

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1991

CHAPTER 913
SENATE BILL 1011

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.

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

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

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

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 G.S. 105-442 is repealed.

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

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

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

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

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

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

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

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

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

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

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

(a) ~~Receipt.~~ Receipts and Records. — ~~A~~ When required by this section, a user-seller and a supplier who is also a reseller but is licensed only as a supplier must give a receipt to each person who buys and keep a record of certain fuel sold at retail from

~~any of the following locations either 25 gallons or more of fuel to propel a motor vehicle or any amount of diesel for any other purpose; locations:~~

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

~~If the fuel is sold to propel a motor vehicle, the user-seller or supplier must give the buyer a receipt only when the buyer asks for a receipt and must keep a record of any receipt given. If the fuel is diesel and is sold for a purpose other than to propel a motor vehicle, the user-seller or supplier must give the buyer a receipt only when the buyer asks for a receipt but must always keep a record of the sale unless subsection (c) exempts the user-seller or supplier from the requirement of keeping a record. A user-seller or supplier shall prepare only one original receipt for each sale of fuel, shall give the original to the buyer at the time of the sale, and shall keep a copy of the receipt. A user-seller or supplier who gives a person a copy of a receipt shall clearly mark the copy as a duplicate.~~

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

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

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

(c) Exception. – A user-seller or supplier who sells diesel at a marina from a storage facility whose location makes it improbable that the diesel could be dispensed

for a purpose other than to propel a watercraft must keep a record of a sale only if the user-seller or supplier gives the buyer a receipt for the sale."

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

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

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

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

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

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

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

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

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

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

"§ 105-449.49. Temporary permits.

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

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

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

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

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

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

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

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

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

Sec. 13. G.S. 105-449.2(8) reads as rewritten:

"(8) Reseller. – Either of the following:

- a. A person who maintains storage facilities for diesel and who sells the diesel at retail or dispenses the diesel at a retail location.
- b. A person who maintains storage facilities for fuel, other than diesel, and who sells the fuel at retail or dispenses the fuel at a retail location into the supply tank of, or attached to, a motor vehicle."

Sec. 14. G.S. 105-130.27(g) reads as rewritten:

"(g) Expiration. – This section applies only to costs incurred during taxable years beginning prior to January 1, ~~1994~~ 1996."

Sec. 15. G.S. 105-151.6(g) reads as rewritten:

"(g) Expiration. – This section applies only to costs incurred during taxable years beginning prior to January 1, ~~1994~~ 1996."

Sec. 16. Section 5 of this act becomes effective January 1, 1995. Section 6 of this act becomes effective January 1, 1999. Sections 10 and 11 of this act become effective on the first day of the second month after ratification. The remaining sections of this act are effective upon ratification.

In the General Assembly read three times and ratified this the 10th day of July, 1992.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives