

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 163

Short Title: Urban/Rural Road Needs Act.

(Public)

Sponsors: Representative Dawkins.

Referred to: Infrastructure.

February 7, 1989

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR URBAN AND RURAL ROAD NEEDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-434(a) reads as rewritten:

"(a) Tax. – An excise tax is levied on motor fuel sold, distributed, or used by a distributor within this State at the rate ~~of~~ of:

(1) Thirty cents (30¢) per gallon through June 30, 2004, and fourteen cents (14¢) per gallon thereafter; plus

(2) Three percent (3%) of the average wholesale price of motor fuel, as determined semiannually by the Secretary of Revenue from information on refiner and gas plant operator sales prices of finished motor gasoline and No. 2 diesel fuel for resale, published by the United States Department of Energy in the 'Monthly Energy Review,' or on equivalent data.

The Secretary shall determine the average wholesale price of motor fuel by computing the average sales price of finished motor gasoline for the base period, computing the average sales price for No. 2 diesel fuel for the base period, and then computing a weighted average of the results of the first two computations based on the proportion of tax collected under this Article on motor fuel and Article 36A on fuel for the base period. The Secretary shall notify affected taxpayers of the tax rate to be in effect for each six-month period.

To facilitate collection of the motor fuel tax, the Secretary shall convert the percentage rate to a cents-per-gallon rate to be in effect during the six-month period beginning each January 1 and July 1. The rate to be in effect during the six-month

1 period beginning January 1 shall be computed from data published for the six-month
2 base period ending on the preceding September 30, and the rate to be in effect during
3 the six-month period beginning July 1 shall be computed from data published for the
4 six-month base period ending on the preceding March 31. The cents-per-gallon rate
5 computed by the Secretary shall be rounded to the nearest one-tenth of a cent (1/10¢).
6 If the cents-per-gallon rate computed by the Secretary is exactly between two tenths of a
7 cent, the rate shall be rounded up to the higher of the two."

8 Sec. 2. G.S. 105-446 reads as rewritten:

9 **"§ 105-446. Refund for tax on motor fuel used other than to propel a motor**
10 **vehicle.**

11 A person who purchases and uses motor fuel for a purpose other than to operate a
12 licensed motor vehicle may receive an annual refund, for the tax paid during the
13 preceding calendar year, at a rate equal ~~to~~ to:

- 14 (1) Thirty cents (30¢) per gallon through June 30, 2004, and fourteen cents
15 (14¢) per gallon thereafter; plus
- 16 (2) The average of the two wholesale cents-per-gallon rates of tax in effect
17 during the year for which refund is ~~elaimed, claimed;~~ less
- 18 (3) One cent (1¢) per gallon.

19 An application for a refund allowed under this section shall be made in accordance
20 with G.S. 105-440."

21 Sec. 3. G.S. 105-446.1 reads as rewritten:

22 **"§ 105-446.1. Refunds of taxes paid by counties and municipalities.**

23 The following entities shall be entitled to reimbursement for the tax levied by G.S.
24 105-434 upon filing a statement in writing with the Secretary of Revenue, which
25 statement shall be made upon the oath or affirmation of the chief executive officer of
26 said entity, showing the number of gallons of fuel purchased and used by said entity on
27 which the tax levied by G.S. 105-434 has been paid: the Board of Transportation,
28 counties, municipal corporations, volunteer fire departments, county fire departments,
29 volunteer rescue squads, and 'sheltered workshop' organizations recognized and
30 approved by the Department of Human Resources. 'Chief executive officer' shall mean
31 the Director of Highways, the mayor, city manager or other municipal officer
32 designated by the governing body of the municipality, the chairman of the board of
33 county commissioners or other county officer designated by the board of county
34 commissioners, or the president or other duly designated officer or agent of a volunteer
35 fire department, county fire department, volunteer rescue squad or 'sheltered workshop'
36 organization. Reimbursement shall be at a rate equal ~~to~~ to:

- 37 (1) Thirty cents (30¢) per gallon through June 30, 2004, and fourteen cents
38 (14¢) per gallon thereafter; plus
- 39 (2) The wholesale cents-per-gallon rate of tax in effect during the quarter
40 for which the refund is ~~elaimed, claimed;~~ less
- 41 (3) One cent (1¢) per gallon.

42 An application for a refund under this section shall be made in accordance with G.S.
43 105-440."

44 Sec. 4. G.S. 105-446.3 reads as rewritten:

1 **"§ 105-446.3. Refund of taxes paid on motor fuels used in operation of motor buses**
2 **transporting fare-paying passengers in a city transit system, in operation**
3 **of a taxicab transporting fare-paying passengers, and in operation of**
4 **private nonprofit transportation services.**

5 (a) Any person, association, firm or corporation, who shall purchase any motor
6 fuels, as defined in this Article, for the purpose of use, and the same is actually used, in
7 the operation of motor buses transporting fare-paying passengers, in connection with a
8 city transit system or in the operation of a taxicab transporting fare-paying passengers,
9 both as hereinafter defined in subsection (b) of this section, or in the operation, by
10 private nonprofit organizations, of motor vehicles transporting passengers under
11 contract with or at the express designation of units of local government (such
12 transportation above and hereinafter referred to as private nonprofit transportation
13 services) shall be entitled to reimbursement for the tax levied by this Article upon filing
14 with the Secretary of Revenue an application upon the oath or affirmation of the
15 applicant or his agent showing the number of gallons of motor fuel so purchased and
16 used. Reimbursement shall be at a rate equal ~~to~~ to:

- 17 (1) Thirty cents (30¢) per gallon through June 30, 2004, and fourteen cents
18 (14¢) per gallon thereafter; plus
19 (2) The wholesale cents-per-gallon rate of tax in effect during the quarter
20 for which the refund is ~~elaimed~~, claimed; less
21 (3) One cent (1¢) per gallon.

22 An application for a refund allowed under this section shall be made in accordance
23 with G.S. 105-440.

24 (b) For the purposes of this section the term 'city transit system' means a system
25 of mass public transportation authorized to operate within any municipality or within
26 contiguous municipalities and within a zone adjacent to and commercially a part of such
27 municipality or contiguous municipalities as defined by the North Carolina Utilities
28 Commission under the provisions of G.S. 62-260. Any person, association, firm or
29 corporation, who, in addition to the operation of a city transit system as herein defined,
30 holds a certificate from the North Carolina Utilities Commission for operations outside
31 of the municipal limits and adjacent commercial zones or who conducts exempt
32 operations outside of the municipal limits or adjacent commercial zones shall be entitled
33 to the refund provided by this section only on taxes levied upon motor fuels actually
34 used in the operation of the city transit system. For the purposes of this section the term
35 'taxicab' shall mean a taxicab as defined in G.S. 20-87(1); provided, however, that a city
36 transit system as defined herein shall not include limousine operations."

37 Sec. 5. G.S. 105-446.5 reads as rewritten:

38 **"§ 105-446.5. Refund of taxes paid on motor fuel used by concrete mixing vehicles,**
39 **solid waste compacting vehicles, and certain agricultural delivery**
40 **vehicles.**

41 (a) Refund. – A person who purchases and uses motor fuel in one of the vehicles
42 listed below may receive a refund for the amount of fuel consumed by the vehicle:

- 43 (1) A concrete mixing vehicle;
44 (2) A solid waste compacting vehicle;

- 1 (3) A bulk feed vehicle that delivers feed to poultry or livestock and uses a
2 power take-off to unload the feed; and
3 (4) A vehicle that delivers lime or fertilizer in bulk to farms and uses a
4 power take-off to unload the lime or fertilizer.

5 The refund rate shall be ~~computed by subtracting one cent (1¢) from~~ one-third of an amount
6 equal to:

- 7 (i) Thirty cents (30¢) per gallon through June 30, 2004, and fourteen cents
8 (14¢) per gallon thereafter; plus
9 (ii) The average of the two wholesale cents-per-gallon rates of tax in effect
10 during the year for which the refund is claimed, and multiplying the
11 difference by thirty-three and one-third percent (33 1/3%)-claimed; less
12 (iii) One cent (1¢) per gallon.

13 An application for a refund allowed under this section shall be made in accordance
14 with G.S. 105-440. This refund is allowed for the amount of fuel consumed by the
15 vehicle in its mixing, compacting, or unloading operations, as distinguished from
16 propelling the vehicle, which amount is considered to be one third of the amount of fuel
17 consumed by the vehicle."

18 Sec. 6. G. S. 105-446.6 reads as rewritten:

19 "**§ 105-446.6. Refund on taxpaid motor fuel transported to another state.**

20 Upon application to the Secretary, any person, association or corporation who
21 purchases motor fuel upon which the tax imposed by this Article has been paid, and
22 who transports the fuel to another state for sale or use in that state may be reimbursed at
23 a rate equal ~~to~~ to:

- 24 (1) Thirty cents (30¢) per gallon through June 30, 2004, and fourteen cents
25 (14¢) per gallon thereafter; plus
26 (2) The wholesale cents-per-gallon rate of tax paid on the ~~fuel,~~ fuel, less
27 (3) One cent (1¢) per gallon.

28 The refund application shall require the claimant to furnish evidence satisfactory to
29 the Secretary that the motor fuel for which the refund is claimed has been reported for
30 taxation in the state to which it was transported. As used in this section, to 'transport'
31 means to carry motor fuel in a cargo tank, tank car, barge or barrel and does not include
32 carrying fuel in a tank connected with or attached to the engine of a motor vehicle."

33 Sec. 7. G.S. 105-449.39 reads as rewritten:

34 "**§ 105-449.39. Credit for payment of motor fuel tax.**

35 Every motor carrier subject to the tax levied by this Article is entitled to a credit for
36 tax paid on fuel purchased in the State. The credit shall be allowed at a rate equal ~~to~~ to:

- 37 (1) Thirty cents (30¢) per gallon through June 30, 2004, and fourteen cents
38 (14¢) per gallon thereafter; plus
39 (2) The wholesale cents-per-gallon rate of tax in effect during the quarter
40 for which the credit is claimed.

41 Evidence of the payment of such tax in such form as may be required by, or is
42 satisfactory to, the Secretary shall be furnished by each such carrier claiming the credit
43 herein allowed. When the amount of the credit herein provided to which any motor
44 carrier is entitled for any quarter exceeds the amount of the tax for which such carrier is

1 liable for the same quarter, such excess may under regulations of the Secretary be
2 allowed as a credit on the tax for which such carrier would be otherwise liable for
3 another quarter or quarters; or upon application within 180 days from the end of any
4 quarter, duly verified and presented, in accordance with regulations promulgated by the
5 Secretary and supported by such evidence as may be satisfactory to the Secretary, such
6 excess may be refunded to said motor carrier.

7 Unless the Secretary of Revenue exercises his discretion as hereinafter provided, or
8 as provided in G.S. 105-449.40, he shall allow such refund only after an audit of the
9 applicant's records. However, he may, in his sole discretion, make refunds without prior
10 audit or without having been furnished a bond pursuant to G.S. 105-449.40 if the motor
11 carrier has complied with the provisions of this Subchapter and rules and regulations
12 promulgated ~~thereunder~~ under this Subchapter for a period of one full prior registration
13 year."

14 Sec. 8. Inventories. (a) Motor Fuel. Every distributor of motor fuel, both at
15 wholesale and at retail, who has on hand or in its possession motor fuel on which the
16 fourteen cents (14¢) per gallon State tax has been paid or accrued shall take an
17 inventory of this motor fuel as of 12:01 a.m., July 1, 1989; shall on or before July 20,
18 1989, report to the Secretary of Revenue the amount of this motor fuel; and shall remit
19 to the Secretary an additional tax of sixteen cents (16¢) per gallon. The required report
20 shall be in the form prescribed by the Secretary.

21 (b) Special Fuel. Every supplier of special fuel and every user-seller who is a
22 retail distributor of special fuel who has on hand or in its possession special fuels on
23 which the fourteen cents (14¢) tax has been paid or accrued shall take an inventory of
24 these special fuels as of 12:01 a.m., July 1, 1989; shall on or before July 20, 1989,
25 report to the Secretary of Revenue the amount of these fuels, and shall remit to the
26 Secretary an additional tax of sixteen cents (16¢) per gallon. The required report shall
27 be in the form prescribed by the Secretary.

28 (c) Motor Carriers. A motor carrier who has on hand or in its possession motor
29 fuel or special fuel as of 12:01 a.m., July 1, 1989, on which the carrier has paid the
30 fourteen cents (14¢) per gallon tax imposed by this State is allowed a credit on this
31 inventory of no more than fourteen cents (14¢) per gallon plus the wholesale cents-per-
32 gallon rate of tax in effect during the quarter for which the credit is claimed when filing
33 the report required by G.S. 105-449.45.

34 Sec. 9. This act shall become effective July 1, 1989.