

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

H

4

HOUSE BILL 46
Committee Substitute Favorable 5/30/91
Third Edition Engrossed 6/4/91
Senate Finance Committee Substitute Adopted 6/12/91

Short Title: Special Fuels Reporting/Bond Changes.

(Public)

Sponsors:

Referred to:

February 11, 1991

A BILL TO BE ENTITLED

AN ACT TO REQUIRE SALES OF BOTH HIGHWAY AND NONHIGHWAY
SPECIAL FUEL TO BE REPORTED, TO ELIMINATE THE REQUIREMENT
THAT CERTAIN USERS OF SPECIAL FUEL FILE REPORTS SPECIFYING
THEIR USE OF SPECIAL FUEL, TO CHANGE THE MAXIMUM BOND
REQUIRED OF FUEL DISTRIBUTORS AND SUPPLIERS, AND TO CHANGE
THE METHOD FOR DETERMINING THE AMOUNT OF A BOND PAYABLE
BY CERTAIN FUEL IMPORTERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-430 reads as rewritten:

"§ 105-430. Definitions; "motor fuel," "distributor". Definitions.

~~The following words, terms, and phrases hereinafter used for the purpose of this Article are defined as follows: definitions apply in this Article:~~

- (1) Distributor. – A person who possesses motor fuel in this State for sale, use, or other distribution in this State or another state.
- (2) Export. – To obtain motor fuel in this State for sale or other distribution in another state.
- (3) Import. – To do either of the following:
 - a. Bring motor fuel into this State by pipeline, marine vessel, railroad tank car, or transport truck.

1 b. Exchange motor fuel located at a pipeline terminal or a seaport
2 terminal in this State for motor fuel located inside or outside the
3 State.

4 ~~(1)~~(4) "Motor fuel" shall mean Motor fuel. – Any of the following:

5 ~~(i) all~~a. All products commonly or commercially known or sold
6 as gasoline (including casinghead and absorption or natural
7 gasoline) regardless of their classification or ~~uses; and (ii) any~~
8 uses.

9 b. Any liquid prepared, advertised, offered for sale or sold for use
10 as or commonly and commercially used as a fuel in internal
11 combustion engines, which when subjected to distillation in
12 accordance with the standard method of test for distillation of
13 gasoline, naphtha, kerosene and similar petroleum products
14 (American Society for Testing Materials Designation D-86)
15 shows not less than ten per centum (10%) distilled (recovered)
16 below three hundred forty-seven degrees (347°) Fahrenheit (one
17 hundred seventy-five degrees (175°) Centigrade) and not less
18 than ninety-five per centum (95%) distilled (recovered) below
19 four hundred sixty-four degrees (464°) Fahrenheit (two hundred
20 forty degrees (240°) Centigrade); with the exception that the
21 term 'motor fuel' shall not include commercial solvents which
22 distill, by American Society for Testing Materials Method D-
23 86, not more than nine per centum (9%) at 176° F. and which
24 have a distillation range of 125° F. or less, of liquefied gases
25 which would not exist as liquids at a temperature of 60°
26 Fahrenheit and a pressure of 14.7 pounds per square inch
27 absolute.

28 ~~(2)~~ "Distributor" is ~~any person, firm, association of persons, corporation,~~
29 ~~municipality, county, or other political subdivision or agency that has~~
30 ~~on hand or in his or its possession in this State, or that produces,~~
31 ~~refines, manufactures, or compounds such motor fuels in this State for~~
32 ~~sale, distribution, or use herein."~~

33 Sec. 2. G.S. 105-433, as amended by Section 1 of Chapter 42 of the 1991
34 Session Laws, reads as rewritten:

35 **"§ 105-433. Application for license as distributor; bond or letter of credit required.**

36 (a) Application. – Every distributor shall obtain a license from the Secretary of
37 Revenue. To obtain a license, an applicant must file an application with the Secretary
38 of Revenue on a form provided by the Secretary and file with the Secretary a bond or an
39 irrevocable letter of credit. An application shall include the applicant's name and
40 address and any other information required by the Secretary of Revenue. If the
41 applicant is a corporation, the applicant must either be incorporated in this State or be
42 authorized to transact business in this State. If the applicant is a limited partnership, the
43 applicant must either be formed in this State or be authorized to transact business in this

1 State. If the applicant is an individual or a general partnership, the applicant must
2 designate an agent for service of process and give the agent's name and address.

3 (b) Bond. – Each applicant for a distributor's license must file with the Secretary
4 of Revenue a bond or an irrevocable letter of credit. The amount of the bond or
5 irrevocable letter of credit ~~may not exceed~~ shall be two times the following, subject to the
6 maximum and minimum amounts set in this subsection:

7 (1) For an applicant who intends to import motor fuel, the average
8 monthly amount of tax for which the applicant would be liable under
9 this Article, if the applicant's sale of imported motor fuel to a
10 distributor were subject to the tax imposed by this Article, plus the
11 applicant's average expected monthly tax liability under this Article.

12 (2) For an applicant who does not intend to import fuel, the applicant's
13 average expected monthly tax liability under this Article, as determined
14 by the Secretary, Article.

15 The Secretary shall determine the average monthly amount of tax for which an
16 applicant who imports fuel would be subject and the average expected monthly tax
17 liability of an applicant. The amount of a bond or an irrevocable letter of credit may not
18 exceed one hundred twenty-five thousand dollars (\$125,000) and may not be less than
19 two thousand dollars (\$2,000).

20 An applicant who is also required to file a bond or an irrevocable letter of credit
21 under G.S. 105-449.5 as a supplier of special fuel may file a single bond or irrevocable
22 letter of credit under either this section or G.S. 105-449.5 for the combined amount. A
23 bond filed under this section shall be conditioned upon compliance with the
24 requirements of Article 36 and Article 36A of this Subchapter, shall be payable to the
25 State, and shall be in the form required by the Secretary of Revenue.

26 After filing a bond or an irrevocable letter of credit with an application for a
27 distributor's license, a distributor shall, within 30 days after receiving a notice from the
28 Secretary of Revenue, file an additional bond or irrevocable letter of credit in the
29 amount requested by the Secretary. The amount of the initial bond or irrevocable letter
30 of credit and any additional bond or irrevocable letter of credit filed by the distributor,
31 however, may not exceed the limits set in this ~~section~~ subsection.

32 (c) Issuance. – The Secretary of Revenue shall issue a distributor's license to an
33 applicant who meets the requirements of this section and shall issue a duplicate copy of
34 the license for each place of business of the distributor. A distributor shall display a
35 license issued under this section in a conspicuous place at each place of business of the
36 distributor. A distributor's license is not transferable and remains in effect until
37 surrendered or cancelled.

38 (d) Export Exception. – A distributor whose sale or other distribution of fuel
39 consists only of exporting fuel is not required to be incorporated or formed in this State,
40 authorized to transact business in this State, or have a designated agent for service of
41 process in this State."

42 Sec. 3. G.S. 105-449.5, as amended by Section 7 of Chapter 42 of the 1991
43 Session Laws, reads as rewritten:

44 "**§ 105-449.5. Supplier of fuel for highway use to file bond.**

1 The Secretary may not issue a supplier's license to an applicant who intends to sell
2 or deliver fuel for use in a motor vehicle or to use fuel in a motor vehicle until the
3 applicant has filed with the Secretary a bond or an irrevocable letter of credit. The
4 amount of the bond or irrevocable letter of credit ~~may not exceed~~ shall be two times the
5 applicant's average expected monthly tax liability under this Article, as determined by
6 the ~~Secretary~~, Secretary. The amount, however, may not exceed one hundred twenty-
7 five thousand dollars (\$125,000) and may not be less than five hundred dollars
8 (\$500.00). An applicant who is also required to file a bond or an irrevocable letter of
9 credit under G.S. 105-433 as a distributor of motor fuels may file a single bond or
10 irrevocable letter of credit under either this section or G.S. 105-433 for the combined
11 amount. A bond filed under this section shall be conditioned upon compliance with the
12 requirements of Article 36 and Article 36A of this Subchapter, shall be payable to the
13 Secretary, and shall be in the form required by the Secretary.

14 After filing a bond or an irrevocable letter of credit with an application for a
15 supplier's license, a supplier shall, within 30 days after receiving a notice from the
16 Secretary, file an additional bond or irrevocable letter of credit in the amount requested
17 by the Secretary. The amount of the initial bond or irrevocable letter of credit and any
18 additional bond or irrevocable letter of credit filed by the supplier, however, may not
19 exceed the limits set in this section."

20 Sec. 4. G.S. 105-449.2, as amended by Section 5 of Chapter 42 of the 1991
21 Session Laws, reads as rewritten:

22 **"§ 105-449.2. Definitions.**

23 The following definitions apply in this Article:

- 24 (1) Bulk user. – A person who maintains storage facilities for fuel and
25 uses part or all of the stored fuel to propel a motor vehicle.
26 (2) Diesel. – A liquid suitable for use as fuel in a diesel-powered motor
27 vehicle.
28 ~~(3)~~(3) Fuel. – A combustible gas or liquid that can be used to generate power
29 to propel a motor vehicle and that is not subject to tax under Article 36
30 of this Chapter.
31 ~~(2)~~(4) Highway. – Defined in G.S. 20-4.01(13).
32 ~~(3)~~(5) Liquid. – A substance that is liquid at a temperature above 60 degrees
33 F. and a pressure greater than 14.7 pounds per square inch absolute.
34 ~~(4)~~(6) Motor vehicle. – A self-propelled vehicle that is designed for use on a
35 highway.
36 ~~(5)~~(7) Person. – An individual, a firm, a partnership, an association, a
37 corporation, or any other organization or group acting as a unit.
38 (8) Reseller. – Either of the following:
39 a. A person who maintains storage facilities for diesel and who
40 sells the diesel at retail or dispenses the diesel at a retail
41 location.
42 b. A person who maintains storage facilities for fuel, other than
43 diesel, and who sells the fuel at retail or dispenses the fuel at

1 retail location into the supply tank of, or attached to, a motor
 2 vehicle.

3 ~~(6)~~(9) Secretary. – The Secretary of Revenue.

4 ~~(7)~~(10) Supplier. – A person who does one or more of the following:

5 a. Acquires fuel for sale or delivery to a user-seller.

6 b. Maintains an inventory of fuel, part or all of which the person
 7 uses ~~in a motor vehicle~~ or sells to someone other than a ~~user-seller~~
 8 ~~for use in a motor vehicle~~ user-seller.

9 c. Imports fuel into the State, by a means other than the usual tank
 10 or receptacle connected with the engine of a motor vehicle, for
 11 use ~~in a motor vehicle~~ owned or operated by that person.

12 ~~(8)~~(11) Use. – The term includes the receipt of fuel in the fuel supply tank of a
 13 motor vehicle and the receipt of fuel in a receptacle from which fuel is
 14 supplied to a motor vehicle.

15 ~~(9)~~(12) User. – A person who owns or operates a fuel-propelled motor vehicle
 16 licensed under Chapter 20 and who does not maintain storage facilities
 17 for fueling the motor vehicle.

18 ~~(10)~~(13) User-seller. – A bulk-user or a reseller.

19 ~~A bulk-user is a person who maintains storage facilities for fuel and~~
 20 ~~who dispenses the fuel into the fuel supply tank of, or attached to, a~~
 21 ~~motor vehicle owned or operated by that person.~~

22 ~~A reseller is a person who maintains storage facilities for fuel and~~
 23 ~~who sells the fuel at retail or dispenses the fuel at a retail location into~~
 24 ~~the fuel supply tank of, or attached to, a motor vehicle."~~

25 Sec. 5. G.S. 105-449.9 reads as rewritten:

26 **"§ 105-449.9. License required of user and user-seller.**

27 (a) License. ~~Every user, except a user whose use of fuel is limited to private~~
 28 ~~passenger motor vehicles and other motor vehicles licensed under Chapter 20 at 6,000~~
 29 ~~pounds or less, and every user-seller shall obtain a license from the Secretary. A user~~
 30 who uses fuel to propel a motor vehicle having a registered gross vehicle weight of at
 31 least 10,001 pounds must have a user's license. A user-seller must have a user-seller's
 32 license unless the user-seller is also a supplier and is licensed as a supplier. When
 33 issued, a user's license or a user-seller's license is effective remains in effect until it is
 34 cancelled.

35 (b) Application. ~~To obtain a user's license or a user-seller's license, an applicant~~
 36 must file an application with the Secretary on a form provided by the Secretary. An
 37 application must include the applicant's name and address and any other information
 38 required by the Secretary."

39 Sec. 6. G.S. 105-449.10, as amended by Section 1 of Chapter 182 of the
 40 1991 Session Laws, reads as rewritten:

41 **"§ 105-449.10. Reports Report of fuel use and payment of tax by user.**

42 (a) Report. ~~Each user required to be licensed under this Article shall keep~~
 43 ~~records and make reports to the Secretary in accordance with regulations adopted by the~~
 44 ~~Secretary. The records and reports shall show all purchases, sales, deliveries, and use of~~

1 fuel by the licensed user. A licensed user shall file a report on a quarterly basis unless
2 the Secretary has given the licensed user permission to file a report on an annual basis.
3 A quarterly report covers a calendar quarter and is due by the last day in April, July,
4 October, and January.

5 The Secretary may authorize a licensed user to file an annual report if either of the
6 following applies:

7 (1) The licensed user is not a motor carrier under Article 36B of this
8 Chapter.

9 (2) The licensed user is a motor carrier under Article 36B of this Chapter
10 but is not required to file a quarterly report under G.S. 105-449.45.

11 An annual report covers a fiscal year beginning on July 1 and ending on the following
12 June 30 and is due by July 31 after the end of a fiscal year. To file an annual report, a
13 licensed user must apply to the Secretary for permission to file on an annual basis. An
14 application must be submitted by the date set by the Secretary. Once granted
15 permission, a licensed user may continue to file an annual report until notified by the
16 Secretary to file a quarterly report.

17 (b) Payment. A user who acquires nontaxpaid fuel is liable for the tax levied by
18 this Article on the fuel. A licensed user shall pay the tax due on nontaxpaid fuel
19 acquired during a reporting period when filing a report for that period. An unlicensed
20 user who acquires nontaxpaid fuel shall report the fuel and pay the tax due on the fuel in
21 the same manner as a licensed user.

22 (a) General. – A user who is required to have a user's license must keep records
23 and comply with either subsection (b) or subsection (c), as appropriate. The records
24 must account for all fuel used by the user to propel a motor vehicle.

25 (b) Motor Carrier. – A user who is a motor carrier and who files a quarterly or
26 an annual report under G.S. 105-449.45 does not have to file a report under this section.
27 A user who is a motor carrier and who does not file either a quarterly or an annual
28 report under G.S. 105-449.45 must file a report under this section. A report by a motor
29 carrier must state the total number of miles driven during the reporting period by motor
30 vehicles operated by the motor carrier and the total amount of fuel the motor carrier
31 bought in the State during the reporting period for use in motor vehicles operated by the
32 motor carrier.

33 A motor carrier who has to file a report must file a quarterly report unless the
34 Secretary has given the motor carrier permission to file an annual report. A quarterly
35 report covers a calendar quarter and is due by the last day in April, July, October, and
36 January.

37 The Secretary may authorize a motor carrier to file an annual report if the motor
38 carrier is in compliance with this Article and Article 36B of this Subchapter. An annual
39 report covers a fiscal year beginning July 1 and ending the following June 30 and is due
40 by July 31 after the end of a fiscal year. To file an annual report, a motor carrier must
41 apply to the Secretary for permission to file on an annual basis. Once granted
42 permission, a motor carrier may continue to file an annual report until notified by the
43 Secretary to file a quarterly report.

1 (c) Other Users. – A user who is required to have a user's license but is not a
 2 motor carrier must file an annual statement certifying that the user either did not use any
 3 nontaxpaid fuel in a motor vehicle during the preceding fiscal year or paid tax on any
 4 nontaxpaid fuel acquired during the preceding fiscal year for use in a motor vehicle. A
 5 statement must be filed with the Secretary by July 31 of each year.

6 (d) Payment. – A user who acquires nontaxpaid fuel is liable for the tax levied
 7 by this Article on the fuel. Tax due on nontaxpaid fuel acquired during a reporting
 8 period by a user who must file a report under this section or G.S. 105-449.45 is due
 9 when the report for that reporting period is due. Tax due on nontaxpaid fuel acquired
 10 by a user who does not have to file a report under this section or G.S. 105-449.45 must
 11 be paid to the Secretary within 45 days after the fuel is acquired."

12 Sec. 7. G.S. 105-449.12 reads as rewritten:

13 **"§ 105-449.12. Record of licenses, applicants for a license and license holders.**

14 The Secretary shall ~~keep and file all applications with an alphabetical index thereof,~~
 15 ~~together with a record of all licensed suppliers and user-sellers.~~ keep a record of the
 16 following:

- 17 (1) Applicants for a license under this Article.
- 18 (2) Persons to whom a license has been issued under this Article.
- 19 (3) Persons who hold a current license issued under this Article, by license
 20 category."

21 Sec. 8. G.S. 105-449.13 reads as rewritten:

22 **"§ 105-449.13. ~~Secretary to furnish licensed~~ Licensed supplier with may obtain list of**
 23 **licensed users and user-sellers.**

24 The Secretary shall ~~upon request furnish to each licensed supplier a list showing the~~
 25 ~~name and business address of each licensed user-seller as of the beginning of each fiscal~~
 26 ~~year, and shall thereafter, during such year, supplement such list monthly.~~ give a list of
 27 licensed users, licensed user-sellers, or both to each licensed supplier who asks for a
 28 copy of the list. The list shall state the name and business address of each of the
 29 requested group of license holders as of the first day of the fiscal year. The Secretary
 30 shall send a monthly update of the appropriate list to each supplier who requested a
 31 copy of the list."

32 Sec. 9. G.S. 105-449.16(a) reads as rewritten:

33 "(a) A tax ~~at the rate established pursuant to G.S. 105-434~~ is imposed upon all of the
 34 following fuel:

- 35 (1) ~~Sold~~ Fuel sold or delivered by a supplier to a licensed ~~user-seller;~~ user-
 36 seller.
- 37 (2) ~~Used~~ Fuel used by a supplier in a motor vehicle owned, leased, or
 38 operated by the ~~supplier;~~ supplier.
- 39 (3) ~~Delivered~~ Fuel delivered by a supplier directly into the fuel supply tank
 40 of a motor ~~vehicle;~~ vehicle.
- 41 (4) ~~Imported~~ Fuel imported by a user-seller into this State, by a means
 42 other than carrying the fuel in a fuel supply tank of a motor vehicle, for
 43 resale or to propel a motor ~~vehicle;~~ or vehicle.

1 (5) ~~Acquired~~ Fuel acquired tax free by a user-seller or user in this State for
2 resale or to propel a motor vehicle.

3 The tax on liquid fuel is at the rate established under G.S. 105-434. The tax on non-
4 liquid fuel is at a rate equivalent to the rate of tax on liquid fuel, as determined by the
5 Secretary. A supplier who consigns fuel to a reseller may elect to report and pay the tax
6 due on the fuel when the reseller sells or dispenses the fuel instead of when the supplier
7 delivers the fuel to the reseller.

8 The primary purposes of this levy and this Article are to provide a more efficient and
9 effective method of collecting the tax now imposed and collected pursuant to G.S. 105-
10 435, by providing for the collection of the tax from the supplier instead of the user. The
11 tax levied by this Article is in lieu of rather than in addition to the tax levied by G.S.
12 105-435; payment of the tax levied by this Article constitutes compliance with G.S.
13 105-435."

14 Sec. 10. G.S. 105-449.17, as amended by Section 10 of Chapter 42 of the
15 1991 Session Laws, reads as rewritten:

16 "**§ 105-449.17. Exemption for fuel sold for nonhighway use.**

17 The tax imposed by this Article does not apply to fuel sold or delivered by a supplier
18 to a user or user-seller when ~~the~~ all of the following apply:

19 (1) The fuel is for a purpose other than to propel a motor vehicle and the
20 vehicle.

21 (2) The supplier dispenses the fuel into a storage facility of the user-seller
22 that is not required to be marked or is marked as follows with the
23 phrase 'For Nonhighway Use' or a similar phrase that clearly indicates
24 the fuel is not to be used to propel a motor vehicle-vehicle:

25 a. The storage tank of the storage facility must be marked if the
26 storage tank is visible.

27 b. The fillcap or spill containment box of the storage facility must
28 be marked.

29 c. The dispensing device that serves the storage facility must be
30 marked.

31 A storage facility must be marked unless it contains fuel used only in
32 heating, drying crops, or a manufacturing process and is installed in a
33 manner that makes use of the fuel for any other purpose improbable.

34 (3) The supplier does not know or have reason to know the fuel is to be
35 used to propel a motor vehicle.

36 A supplier is liable for the tax due on fuel dispensed into a storage facility of a user
37 or user-seller that is required to be marked but is not marked to indicate the fuel is to be
38 used for a purpose other than to propel a motor vehicle. A user or user-seller is liable
39 for the tax due on fuel dispensed by a supplier into a storage facility that is marked for
40 nonhighway use and is subsequently used or sold for use to propel a motor vehicle."

41 Sec. 11. G.S. 105-449.19 reads as rewritten:

42 "**§ 105-449.19. Tax reports; computation and payment of tax. Time when supplier**
43 **must file return and pay any tax due.**

1 On or before the twenty fifth day of each calendar month, each supplier of liquid
2 fuel shall render to the Secretary a statement on forms prepared and furnished by the
3 Secretary, which shall show the quantity of fuel on hand on the first and last days of the
4 preceding calendar month, the quantity received during the month and the quantity sold
5 to user-sellers or delivered into motor vehicles; and each supplier of fuels which are not
6 liquid shall keep such records and make such reports of inventory as the Secretary shall
7 by regulation prescribe in order to show accurately the quantity of such fuel used by
8 such supplier, sold to user-sellers, or delivered into motor vehicles owned by others and
9 pay a tax thereon which as calculated by the Secretary, would be equivalent to the tax
10 levied on liquid fuels. Each such supplier shall at the time of rendering such report pay
11 to the Secretary the tax or taxes herein levied during the preceding calendar month.

12 (a) Return. – A supplier of fuel who acquires, sells, delivers, or uses part or all of
13 the fuel to propel a motor vehicle must file a monthly return. A supplier of fuel who
14 sells, delivers, or uses fuel only for a purpose other than to propel a motor vehicle must
15 file a quarterly return. A return must be filed with the Secretary on a form provided by
16 the Secretary. A monthly return covers a calendar month and is due within 25 days
17 after the end of each month. A quarterly return covers a calendar quarter and is due
18 within 30 days after the end of each quarter. A supplier must pay any tax due on fuel
19 acquired, sold, delivered, or used by the supplier during a reporting period when filing a
20 return for that period.

21 (b) Information. – A return filed by a supplier must contain all of the following
22 information:

- 23 (1) The amount of fuel the supplier had on hand on the first and last days
24 of the reporting period.
- 25 (2) The amount of fuel the supplier received during the reporting period.
- 26 (3) The amount of fuel the supplier used during the reporting period to
27 propel a motor vehicle and the amount of fuel the supplier used during
28 the reporting period for a purpose other than to propel a motor vehicle,
29 stated separately.
- 30 (4) The amount of fuel the supplier sold or delivered to a licensed bulk-
31 user, a licensed reseller, a licensed user, or other persons, stated
32 separately."

33 Sec. 12. G.S. 105-449.20, as amended by Section 11 of Chapter 42 of the
34 1991 Session Laws, reads as rewritten:

35 "**§ 105-449.20. When Secretary may estimate tax liability of supplier or user-seller.**

36 Whenever a supplier or a user-seller fails to file a report under G.S. 105-449.19 or
37 105-449.21 or files a false report under one of those statutes, the Secretary shall
38 determine, from any information obtainable, the number of gallons of fuel with respect
39 to which the supplier or user-seller owes tax under this Article. When a user-seller sells
40 or uses more fuel than the user-seller reports to the Secretary as having been purchased
41 from a supplier, the user-seller is presumed to have acquired the ~~additional~~ unreported
42 fuel tax-free to propel a motor vehicle."

43 Sec. 13. G.S. 105-449.26 reads as rewritten:

1 ~~"§ 105-449.26. Invoices or delivery tickets. User-sellers and certain suppliers must~~
2 ~~give receipts for fuel sold at retail.~~

3 (a) ~~Receipt. Each sale of liquid fuel by a user-seller shall be evidenced by an~~
4 ~~invoice or delivery ticket with the name and address of the user-seller printed or~~
5 ~~stamped thereon and showing the name and address of the purchaser, date of purchase,~~
6 ~~number of gallons, price per gallon, tax per gallon, and total amount. One copy of such~~
7 ~~invoice shall be delivered to the purchaser at the time of sale, and a copy thereof shall~~
8 ~~be retained by the user-seller and preserved as other records are required to be preserved~~
9 ~~under this Article. A user-seller and a supplier who is also a reseller but is licensed only~~
10 ~~as a supplier must give a receipt to each person who buys at retail from any of the~~
11 ~~following locations either 25 gallons or more of fuel to propel a motor vehicle or any~~
12 ~~amount of diesel for any other purpose:~~

- 13 (1) ~~A retail service station or other retail establishment operated by the~~
14 ~~user-seller or supplier.~~
15 (2) ~~A bulk storage facility of the user-seller or supplier to which the buyer~~
16 ~~came to buy the fuel.~~
17 (3) ~~Any other location at which the user-seller or supplier dispenses fuel~~
18 ~~into a motor vehicle.~~

19 ~~A user-seller or supplier shall prepare only one original receipt for each sale of fuel,~~
20 ~~shall give the original to the buyer at the time of the sale, and shall keep a copy of the~~
21 ~~receipt. A user-seller or supplier who gives a person a copy of a receipt shall clearly~~
22 ~~mark the copy as a duplicate. If the Secretary determines that a user-seller or a supplier~~
23 ~~has sold nontaxpaid fuel at retail to propel a motor vehicle, the Secretary may require~~
24 ~~the user-seller or supplier to give a receipt to each person who buys any amount of fuel~~
25 ~~at retail to propel a motor vehicle. A user-seller or supplier is liable for tax and the~~
26 ~~inspection fee on diesel sold for a purpose other than to propel a motor vehicle if the~~
27 ~~user-seller or supplier does not have a receipt for the diesel sold.~~

28 (b) ~~Content. Not more than one original copy of any invoice for a single sale of~~
29 ~~fuel shall be prepared by any person. If an additional copy is required at any time, such~~
30 ~~copy shall be plainly marked "Duplicate," and the number of the original ticket or~~
31 ~~invoice shall be indicated thereon. A receipt shall include all of the following~~
32 ~~information:~~

- 33 (1) ~~The name and address of the user-seller or supplier.~~
34 (2) ~~The name and address of the person buying the fuel.~~
35 (3) ~~The date the fuel was sold.~~
36 (4) ~~The amount of fuel sold.~~
37 (5) ~~The type of fuel sold.~~
38 (6) ~~The total sales price of the fuel.~~
39 (7) ~~Either of the following:~~
40 a. ~~The company name and company unit number of the motor~~
41 ~~vehicle into which the fuel was dispensed.~~
42 b. ~~The license plate number of the motor vehicle into which the~~
43 ~~fuel was dispensed and the state that issued the license plate."~~

44 Sec. 14. G.S. 105-449.33 reads as rewritten:

1 "~~§ 105-449.33. Equipment of vehicle in which liquid fuel transported for sale or~~
2 ~~delivery.~~ **transporting diesel.**

3 No vehicle having attached thereto a tank in which liquid fuel is transported for sale
4 or delivery shall be equipped with any connection between the tank in which such fuel
5 is transported for sale or delivery and the motor or fuel tank of the vehicle through
6 which fuel may be supplied for consumption in the motor thereof. A motor vehicle that
7 transports diesel in a tank that is separate from the fuel supply tank of the motor vehicle
8 may not have a connection from the transporting tank to the motor or to the supply tank
9 of the motor vehicle."

10 Sec. 15. Notwithstanding G.S. 105-449.17, a storage facility for special fuel
11 is not required to be marked for nonhighway use if it contains fuel used only in heating,
12 drying crops, or a manufacturing process and is installed in a manner that makes use of
13 the fuel for any other purpose improbable.

14 Sec. 16. Sections 4 through 14 of this act become effective January 1, 1992.
15 The remaining sections of this act are effective upon ratification.