

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 1145

Short Title: Revenue Laws Technical Changes. (Public)

Sponsors: Senators Hartsell, Clodfelter, Kerr, Dalton, Hoyle, and Webster.

Referred to: Finance.

May 18, 2004

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE
3 REVENUE LAWS AND RELATED STATUTES.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Section 30C.3(b) of S.L. 2002-126, as amended by Section
6 37A.4 of S.L. 2003-284, reads as rewritten:

7 "**SECTION 30C.3.(b)** This section is effective on and after January 1, 2002, and
8 applies to the estates of decedents dying on or after that date. This section is and Section
9 37A.5 of S.L. 2003-284 are repealed effective for the estates of decedents dying on or
10 after July 1, 2005."

11 **SECTION 2.** The lead-in language of Section 2 of S.L. 2003-360 reads as
12 rewritten:

13 **"SECTION 2.** The capital improvements projects, and their respective costs,
14 authorized by this act to be constructed and financed as provided in Sections 4-1, 5, and
15 6 of this act are as follows:"

16 **SECTION 3.(a)** S.L. 2003-405 is reenacted.

17 **SECTION 3.(b)** This section is effective on and after August 12, 2003.

18 **SECTION 4.(a)** G.S. 105-32.2(b) reads as rewritten:

19 "(b) Amount. – The amount of the estate tax imposed by this section for estates of
20 decedents dying on or after January 1, 2002, is the maximum credit for state death taxes
21 allowed under section 2011 of the Code without regard to the phase-out and termination
22 of that credit under subdivision (b)(2) and subsection (f) of that section.section and
23 without regard to the deduction for state death taxes allowed under section 2058 of the
24 Code. If any property in the estate is located in a state other than North Carolina, the
25 amount of tax payable depends on whether the decedent was a resident of this State at
26 death. If the decedent was a resident of this State at death, the amount of tax due under
27 this section is reduced by the lesser of the amount of the death tax paid the other state or
28 an amount computed by multiplying the credit by a fraction, the numerator of which is
29 the gross value of the estate that has a tax situs in another state and the denominator of

1 which is the value of the decedent's gross estate. If the decedent was not a resident of
2 this State at death, the amount of tax due under this section is an amount computed by
3 multiplying the credit by a fraction, the numerator of which is the gross value of real
4 property that is located in North Carolina plus the gross value of any personal property
5 that has a tax situs in North Carolina and the denominator of which is the value of the
6 decedent's gross estate. For purposes of this section, the gross value of property is its
7 gross value as finally determined in the federal estate tax proceedings."

8 **SECTION 4.(b)** This section is repealed effective for the estates of decedents
9 dying on or after July 1, 2005.

10 **SECTION 5.** G.S. 105-113.5 reads as rewritten:

11 **"§ 105-113.5. Tax on cigarettes.**

12 A tax is levied on the sale or possession for sale in this State, by a distributor, of all
13 cigarettes at the rate of two and one-half mills per individual cigarette.

14 This tax does not apply to any of the following:

- 15 (1) Sample cigarettes distributed without charge in packages containing
16 five or fewer cigarettes.
- 17 (2) Cigarettes in a package of cigarettes given without charge by the
18 manufacturer of the cigarettes to an employee of the manufacturer who
19 works in a factory where cigarettes are made, if the cigarettes are not
20 taxed by the federal government."

21 **SECTION 6.** G.S. 105-113.68(a)(2) is repealed.

22 **SECTION 7.** G.S. 105-113.83(b) reads as rewritten:

23 "(b) Beer and Wine. – The excise taxes on malt beverages and wine levied under
24 G.S. 105-113.80(a) and (b), respectively, are payable to the Secretary by the resident
25 wholesaler or importer who first handles the beverages in this State. The excise taxes ~~on~~
26 ~~wine~~ levied under G.S. 105-113.80(b) on wine shipped directly to consumers pursuant
27 to G.S. 18B-1001.1 must be paid by the wine shipper permittee. The taxes on malt
28 beverages and wine shall be paid only once on the same beverages. The tax shall be
29 paid on or before the 15th day of the month following the month in which the beverage
30 is first sold or otherwise disposed of in this State by the wholesaler, importer, or wine
31 shipper permittee. When excise taxes are paid on wine or malt beverages, the
32 wholesaler, importer, or wine shipper permittee shall submit to the Secretary verified
33 reports on forms provided by the Secretary detailing sales records for the month for
34 which the taxes are paid. The report shall indicate the amount of excise tax due, contain
35 the information required by the Secretary, and indicate separately any transactions to
36 which the excise tax does not apply."

37 **SECTION 8.** G.S. 105-113.108(a) reads as rewritten:

38 "(a) Revenue Stamps. – The Secretary shall issue stamps to affix to unauthorized
39 substances to indicate payment of the tax required by this Article. Dealers shall report
40 the taxes payable under this Article at the time and on the ~~form return~~ prescribed by the
41 Secretary. ~~Dealers Notwithstanding any other provision of law, dealers are not required~~ to give their name, address, social security number, or other identifying information on
42 the ~~form return~~ and the return is not required to be verified by oath or affirmation. Upon

1 payment of the tax, the Secretary shall issue stamps in an amount equal to the amount of
2 the tax paid. Taxes may be paid and stamps may be issued either by mail or in person."

3 **SECTION 9.** G.S. 105-129.2 is amended by adding a new subdivision to
4 read:

5 **"§ 105-129.2. Definitions.**

6 The following definitions apply in this Article:

7 . . .

8 **(12a) Interstate air courier. – Defined in G.S. 105-164.3."**

9 **SECTION 10.** 105-129.4(b2) reads as rewritten:

10 "(b2) Health Insurance. – A taxpayer is eligible for a credit for creating jobs or for
11 worker training under this Article if the taxpayer provides health insurance for the
12 positions for which the credit is claimed when the jobs are created and each year it
13 claims an installment or carryforward of the credit. A taxpayer is eligible for the other
14 credits under this Article if the taxpayer provides health insurance for all of the full-time
15 positions at the location with respect to which the credit is claimed when the taxpayer
16 engages in the activity that qualifies for the credit and each year it claims an installment
17 or carryforward of the credit. For the purposes of this subsection, a taxpayer provides
18 health insurance if it pays at least fifty percent (50%) of the premiums for health care
19 coverage that equals or exceeds the minimum provisions of the basic health care plan of
20 coverage recommended by the Small Employer Carrier Committee pursuant to
21 G.S. 58-50-125.

22 Each year that a taxpayer claims a credit or an installment or carryforward of a credit
23 allowed under this Article, the taxpayer must provide with the tax return the taxpayer's
24 certification that the taxpayer continues to provide health insurance for the jobs for
25 which the credit was claimed or the full-time jobs at the location with respect to which
26 the credit was claimed. If the taxpayer ceases to provide health insurance for the jobs
27 during a taxable year, the credit expires and the taxpayer may not take any remaining
28 installment or carryforward of the credit."

29 **SECTION 11.** G.S. 105-129.4(b6) reads as rewritten:

30 "(b6) Overdue Tax Debts. – A taxpayer is not eligible for a credit allowed under
31 this Article if, at the time the taxpayer claims the credit or an installment or
32 carryforward of the credit, the taxpayer has received a notice of an overdue tax debt and
33 that overdue tax debt has not been satisfied or otherwise resolved."

34 **SECTION 12.** G.S. 105-129.6(b) reads as rewritten:

35 "(b) Reports. – The Department of Revenue shall publish by March– April 1 of
36 each year the following information itemized by credit and by taxpayer for the
37 12-month period ending the preceding December 31:

- 38 (1) The number of claims for each credit allowed in this Article.
39 (2) The number and enterprise tier area of new jobs with respect to which
40 credits were generated and to which credits were claimed.
41 (3) The cost and enterprise tier area of machinery and equipment with
42 respect to which credits were generated and to which credits were
43 claimed.

- 1 (4) The number of new jobs created by businesses located in development
2 zones, and the percentage of jobs at those locations that were filled by
3 residents of the zones.
4 (5) The amount and enterprise tier area of worker training expenditures
5 with respect to which credits were generated and to which credits were
6 claimed.
7 (6) The amount and enterprise tier area of new research and development
8 expenditures with respect to which credits were generated and to
9 which credits were claimed.
10 (7) The cost and enterprise tier area of real property investment with
11 respect to which credits were generated and to which credits were
12 claimed."

13 **SECTION 13.** G.S. 105-129.9(d) reads as rewritten:

14 "(d) Expiration. – As used in this subsection, the term 'disposed of' means
15 disposed of, taken out of service, or moved out of State.

16 If, in one of the seven years in which the installment of a credit accrues, the
17 machinery and equipment with respect to which the credit was claimed are disposed of,
18 ~~taken out of service, or moved out of State,~~ the credit expires and the taxpayer may not
19 take any remaining installment of the credit for that machinery and equipment unless
20 the cost of that machinery and equipment is offset in the same taxable year by the
21 taxpayer's new investment in eligible machinery and equipment placed in service in the
22 same enterprise tier, as provided in this subsection. If, during the taxable year the
23 taxpayer disposed of the machinery and equipment for which installments remain, there
24 has been a net reduction in the cost of all the taxpayer's eligible machinery and
25 equipment that are in service in the same enterprise tier as the machinery and equipment
26 that were disposed of, and the amount of this reduction is greater than twenty percent
27 (20%) of the cost of the machinery and equipment that were disposed of, then the
28 taxpayer forfeits the remaining installments of the credit for the machinery and
29 equipment that were disposed of. If the amount of the net reduction is equal to twenty
30 percent (20%) or less of the cost of the machinery and equipment that were disposed of,
31 or if there is no net reduction, then the taxpayer does not forfeit the remaining
32 installments of the expired credit. In determining the amount of any net reduction during
33 the taxable year, the cost of machinery and equipment the taxpayer placed in service
34 during the taxable year and for which the taxpayer claims a credit under Article 3B of
35 this Chapter may not be included in the cost of all the taxpayer's eligible machinery and
36 equipment that are in service. If in a single taxable year machinery and equipment with
37 respect to two or more credits in the same tier are disposed of, the net reduction in the
38 cost of all the taxpayer's eligible machinery and equipment that are in service in the
39 same tier is compared to the total cost of all the machinery and equipment for which
40 credits expired in order to determine whether the remaining installments of the credits
41 are forfeited.

42 The expiration of a credit does not prevent the taxpayer from taking the portion of an
43 installment that accrued in a previous year and was carried forward to the extent
44 permitted under G.S. 105-129.5.

If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are moved to an area in a higher-numbered enterprise tier, or are moved from a development zone to an area that is not a development zone, the remaining installments of the credit are allowed only to the extent they would have been allowed if the machinery and equipment had been placed in service initially in the area to which they were moved."

SECTION 14. G.S. 105-129.35(c)(4) reads as rewritten:

"(4) State Historic Preservation Officer. – Defined in G.S. ~~105-129.6.~~105-129.36."

SECTION 15. G.S. 105-130.4(a)(6) reads as rewritten:

"(a) As used in this section, unless the context otherwise requires:

...

(6) 'Public utility' means any corporation that is subject to control of one of more of the following entities: the North Carolina Utilities Commission, the Federal Communications Commission, the Interstate Commerce Commission, the Federal ~~Power~~Energy Regulatory Commission, or the Federal Aviation Agency; and that owns or operates for public use any plant, equipment, property, franchise, or license for the transmission of communications, the transportation of goods or persons, or the production, storage, transmission, sale, delivery or furnishing of electricity, water, steam, oil, oil products, or gas. The term also includes a motor carrier of property whose principal business activity is transporting property by motor vehicle for hire over the public highways of this State."

SECTION 16.(a) G.S. 105-130.46 reads as rewritten:

"§ 105-130.46. Credit for manufacturing cigarettes for exportation while increasing employment and utilizing State Ports.

(a) Purpose. – The credit authorized by this section is intended to enhance the economy of this State by encouraging qualifying cigarette manufacturers to increase employment in this State with the purpose of expanding this State's economy, the use of the North Carolina State Ports, and the use of other State goods and services, including tobacco.

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

(1) Employment level. – The total number of full-time jobs and part-time jobs converted into full-time equivalences.

(2) Exportation. – The shipment of cigarettes manufactured in the United States to a foreign country sufficient to relieve the cigarettes in the shipment of the federal excise tax on cigarettes.

(3) Full-time job. – A position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year.

(4) Successor in business. – A corporation that through amalgamation, merger, acquisition, consolidation, or other legal succession becomes

invested with the rights and assumes the burdens of the predecessor corporation and continues the cigarette exportation business.

3 (c) Employment Level. – In order to be eligible for a full credit allowed under
4 this section, the corporation must maintain an employment level in this State that
5 exceeds the corporation's employment level in this State at the end of the 2004 calendar
6 year by at least 800 full-time jobs. In the case of a successor in business, the corporation
7 must maintain an employment level in this State that exceeds all its predecessor
8 corporations' combined employment levels in this State at the end of the 2004 calendar
9 year by at least 800 full-time jobs. A job is located in this State if more than fifty
10 percent (50%) of the employee's duties are performed in this State.

11 (d) Credit. – A corporation that satisfies the employment level requirement under
12 subsection ~~(b)(c)~~ of this section, is engaged in the business of manufacturing cigarettes
13 for exportation, and exports cigarettes and other tobacco products through the North
14 Carolina State Ports during the taxable year is allowed a credit as provided in this
15 section. The amount of credit allowed under this section is equal to forty cents (40¢) per
16 one thousand cigarettes exported. The amount of credit earned during the taxable year
17 may not exceed ten million dollars (\$10,000,000).

18 (e) Reduction of Credit. – A corporation that has previously satisfied the
19 qualification requirements of this section but that fails to satisfy the employment level
20 requirement in a succeeding year may still claim a partial credit for the year in which
21 the employment level requirement is not satisfied. The partial credit allowed is equal to
22 the credit that would otherwise be allowed under subsection (e)(d) of this section
23 multiplied by a fraction. The numerator of the fraction is the number of full-time jobs by
24 which the corporation's employment level in this State exceeds the corporation's
25 employment level in this State at the end of the 2004 calendar year. The denominator of
26 the fraction is 800. In the case of a successor in business, the numerator of the fraction
27 is the number of full-time jobs by which the corporation's employment level in this
28 State exceeds all its predecessor corporations' combined employment levels in this State
29 at the end of the 2004 calendar year.

30 (f) Allocation. – The credit allowed by this section may be taken against the
31 income taxes levied under this Part or the franchise taxes levied under Article 3 of this
32 Chapter. When the taxpayer claims a credit under this section, the taxpayer must elect
33 the percentage of the credit to be applied against the taxes levied under this Part with
34 any remaining percentage to be applied against the taxes levied under Article 3 of this
35 Chapter. This election is binding for the year in which it is made and for any
36 carryforwards. A taxpayer may elect a different allocation for each year in which the
37 taxpayer qualifies for a credit.

(g) **Ceiling.** – The total amount of credit that may be taken in a taxable year under this section may not exceed the lesser of the amount of credit which may be earned for that year under subsection ~~(e)(d)~~ of this section or fifty percent (50%) of the amount of tax against which the credit is taken for the taxable year reduced by the sum of all other credits allowable, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of the credit allowed in any tax year,

1 including carryforwards claimed by the taxpayer under this section or G.S. 105-130.45
2 for previous tax years.

3 (h) Carryforward. – Any unused portion of a credit allowed in this section may
4 be carried forward for the next succeeding 10 years. All carryforwards of a credit must
5 be taken against the tax against which the credit was originally claimed. A successor in
6 business may take the carryforwards of a predecessor corporation as if they were
7 carryforwards of a credit allowed to the successor in business.

8 (i) Documentation of Credit. – A corporation that claims the credit under this
9 section must include the following with its tax return:

10 (1) A statement of the exportation volume on which the credit is based.
11 (2) A list of the corporation's export volumes shown on its monthly
12 reports to the Alcohol and Tobacco Tax and Trade Bureau of the
13 United States Treasury for the months in the tax year for which the
14 credit is claimed.

15 (3) Any other information required by the Department of Revenue.

16 (j) No Double Credit. – A taxpayer may not claim this credit and the credit
17 allowed under G.S. 105-130.45 for the same activity.

18 (k) Reports. – Any corporation that takes a credit under this section must submit
19 an annual report by May 1 of each year to the Senate Finance Committee, the House of
20 Representatives Finance Committee, the Senate Appropriations Committee, the House
21 of Representatives Appropriations Committee, and the Fiscal Research Division of the
22 General Assembly. The report must state the amount of credit earned by the corporation
23 during the previous year, the amount of credit including carryforwards claimed by the
24 corporation during the previous year, and the percentage of domestic leaf content in
25 cigarettes produced by the corporation during the previous year. The first reports
26 required under this section are due by May 1, 2006."

27 **SECTION 16.(b)** This section is effective for taxable years beginning on or
28 after January 1, 2006, and expires for exports occurring on or after January 1, 2018.

29 **SECTION 17.** G.S. 105-160.3(b)(6) is repealed.

30 **SECTION 18.** G.S. 105-164.3(28) reads as rewritten:

31 "(28) Prepared food. – Food that meets at least one of the conditions of this
32 subdivision. Prepared food does not include food the retailer sliced,
33 repackaged, or pasteurized but did not ~~otherwise process, heat, mix, or~~
34 sell with eating utensils.

- 35 a. It is sold in a heated state or it is heated by the retailer.
36 b. It consists of two or more foods mixed or combined by the
37 retailer for sale as a single item. This sub-subdivision does not
38 include foods containing raw eggs, fish, meat, or poultry that
39 require cooking by the consumer as recommended by the Food
40 and Drug Administration to prevent food borne illnesses.
41 c. It is sold with eating utensils provided by the retailer, such as
42 plates, knives, forks, spoons, glasses, cups, napkins, and
43 straws."

44 **SECTION 19.** G.S. 105-164.3(37) reads as rewritten:

- 1 "(37) Sales price. – The total amount or consideration for which personal
2 property or services are sold, leased, or rented. The consideration may
3 be in the form of cash, credit, property, or services. The sales price
4 must be valued in money, regardless of whether it is received in
5 money.
- 6 a. The term includes all of the following:
- 7 1. The retailer's cost of the property sold.
8 2. The cost of materials used, labor or service costs,
9 interest, losses, all costs of transportation to the retailer,
10 all taxes imposed on the retailer, and any other expense
11 of the retailer.
- 12 3. Charges by the retailer for any services necessary to
13 complete the sale.
- 14 4. Delivery charges.
- 15 5. Installation charges.
- 16 6. The value of exempt personal property given to the
17 consumer when taxable and exempt personal property
18 are bundled together and sold by the retailer as a single
19 product or piece of merchandise.
- 20 7. Credit for trade-in.
- 21 b. The term does not include any of the following:
- 22 1. Discounts, including cash, term, or coupons, that are not
23 reimbursed by a third party, are allowed by the retailer,
24 and are taken by a consumer on a sale.
- 25 2. Interest, financing, and carrying charges from credit
26 extended on the sale, if the amount is separately stated
27 on the invoice, bill of sale, or a similar document given
28 to the consumer.
- 29 3. Any taxes imposed directly on the consumer that are
30 separately stated on the invoice, bill of sale, or similar
31 document given to the consumer."

32 **SECTION 20.** G.S. 105-164.4B(3) reads as rewritten:

- 33 "(3) Delivery address unknown. – When a seller of a product does not
34 know the address where a product is received, the sale is sourced to the
35 first address or location listed in this subdivision that is known to the
36 seller:
- 37 a. The business or home address of the purchaser.
38 b. The billing address of the purchaser or, if the product is a
39 prepaid telephone calling service that authorizes the purchase of
40 mobile telecommunications service, the location associated with
41 the mobile telephone number.
42 c. The billing address of the purchaser.address from which
43 tangible personal property was shipped or from which a service
44 was provided."

SECTION 21.(a) G.S. 105-164.14(e) reads as rewritten:

"(e) State Agencies. – **(Effective July 1, 2004 and applicable to sales made on or after that date)** The State is allowed quarterly refunds of local sales and use taxes paid indirectly by the State agency on building materials, supplies, fixtures, and equipment that become a part of or annexed to a building or structure that is owned or leased by the State agency and is being erected, altered, or repaired for use by the State agency.~~services and of~~

A person who pays local sales and use taxes on building materials or other tangible personal property for a State building project shall give the State agency for whose project the property was purchased a signed statement containing all of the following information:

- (1) The date the property was purchased.
- (2) The type of property purchased.
- (3) The project for which the property was used.
- (4) If the property was purchased in this State, the county in which it was purchased.
- (5) If the property was not purchased in this State, the county in which the property was used.
- (6) The amount of sales and use taxes paid.

If the property was purchased in this State, the person shall attach a copy of the sales receipt to the statement. A State agency to whom a statement is submitted shall verify the accuracy of the statement.

Within 15 days after the end of each calendar quarter, every State agency shall file with the Secretary a written application for a refund of taxes to which this subsection applies paid by the agency during the quarter. The application shall contain all information required by the Secretary. The Secretary shall credit the local sales and use tax refunds directly to the General Fund."

SECTION 21.(b) This section becomes effective July 1, 2004.

SECTION 22. G.S. 105-164.29A reads as rewritten:

"§ 105-164.29A. State government exemption process.

(a) Application. – To be eligible for the exemption provided in G.S. ~~105-164.13(51), 105-164.13(52)~~, a State agency must obtain from the Department a sales tax exemption number. The application for exemption must be in the form required by the Secretary, be signed by the State agency's head, and contain any information required by the Secretary. The Secretary must assign a sales tax exemption number to a State agency that submits a proper application.

(b) Liability. – A State agency that does not use the items purchased with its exemption number must pay the tax that should have been paid on the items purchased, plus interest calculated from the date the tax would otherwise have been paid."

SECTION 23. 105-259(b)(7) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

1 . . .

- 2 (7) To exchange information with the Division of the State Highway
3 Patrol of the Department of Crime Control and Public ~~Safety-Safety~~,
4 the Division of Motor Vehicles of the Department of Transportation,
5 or the International Fuel Tax Association, Inc., when the information is
6 needed to fulfill a duty imposed on the Department of ~~Revenue or~~
7 Revenue, the Division of the State Highway Patrol of the Department
8 of Crime Control and Public Safety, or the Division of Motor Vehicles
9 of the Department of Transportation.~~Safety~~"

10 **SECTION 24.** G.S. 105-449.47(a1) reads as rewritten:

11 "(a1) Registration and Identification Marker. – When the Secretary registers a
12 motor carrier, the Secretary must issue at least one identification marker for each motor
13 vehicle operated by the motor carrier. A motor carrier must keep records of
14 identification markers issued to it and must be able to account for all identification
15 markers it receives from the Secretary. Registrations and identification markers issued
16 by the Secretary are for a calendar year. ~~The Secretary may renew a registration or an~~
17 ~~identification marker without issuing a new registration or identification marker.~~ All
18 identification markers issued by the Secretary remain the property of the State. The
19 Secretary may withhold or revoke a registration or an identification marker when a
20 motor carrier fails to comply with this Article, former Article 36 or 36A of this
21 Subchapter, or Article 36C or 36D of this Subchapter.

22 A motor carrier must carry a copy of its registration in each motor vehicle operated
23 by the motor carrier when the vehicle is in this State. A motor vehicle must clearly
24 display an identification marker at all times. The identification marker must be affixed
25 to the vehicle for which it was issued in the place and manner designated by the
26 authority that issued it."

27 **SECTION 25.** G.S. 105-449.52(a) reads as rewritten:

28 "(a) Penalty. – A motor carrier who does any of the following is subject to a civil
29 penalty:

- 30 (1) Operates in this State or causes to be operated in this State a motor
31 vehicle that ~~does not~~either ~~fails~~ to carry the registration card required
32 by this Article or ~~does not~~fails to display an identification marker in
33 accordance with this Article. The amount of the penalty is one hundred
34 dollars (\$100.00).
- 35 (2) Is unable to account for identification markers the Secretary issues the
36 motor carrier, as required by G.S. 105-449.47. The amount of the
37 penalty is one hundred dollars (\$100.00) for each identification marker
38 the carrier is unable to account for.
- 39 (3) Displays an identification marker on a motor vehicle operated by a
40 motor carrier that was not issued to the carrier by the Secretary under
41 G.S. 105-449.47. The amount of the penalty is one thousand dollars
42 (\$1,000) for each identification marker unlawfully obtained. Both the
43 licensed motor carrier to whom the Secretary issued the identification
44 marker and the motor carrier displaying the unlawfully obtained

1 identification marker are jointly and severally liable for the penalty
2 under this subdivision.

3 A penalty imposed under this section is payable to the Department of ~~Revenue~~
4 ~~Revenue, the Department of Crime Control and Public Safety, or the Division of Motor~~
5 Vehicles. When a motor vehicle is found to be operating without a registration card or
6 an identification marker or with an identification marker the Secretary did not issue for
7 the vehicle, the motor vehicle may not be driven for a purpose other than to park the
8 motor vehicle until the penalty imposed under this section is paid unless the officer that
9 imposes the penalty determines that operation of the motor vehicle will not jeopardize
10 collection of the penalty."

11 **SECTION 26.** G.S. 105-449.54 reads as rewritten:

12 "**§ 105-449.54. Commissioner of Motor Vehicles made process agent of**
13 **nonresident motor carriers.**

14 ~~The acceptance by~~By operating a motor vehicle on the highways of this State, a
15 nonresident motor carrier ~~consents to the appointment of~~ ~~of the rights and privileges~~
16 ~~conferred by the laws now or hereafter in force in this State permitting the operation of~~
17 ~~motor vehicles, as evidenced by the operation of a motor vehicle by such nonresident,~~
18 ~~either personally or through an agent or employee, on the public highways of this State,~~
19 ~~or the operation by such nonresident, either personally or through an agent or employee,~~
20 ~~of a motor vehicle on the public highways of this State other than as so permitted or~~
21 ~~regulated, shall be deemed equivalent to the appointment by such nonresident motor~~
22 ~~carrier of the Commissioner of Motor Vehicles as its attorney in fact and process agent~~
23 ~~for Vehicles, or his successor in office, to be his true and lawful attorney and the~~
24 ~~attorney of his executor or administrator, upon whom may be served all summonses or~~
25 ~~other lawful process or notice in any action, assessment proceeding~~assessment~~, or other~~
26 ~~proceeding against him or his executor or administrator, arising out of or by reason of~~
27 ~~any provisions of this Article relating to such vehicle or relating to the liability for tax~~
28 ~~with respect to operation of such vehicle on the highways of this State. Said acceptance~~
29 ~~or operation shall be a signification by such nonresident motor carrier of his agreement~~
30 ~~that any such process against or notice to him or his executor or administrator shall be~~
31 ~~of the same legal force and validity as if served on him personally, or on his executor or~~
32 ~~administrator. All of the provisions of G.S. 1-105 following the first paragraph thereof~~
33 ~~shall be applicable with respect to the service of process or notice pursuant to this~~
34 ~~section under this Chapter."~~

35 **SECTION 27.** G.S. 105-449.60(7) reads as rewritten:

36 "**§ 105-449.60. Definitions.**

37 The following definitions apply in this Article:

38 ...

- 39 (7) Diesel fuel. – Any liquid, other than gasoline, that is suitable for use as
40 a fuel in a diesel-powered highway vehicle. The term includes
41 ~~ketosene and biodiesel~~biodiesel, ~~fuel oil, heating oil, high-sulfur dyed~~
42 ~~diesel fuel, and kerosene~~. The term does not include jet fuel sold to a
43 buyer who is certified to purchase jet fuel under the Code."

1 **SECTION 28.** The lead-in language of G.S. 105-449.72(a) reads as
2 rewritten:

3 "(a) Initial Bond. – An applicant for a license as a refiner, a terminal operator, a
4 supplier, an importer, a blender, a permissive supplier, or a distributor must file with the
5 Secretary a bond or an irrevocable letter of credit. A bond or irrevocable letter of credit
6 must be conditioned upon compliance with the requirements of this Article, be payable
7 to the State, and be in the form required by the Secretary. The amount of the bond or
8 irrevocable letter of credit is determined as follows:"

9 **SECTION 29.** G.S. 105-449.74 reads as rewritten:

10 **"§ 105-449.74. Issuance of license.**

11 Upon approval of an application, the Secretary must issue a license to the applicant
12 ~~as well as a duplicate copy of the license for each place of business of the applicant~~. A
13 supplier's license must indicate the category of the supplier. A license holder must
14 maintain and display a copy of the license issued under this Part in a conspicuous place
15 at each place of business of the license holder. A license is not transferable and remains
16 in effect until surrendered or cancelled."

17 **SECTION 30.** G.S. 105-449.81(3a) reads as rewritten:

18 "An excise tax at the motor fuel rate is imposed on motor fuel that is:

19 ...

20 (3a) Fuel ~~grade ethanol alcohol or biodiesel, if it meets either that meets~~
21 ~~any~~ of the following descriptions:

- 22 a. Is removed from a terminal or another storage and distribution
23 facility, unless the removed fuel is received by a supplier for
24 subsequent sale.
25 b. Is imported to this State outside the terminal transfer system by
26 a means other than a marine vessel, a transport truck, or a
27 railroad tank car."

28 **SECTION 31.** G.S. 105-449.123 reads as rewritten:

29 **"§ 105-449.123. Marking requirements for dyed diesel-fuel storage facilities.**

30 (a) Requirements. – A person who is a retailer of dyed ~~diesel~~motor fuel or who
31 stores both dyed and undyed ~~diesel~~motor fuel for use by that person or another person
32 must mark the storage facility for the dyed ~~diesel~~motor fuel as follows in a manner that
33 clearly indicates the fuel is not to be used to operate a highway vehicle. The storage
34 facility must be marked "Dyed Diesel, Nontaxable Use Only, Penalty For Taxable Use"
35 or "Dyed Kerosene, Nontaxable Use Only, Penalty for Taxable Use" or a similar phrase
36 that clearly indicates the fuel is not to be used to operate a highway vehicle.

- 37 (1) The storage tank of the storage facility must be marked if the storage
38 tank is visible.
39 (2) The fillcap or spill containment box of the storage facility must be
40 marked.
41 (3) The dispensing device that serves the storage facility must be marked.
42 (4) The retail pump or dispensing device at any level of the distribution
43 system must comply with the marking requirements.

1 (b) Exception. – The marking requirements of this section do not apply to a
2 storage facility that contains fuel used only for one of the purposes listed in
3 G.S. 105-449.105A(a)(1) and is installed in a manner that makes use of the fuel for any
4 other purpose improbable."

5 **SECTION 32.** G.S. 105-469 reads as rewritten:

6 **"§ 105-469. Secretary to collect and administer local sales and use tax.**

7 (a) The Secretary shall collect and administer a tax levied by a county pursuant
8 to this Article. As directed by G.S. 105-164.13B, taxes levied by a county on food are
9 administered as if they were levied by the State under Article 5 of this Chapter. The
10 Secretary must, on a monthly basis, distribute local taxes levied on food to the taxing
11 counties as follows:

12 (1) The Secretary must allocate one-half of the net proceeds on a per
13 capita basis according to the most recent annual population estimates
14 certified to the Secretary by the State Budget Officer. The Secretary
15 must then adjust the amount allocated to each county as provided in
16 G.S. 105-486(b).

17 (2) The Secretary must allocate the remaining net proceeds
18 proportionately to each taxing county based upon the amount of sales
19 tax on food collected in the taxing county in the 1997-1998 fiscal year
20 under Article 39 of this Chapter or under Chapter 1096 of the 1967
21 Session Laws relative to the total amount of sales tax on food collected
22 in all taxing counties in the 1997-1998 fiscal year under Article 39 of
23 this Chapter. Chapter and under Chapter 1096 of the 1967 Session
24 Laws.

25 (b) The Secretary shall require retailers who collect use tax on sales to North
26 Carolina residents to ascertain the county of residence of each buyer and provide that
27 information to the Secretary along with any other information necessary for the
28 Secretary to allocate the use tax proceeds to the correct taxing county."

29 **SECTION 33.** G.S. 119-15.1 reads as rewritten:

30 **"§ 119-15.1. List of persons who must have a license.**

31 (a) License. – A person may not engage in business in this State as any of the
32 following unless the person has a license issued by the Secretary authorizing the person
33 to engage in business:

- 34 (1) A kerosene supplier.
35 (2) A kerosene distributor.
36 (3) A kerosene terminal operator.

37 (b) Exception. – A kerosene supplier license is not required if the supplier is
38 licensed as a supplier under Part 2 of Article 36C of Chapter 105 of the General
39 Statutes. A kerosene distributor is required to have a kerosene distributor license only if
40 the distributor imports kerosene. Other kerosene distributors may elect to have a
41 kerosene license. A kerosene terminal operator license is not required if the supplier
42 terminal operator is licensed as a supplier-terminal operator under Part 2 of Article 36C
43 of Chapter 105 of the General Statutes."

44 **SECTION 34.** G.S. 119-19 reads as rewritten:

1 **"§ 119-19. Authority of Secretary to cancel a license.**

2 The Secretary of Revenue may cancel a license issued under G.S. 119-16.2~~this Article~~ upon the written request of the license holder. The Secretary may summarily
3 cancel a license issued under G.S. 119-16.2 or ~~this Article or under Article 36C or 36D~~ of Chapter 105 of the General Statutes when the Secretary finds that the license holder
4 is incurring liability for the tax imposed by this Article after failing to pay a tax when
5 due under this Article. The Secretary may cancel the license of a license holder who
6 files a false report under this Article or fails to file a report required under this Article
7 after holding a hearing on whether the license should be cancelled.

8 The Secretary must send a person whose license is summarily cancelled a notice of
9 the cancellation and must give the person an opportunity to have a hearing on the
10 cancellation within 10 days after the cancellation. The Secretary must give a person
11 whose license may be cancelled after a hearing at least 10 days' written notice of the
12 date, time, and place of the hearing. A notice of a summary license cancellation and a
13 notice of hearing must be sent by registered mail to the last known address of the license
14 holder.

15 When the Secretary cancels a license and the license holder has paid all taxes and
16 penalties due under this Article, the Secretary must either return to the license holder the
17 bond filed by the license holder or notify the person liable on the bond and the license
18 holder that the person is released from liability on the bond."

19 **SECTION 35.** G.S. 120-70.108(a) reads as rewritten:

20 "(a) The Revenue Laws Study Committee shall establish a Property Tax
21 Subcommittee consisting of ~~six-up to eight~~ members. The Senate cochair of the
22 Committee shall designate ~~three-up to four~~ members appointed by the President Pro
23 Tempore of the Senate to serve on the Subcommittee and shall name one of those
24 members a cochair of the Subcommittee. The House cochair of the Committee shall
25 designate ~~three-up to four~~ members appointed by the Speaker of the House of
26 Representatives to serve on the Subcommittee and shall name one of those members a
27 cochair of the Subcommittee. The Subcommittee shall meet upon the call of the
28 Subcommittee cochairs."

29 **SECTION 36.(a)** G.S. 153A-155(d) reads as rewritten:

30 "(d) Administration. – The taxing county shall administer a room occupancy tax it
31 levies. A room occupancy tax is due and payable to the county finance officer in
32 monthly installments on or before the 15th day of the month following the month in
33 which the tax accrues. Every person, firm, corporation, or association liable for the tax
34 shall, on or before the ~~15th-20th~~ day of each month, prepare and render a return on a
35 form prescribed by the taxing county. The return shall state the total gross receipts
36 derived in the preceding month from rentals upon which the tax is levied. A room
37 occupancy tax return filed with the county finance officer is not a public record and may
38 not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1."

39 **SECTION 36.(b)** G.S. 160A-215(d) reads as rewritten:

40 "(d) Administration. – The taxing city shall administer a room occupancy tax it
41 levies. A room occupancy tax is due and payable to the city finance officer in monthly
42 installments on or before the ~~fifteenth-20th~~ day of the month following the month in

1 which the tax accrues. Every person, firm, corporation, or association liable for the tax
2 shall, on or before the fifteenth day of each month, prepare and render a return on a
3 form prescribed by the taxing city. The return shall state the total gross receipts derived
4 in the preceding month from rentals upon which the tax is levied. A room occupancy tax
5 return filed with the city finance officer is not a public record and may not be disclosed
6 except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1."

7 **SECTION 36.(c)** This section becomes effective October 1, 2004.

8 **SECTION 37.** The title of Article 16 of Chapter 153A of the General
9 Statutes reads as rewritten:

10 "Article 16.

11 County Service Districts; County Research and Production Service Districts. Districts;
12 County Economic Development and Training Districts."

13 **SECTION 38.** G.S. 153A-317.11 reads as rewritten:

14 **"§ 153A-317.11. Purpose for which districts may be created and nature of
15 districts."**

16 The board of commissioners of any county may define a county economic
17 development and training district, as provided in this Part, to finance, provide, and
18 maintain for the district a skills training center in cooperation with its community
19 college branch in or for the county to prepare residents of the county to perform
20 manufacturing, research and development, and related service and support jobs in the
21 pharmaceutical, biotech, life sciences, chemical, telecommunications, and electronics
22 industries, and allied, ancillary, and subordinate industries, to provide within the district
23 any of the education, training, and related services, facilities, or functions that a county
24 or a city is authorized by general law to provide, finance, or maintain, and to promote
25 economic development in the county. The skills training center and related services
26 shall be financed, provided, or maintained in the district either in addition to or to a
27 greater extent than training facilities and services are financed, provided, or maintained
28 in the entire county. A district created under this Part is a special tax area under Section
29 2(4) of Article V of the North Carolina Constitution."

30 **SECTION 39.** G.S. 153A-317.17 reads as rewritten:

31 **"§ 153A-317.17. Taxes authorized; rate limitation.**

32 A county may levy property taxes within an economic development and training
33 district, in addition to those levied throughout the county, in order to finance, provide,
or maintain for the district a skills training center provided therefor for the purposes listed
34 in G.S. 153A-317.11 within the district in addition to or to a greater extent than worker
35 training facilities the same purposes provided for the entire county. In addition, a county
36 may allocate to a district any other revenues whose use is not otherwise restricted by
37 law. The proceeds of taxes within a district may be expended only to pay annual debt
38 service on up to one million two hundred thousand dollars (\$1,200,000) of the capital
39 costs of a skills training center provided for the district and any other services or
40 facilities provided by a county in response to a recommendation of an advisory
41 committee.

42 Property subject to taxation in a newly established district or in an area annexed to
43 an existing district is subject to taxation by the county as of the preceding January 1.

1 Such additional property taxes may not be levied within any district established
2 pursuant to this Article in excess of a rate of eight cents (8¢) on each one hundred
3 dollars (\$100.00) value of property subject to taxation."

4 **SECTION 40.** Except as otherwise provided in this act, this act is effective
5 when it becomes law.