and place of hearing upon the notice. If, at the hearing, the Secretary finds as a fact that the applicant has collected or sought to collect any refund on motor fuel not so blended, he shall disallow the application in its entirety and the applicant shall be required to pay all tax which has been refunded to him on the application.
- (5) Any applicant for a refund may seek administrative review or appeal from the decision of the Secretary of Revenue under the provisions of G.S. 105-241.2, G.S. 105-241.3, and G.S. 105-241.4.
- (6) If at any time in the opinion of the Secretary there is reason to doubt the accuracy of the facts set forth in any application for a tax refund, he may refer the matter to any agent of the Department of Revenue, and that agent shall make a careful investigation of all the facts and circumstances relating to the application in the use of the motor fuels therein referred to, and shall have a right to have access to the books and records of any retailer or distributor of motor fuels products for the purpose of obtaining the necessary information concerning such matters, and shall make due report thereof to the Secretary of Revenue.
- (7) If any court of last resort holds that the provisions for refund in this section render the levying and collecting of the tax under this Article invalid, it is the intention of the General Assembly that these provisions for refund shall be annulled and the tax shall be levied without any provisions for refund and that this Article shall be so construed.

(b) Any person making a false application or affidavit for the purpose of securing a refund to which he is not entitled under the provisions of this section is guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding five hundred dollars (\$500.00) or imprisoned not exceeding two years."

Sec. 3. G.S. 105-449.16 is amended by designating the present language as subsection (a) and adding two new subsections to read:

"(b) Sale, distribution, and use of a blend of gasoline or fuel and a minimum of ten percent (10%) anhydrous ethanol, which is not subject to taxation under Article 36 of this Chapter, are subject to the tax described in subsection (a) of this section except:

- (1) from January 1, 1981, through June 30, 1981, the tax is five cents (5¢);
- (2) from July 1, 1981, through June 30, 1982, the tax is six cents (6¢);
- (3) from July 1, 1982, through June 30, 1983, the tax is seven cents (7¢);
- (4) from July 1, 1983, through June 30, 1984, the tax is eight cents (8¢).

(c) Non-anhydrous ethanol is exempt from the tax described in this section if that ethanol is not for sale or distribution."

Sec. 4. G.S. 105-449.24 is amended by inserting between the phrase "G.S. 105-446.3," and the phrase "G.S. 105-446.5" the phrase "G.S. 105-446.4,".

Sec. 5. G.S. 105-449.24 is further amended by adding a second sentence to read:

"No refund or rebate allowed under this Article for the purchase of a blend of gasoline or fuel and a minimum of ten percent (10%) anhydrous ethanol shall exceed the special fuels tax on that blend, reduced by one cent (1¢)."

Sec. 6. This act shall become effective on January 1, 1981, and shall cease to be effective on July 1, 1984.

In the General Assembly read three times and ratified, this the 24th day of June, 1980.