

GENERAL ASSEMBLY OF NORTH CAROLINA  
1985 SESSION

CHAPTER 937  
HOUSE BILL 1580

AN ACT MAKING CLARIFYING AMENDMENTS TO THE GASOLINE, SPECIAL  
FUEL, AND HIGHWAY USE TAX STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-431 is amended by deleting the phrase "; double taxation not intended" from the catch line to that section and by changing the semicolon following the word "State" to a period and deleting the remainder of that section.

Sec. 2. G.S. 105-434(a) is amended by changing the colon following the word "require" in the fourth sentence of that subsection to a period and rewriting the remainder of that subsection to read:

"A distributor may elect to calculate the tax on adjusted monthly receipts less a tare of two percent (2%) on the first 150,000 gallons, one and one-half percent (1 1/2%) on the next 100,000 gallons, and one percent (1%) on the excess over 250,000 gallons. 'Adjusted monthly receipts' means the quantity of motor fuel purchased, produced, refined, or compounded during the month plus the quantity of untaxed motor fuel on hand at the beginning of the month and less the quantity of motor fuel transported out-of-state during the month or lost during the month due to damage to a conveyance transporting the motor fuel, fire, a natural disaster, an act of war, or an accident. The Secretary of Revenue may, in accordance with rules adopted by him, refund to a nonlicensed distributor the tax on motor fuel that is purchased and delivered to him taxpaid and that is lost due to fire, a natural disaster, an act of war, or an accident after it is delivered to him and before it is sold."

Sec. 3. G.S. 105-446.6 is amended by inserting a new sentence between the first and second sentences of that section to read:

"The refund application shall require the claimant to furnish evidence satisfactory to the Secretary that the motor fuel for which the refund is claimed has been reported for taxation in the state to which it was transported."

Sec. 4. G.S. 105-432 is rewritten to read:

**"§ 105-432. Sales from pipeline or seaport terminals not first sales.** – The sale, consummated by delivery to a licensed distributor in this State, of motor fuel from a pipeline or seaport terminal in transport truck or railroad tank car shipments is not considered the first sale of the motor fuel."

Sec. 5. G.S. 105-433 is amended by inserting two new sentences between the fourth and fifth sentences of that section to read:

"A distributor required to file a bond under this section shall, within 30 days after receiving a notice from the Secretary of Revenue, file an additional bond in the amount

requested by the Secretary. The amount of the initial bond and any additional bonds filed by the distributor, however, may not exceed the limits set in this section."

Sec. 6. G.S. 105-441 is amended by inserting between the words "State" and "shall" in the first sentence of that section the phrase ", or who fails to file an additional bond required under G.S. 105-433".

Sec. 7. G.S. 105-449.5 is amended by adding the following sentences at the end of that section to read:

"A supplier required to file a bond under this section shall, within 30 days after receiving a notice from the Secretary, file an additional bond in the amount requested by the Secretary. The amount of the initial bond and any additional bonds filed by the supplier, however, may not exceed the limits set in this section."

Sec. 8. G.S. 105-449.14 is amended by inserting between the words "supplier" and "fails" in the first sentence of that section the phrase "fails to file an additional bond required under G.S. 105-449.5 or".

Sec. 9. G.S. 105-449 is amended as follows:

(1) by rewriting subsections (a) and (b) of that section to read:

"(a) Motor fuel purchased by a local board of education and used in public school transportation in this State is exempt from the per gallon tax levied by this Article provided an invoice for the fuel stating the board of education to whom the fuel was delivered, the price per gallon of the fuel excluding the per gallon tax, and the kind and quantity of fuel sold is furnished to the Secretary of Revenue. To implement this exemption, a person who holds a State contract for the sale of motor fuel to be used in public school transportation shall invoice motor fuel sold to a local board of education for this purpose at the prevailing contract price, excluding the per gallon tax, and a person who does not hold a State contract for the sale of motor fuel to be used in public school transportation but who sells motor fuel for this purpose in quantities not sufficient to require a State contract shall invoice motor fuel sold to a local board of education at the lowest informal bid price, excluding the per gallon tax.

(b) A person authorized to sell motor fuel to a local board of education who paid the per gallon tax levied by this Article on fuel sold to the local board for public school transportation may obtain a refund of the tax paid on the fuel upon filing an application for refund with the Secretary of Revenue and attaching an invoice, containing the information required in subsection (a), to the refund application. Upon receipt of a proper application and invoice, the Secretary shall issue a warrant upon the State Treasurer for the amount of the per gallon tax paid."; and

(2) by deleting the word "gasoline" each time it appears in subsections (c) and (d) of that section and substituting the words "motor fuel".

Sec. 10. G.S. 105-449.2(7) is rewritten to read:

"(7) 'User' means a person who owns or operates a fuel- propelled motor vehicle licensed under Chapter 20 and who does not maintain storage facilities for fueling the vehicle."

Sec. 11. G.S. 105-449.9 is rewritten to read:

"§ 105-449.9. **License required of user and user-seller.** – Every user, except a user whose use of fuel is limited to private passenger motor vehicles and other motor

vehicles licensed under Chapter 20 at 6,000 pounds or less, and every user-seller shall obtain a license from the Secretary. When issued, a user's or a user-seller's license is effective until it is cancelled."

Sec. 12. G.S. 105-449.10(b) is rewritten to read:

"(b) A user shall pay the tax levied by this Article on any nontaxpaid fuel acquired by him. A licensed user shall pay the tax due on nontaxpaid fuel acquired during a reporting period when filing a report for that period. An unlicensed user who acquires nontaxpaid fuel shall report the fuel and pay the tax due on the fuel in the same manner as a licensed user."

Sec. 13. G.S. 105-449.2(9) is rewritten to read:

"(9) 'Supplier' means a person who:

- a. Sells or delivers fuel to a user-seller; or
- b. Maintains an inventory of fuel, part or all of which he uses or sells for use in a motor vehicle, and is not required to be licensed as a user-seller; or
- c. Imports fuel, other than in the usual tank or receptacle connected with the engine of a motor vehicle, into the State for his own use."

Sec. 14. G.S. 105-449.2(10) is deleted.

Sec. 15. G.S. 105-449.3 is rewritten to read:

**"§ 105-449.3. License required of supplier.** – Every supplier shall obtain a license from the Secretary."

Sec. 16. G.S. 105-449.2(3) is rewritten to read:

"(3) 'Fuel' means combustible gases and liquids, other than those subject to tax under Article 36, that are or can be used to generate power to propel a motor vehicle."

Sec. 17. G.S. 105-449.19 is amended as follows:

- (1) by inserting between the word "user-sellers" and the semicolon following that word the phrase "or delivered into motor vehicles"; and
- (2) by deleting the phrase "or sold to user-sellers" and substituting the phrase ", sold to user-sellers, or delivered into motor vehicles owned by others".

Sec. 18. G.S. 105-449.24 is rewritten to read:

**"§ 105-449.24. Exemptions, rebates, and refunds.** – The exemptions from and the rebates and refunds of the tax levied by Article 36 on motor fuel apply to the tax levied by this Article on fuel, except the exemption and refund for losses in G.S. 105- 434(a)."

Sec. 19. G.S. 105-449.30 and G.S. 105-449.31 are repealed

Sec. 20. G.S. 105-449.47 is amended by adding a new sentence at the end of the second paragraph of that section to read: "The Secretary may withhold or revoke a registration card and identification marker when a motor carrier fails to comply with this Article or Article 36A of this Subchapter."

Sec. 21. G.S. 105-449.11 is amended by deleting the second sentence of that section.

Sec. 22. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1986.