

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE DRS85371-MA-158 (5/8)

Short Title: Motor Fuel Tax Initiatives.

(Public)

Sponsors: Senator Jenkins.

Referred to:

1 A BILL TO BE ENTITLED

2 AN ACT TO REQUIRE A REDUCTION AND DISPLACEMENT OF PETROLEUM
3 PRODUCT DEPENDENCE, CREATE AN ALTERNATIVE FUELS TAX
4 CREDIT, PROTECT CONSUMERS FROM EXTREME PRICING PRACTICES,
5 AND TO TRANSFER FUNDS FROM THE GENERAL FUND TO THE
6 HIGHWAY TRUST FUND.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** Chapter 143 of the General Statutes is amended by adding a
9 new Part to Article 3B to read:

10 "Part 3. Reduction and Displacement of Petroleum Product Dependence.

11 **"§ 143-64.18. State Motor Fleet to reduce dependence on petroleum products.**

12 (a) All State agencies, universities, and community colleges that have
13 State-owned vehicle fleets shall develop and implement plans to improve the State's use
14 of alternative fuels, synthetic lubricants, and efficient vehicles. The plans shall achieve a
15 twenty percent (20%) reduction or displacement of the current petroleum products
16 consumed by January 1, 2010. Before implementation of any plan, all affected agencies
17 shall report their plan to the Department of Administration. The Department of
18 Administration shall compile a report on the plans submitted and report to the Joint
19 Legislative Commission on Governmental Operations. Agencies shall implement their
20 plans by January 1, 2006. Reductions may be met by petroleum or oils displaced
21 through the use of biodiesel, ethanol, synthetic oils or lubricants, other alternative fuels,
22 the use of hybrid electric vehicles, other fuel-efficient or low-emission vehicles, or
23 additional methods as may be approved by the State Energy Office, thereby reducing
24 the amount of harmful emissions. The plan shall not impede mission fulfillment of the
25 agency and shall specifically address a long-term cost-benefit analysis, allowances for
26 changes in vehicle usage, total miles driven, and exceptions due to technology,
27 budgetary limitations, and emergencies.

1 (b) For the purposes of this section, a State-owned vehicle fleet consists of more
2 than 10 motor vehicles, as defined by G.S. 20-4.01, that are designed for highway use
3 and titled to one of the aforementioned entities. Specialty vehicles, as defined by
4 G.S. 20-4.01, that are used for educational purposes, and vehicles exempted under U.S.
5 Executive Order 13149 are subject to ten percent (10%) reductions.

6 (c) Agencies shall report by September 1, 2006, and annually thereafter on
7 September 1, to the Department of Administration on the efforts undertaken to achieve
8 the reductions. The Department of Administration shall compile and forward a report to
9 the Joint Legislative Commission on Governmental Operations by November 1, 2006,
10 and annually thereafter on November 1, on the agencies' progress in meeting their
11 plans."

12 SECTION 2. Chapter 105 of the General Statutes is amended by adding a
13 new Article to read:

14 "Article 3H.

15 "Alternative Fuel Vehicle Tax Credit.

16 "**§ 105-129.70. Definitions.**

17 The following definitions apply in this Article:

- 18 (1) Alternative fuel vehicle. – An original equipment manufactured motor
19 vehicle that operates on compressed natural gas, propane, or electricity
20 or a hybrid electric vehicle.
21 (2) Hybrid electric vehicle. – A motor vehicle with a hybrid propulsion
22 system that operates on both electricity and a petroleum-based motor
23 fuel.
24 (3) Long-term lease. – Defined in G.S. 105-187.1.
25 (4) Motor vehicle. – Defined in G.S. 105-164.3.

26 "**§ 105-129.71. Credit for purchasing or leasing an alternative fuel vehicle.**

27 A taxpayer that purchases or leases, pursuant to a long-term lease, a new alternative
28 fuel vehicle is allowed a credit in the amount of two thousand dollars (\$2,000). In order
29 to be eligible for the credit allowed by this section, the vehicle shall have a gross vehicle
30 weight of less than 10,000 pounds and shall be registered in this State. A taxpayer may
31 claim a credit under this section for each qualified purchase or lease. The credit allowed
32 under this section is allowed only to the first individual to take title to the motor vehicle
33 other than for resale. A taxpayer may not take the credit allowed in this section for an
34 alternative fuel vehicle the taxpayer leases from another unless the taxpayer obtains the
35 lessor's written certification that the lessor will not claim a credit under this Article with
36 respect to the alternative fuel vehicle.

37 "**§ 105-129.72. Tax credited; limitations.**

38 (a) Tax Credited. – The credit allowed in this Article is allowed against the
39 franchise tax levied in Article 3 of this Chapter or the income taxes levied in Article 4
40 of this Chapter. The taxpayer shall elect the tax against which a credit will be claimed
41 when filing the return on which the credit is first claimed. This election is binding. Any
42 carryforwards of a credit shall be claimed against the same tax.

43 (b) Limitations. – A credit shall be taken for the taxable year in which the
44 property is purchased or leased. A credit allowed under this Article may not exceed the

1 amount of the tax against which it is claimed for the taxable year reduced by the sum of
2 all credits allowed. Any unused portion of the credit may be carried forward for the
3 succeeding five years.

4 **"§ 105-129.73. Substantiation.**

5 To claim a credit allowed by this Article, the taxpayer shall provide any information
6 required by the Secretary of Revenue. The burden of proving eligibility for a credit and
7 the amount of the credit rests upon the taxpayer, and no credit may be allowed to a
8 taxpayer that fails to maintain adequate records or to make them available for
9 inspection.

10 **"§ 105-129.74. Reports.**

11 The Department of Revenue shall report to the Revenue Laws Study Committee and
12 to the Fiscal Research Division of the General Assembly by May 1 of each year the
13 following information for the 12-month period ending the preceding December 31:

- 14 (1) The number of vehicles for which taxpayers claimed the credit allowed
15 in this Article, by taxpayer type.
16 (2) The total cost to the General Fund of the credits claimed.

17 **"§ 105-129.75. Sunset.**

18 This Article is repealed effective for alternative fuel vehicles purchased or leased on
19 or after January 1, 2011."

20 **SECTION 3.** G.S. 75-38 reads as rewritten:

21 **"§ 75-38. Prohibit excessive pricing during states of ~~disaster-disaster~~, states of**
22 **emergency, or abnormal market disruption.**

23 (a) Upon a triggering event, ~~It is prohibited and~~ shall be a violation of
24 G.S. 75-1.1 for any person to sell or rent or offer to sell or rent at retail during a state of
25 disaster, in the area for which the state of disaster has been declared, any merchandise
26 or services which are consumed or used as a direct result of an emergency or which are
27 consumed or used to preserve, protect, or sustain life, health, safety, or comfort
28 economic well-being of persons or their property with the knowledge and intent to
29 charge a at a price that is unreasonably excessive under the circumstances. In
30 determining whether a price is unreasonably excessive, it shall be considered whether:

- 31 (1) The price charged by the seller is attributable to additional costs
32 imposed by the seller's supplier or other costs of providing the good or
33 service during the state of disaster; and
34 (2) The seller offered to sell or rent the merchandise or service at a price
35 that was below the seller's average price in the preceding 60 days
36 before the ~~state of disaster-triggering event.~~

37 If the seller did not sell or rent or offer to sell or rent the merchandise or service in
38 question prior to the time ~~the state of disaster was declared,~~ of the triggering event, the
39 price at which the merchandise or service was generally available in the trade area shall
40 be used as a factor in determining if the seller is charging an unreasonably excessive
41 price. This prohibition shall apply to all parties in the chain of distribution, including but
42 not limited to a manufacturer, supplier, wholesaler, distributor, or retail seller of
43 merchandise or services.

1 (b) In the event the Attorney General investigates a complaint for a violation of
2 this section and determines that the seller has not violated the provisions of this section
3 and if the seller so requests, the Attorney General shall promptly issue a signed
4 statement indicating that the Attorney General has not found a violation of this section.

5 (c) For the purposes of this section, the end of a ~~state of disaster triggering event~~
6 is the earlier of 45 days after the triggering event occurs or the expiration or termination
7 of the triggering event.~~a natural or man-made disaster or emergency as declared in~~
8 ~~accordance with G.S. 166A-6 or G.S. 166A-8.~~

9 (d) A "triggering event" means the declaration of a state of emergency pursuant
10 to G.S. 166A-8, the proclamation of a state of disaster pursuant to Article 36A of
11 Chapter 14, G.S.166A-6, or a finding of abnormal market disruption pursuant to
12 G.S.75-38(e).

13 (e) An "abnormal market disruption" means a significant disruption, whether
14 actual or imminent, to the production, distribution, or sale of goods and services in
15 North Carolina which are consumed or used as a direct result of an emergency or used
16 to preserve, protect, or sustain the life, health, safety or economic well-being of a person
17 or his or her property. A significant disruption may result from a declaration of a state
18 of emergency, state of disaster, or similar declaration by the President of the United
19 States or an issuance of Code Red/Severe Risk of Attack in the Homeland Security
20 Advisory System by the Department of Homeland Security, whether or not such
21 declaration or issuance applies to North Carolina. A significant disruption may also
22 result from a natural disaster, weather, acts of nature, strike, power or energy failures or
23 shortages, civil disorder, war, terrorist attack, national or local emergency, or other
24 extraordinary adverse circumstances.

25 (f) The existence of an abnormal market disruption shall be found and declared
26 by the Governor pursuant to the definition in subsection (e) of the section. The duration
27 of an abnormal market disruption shall be 45 days from the triggering event, but may be
28 renewed by the Governor if the Governor finds and declares the disruption continues to
29 affect the economic well-being of North Carolinians beyond the initial 45-day period."

30 **SECTION 4.** There is appropriated from the General Fund to the Highway
31 Trust Fund the sum of one hundred twenty-five million dollars (\$125,000,000) to ensure
32 the integrity of the Highway Trust Fund and maintain the trust of the people that the
33 fund will remain solvent.

34 **SECTION 5.** This act becomes effective July 1, 2006.