

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

H

1

HOUSE BILL 2711

Short Title: Biofuels Incentives.

(Public)

Sponsors: Representatives Harrison, Fisher (Primary Sponsors); Blue, Bryant, Coleman, Current, Glazier, Insko, Jones, Lucas, Martin, Mobley, Parmon, Tarleton, and Womble.

Referred to: Finance.

May 28, 2008

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE INCENTIVES FOR THE DEVELOPMENT OF THE
2 BIOFUELS INDUSTRY IN THIS STATE.
3

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 105-449.93 reads as rewritten:

6 "**§ 105-449.93. Percentage discount for licensed distributors and some licensed**
7 **importers.**

8 (a) Repealed by Session Laws 2006-162, s. 14(d), effective January 1, 2007, and
9 applicable to motor fuel purchased on or after that date.

10 (b) Percentage Discount. – A licensed distributor that pays the tax due a supplier
11 by the date the supplier must pay the tax to the State may deduct from the amount due a
12 discount of one percent (1%) of the amount of tax payable. A licensed importer that
13 removes motor fuel from a terminal rack of a permissive or an elective supplier and that
14 pays the tax due the supplier by the date the supplier must pay the tax to the State may
15 deduct from the amount due a discount of the same amount allowed a licensed
16 distributor. The discount covers the expense of furnishing a bond and losses due to
17 shrinkage or evaporation. A supplier may not directly or indirectly deny this discount to
18 a licensed distributor or licensed importer that pays the tax due the supplier by the date
19 the supplier must pay the tax to the State.

20 (c) Biodiesel Discount. – A licensed distributor that pays the tax due a supplier
21 on biodiesel may deduct from the amount due a discount as provided in this subsection.
22 The discount per gallon is equal to the motor fuels tax rate multiplied by the percentage
23 of the biodiesel that is not petroleum-based."

24 **SECTION 2.** G.S. 105-449.97 reads as rewritten:

25 "**§ 105-449.97. Deductions and discounts allowed a supplier when filing a return.**

1 (a) Taxes Not Remitted. – When a supplier files a return, the supplier may deduct
2 from the amount of tax payable with the return the amount of tax any of the following
3 license holders owes the supplier but failed to remit to the supplier:

4 (1) A licensed distributor.

5 (2) A licensed importer that removed the motor fuel on which the tax is
6 due from a terminal of an elective or a permissive supplier.

7 (3) Repealed by Session Laws 1995, c. 647, s. 32.

8 A supplier is not liable for tax a license holder listed in this subsection owes the
9 supplier but fails to pay. If a listed license holder pays tax owed to a supplier after the
10 supplier deducts the amount on a return, the supplier must promptly remit the payment
11 to the Secretary.

12 (b) Administrative Discount. – A supplier that files a timely return and sends a
13 timely payment may deduct from the amount of tax payable with the return an
14 administrative discount of one-tenth of one percent (0.1%) of the amount of tax payable
15 to this State as the trustee, not to exceed eight thousand dollars (\$8,000) a month. The
16 discount covers expenses incurred in collecting taxes on motor fuel.

17 (c) Percentage Discount. – A supplier that sells motor fuel directly to an
18 unlicensed distributor or to the bulk-end user, the retailer, or the user of the fuel may
19 take the same percentage discount on the fuel that a licensed distributor may take under
20 G.S. 105-449.93(b) when making deferred payments of tax to the supplier.

21 (c1) Biodiesel Discount. – A supplier that sells biodiesel directly to an unlicensed
22 distributor or the bulk-end user, the retailer, or the use of the fuel may take the same
23 percentage discount on the fuel that a licensed distributor may take under
24 G.S. 105-449.93(c).

25 (d) Taxes Paid on Exempt Retail Sales. – When filing a return, a supplier that
26 issues or authorizes the issuance of an exempt card or code to a person that enables the
27 person to buy motor fuel without paying tax on the fuel may deduct the amount of
28 excise tax imposed on fuel purchased with the exempt card or code. The amount of
29 excise tax imposed on fuel purchased with an exempt card or code is the amount that
30 was imposed on the fuel when it was delivered to the retailer of the fuel."

31 **SECTION 3.** There is appropriated from the General Fund to the Highway
32 Fund a recurring sum of monies to offset the loss to the Highway Fund from this Part.

33 **SECTION 4.** This act becomes effective January 1, 2008.