

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1725

Short Title: Revenue Laws Technical Changes.

(Public)

Sponsors: Representatives Jarrell, Arnold, Braswell, Gamble, Luebke, B. Miller, Ramsey, Spears, and Tallent.

Referred to: Finance.

May 26, 1994

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE REVENUE LAWS AND RELATED STATUTES.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 543 of the 1993 Session Laws is repealed.

Sec. 2. G.S. 105-113.18(3) reads as rewritten:

"(3) Shipping Report. – Any person, except a licensed distributor, who transports cigarettes upon the public highways, roads, or streets of this State, upon notice from the Secretary, shall file a report in the form prescribed by the Secretary and containing the information required by the Secretary."

Sec. 3. G.S. 105-113.45 reads as rewritten:

"§ 105-113.45. Excise taxes on soft drinks and base products.

(a) Bottled Soft Drinks. – An excise tax of one cent (1¢) is levied on each bottled soft drink.

(b) Repealed by Session Laws 1991, c. 689, s. 276.

(c) Liquid Base Products. – An excise tax at the rate of one dollar (\$1.00) a gallon, or four-fifths of a cent (4/5¢) an ounce or a fraction of an ounce, gallon is levied on each individual container of a liquid base product. The tax applies regardless whether the liquid base product is diverted to and used for a purpose other than making a soft drink.

(d) Dry Base Products. – An excise tax is levied on each individual container of a dry base product at the rate:

- 1 (1) Of one cent (1¢) an ounce ~~or a fraction of an ounce~~ if the dry base
2 product is not converted into a syrup or other liquid base product
3 before it is used to make a soft drink.
- 4 (2) That would apply under subsection (c) to the resulting liquid base
5 product if the dry base product is converted into a liquid base product
6 before it is used to make a soft drink.

7 (e) Repealed by Session Laws 1991, c. 689, s. 276."

8 Sec. 4. G.S. 105-130.5(a)(12) is reenacted and reads as rewritten:

9 "(12) The amount allowed under the Code for depreciation or as an
10 expense in lieu of depreciation for a utility plant acquired by a
11 natural gas local distribution company, to the extent the plant is
12 included in the company's rate base at zero cost in accordance with
13 G.S. 62-158."

14 Sec. 5. G. S. 105-130.5(b)(11) reads as rewritten:

15 "(11) ~~The amount by which~~ If a deduction for an ordinary and necessary
16 business expense was required to be reduced or was not allowed
17 under the Code for federal tax purposes or the amount of such a
18 deduction that was not allowed under the Code because the corporation
19 claimed a federal tax credit against its federal income tax liability
20 for the income year in lieu of a deduction. deduction, the amount by
21 which the deduction was reduced and the amount of the deduction
22 that was disallowed."

23 Sec. 6. G. S. 105-130.37(b)(3) reads as rewritten:

24 "(3) 'Nonprofit organization' means an organization ~~for which~~
25 ~~contributions are deductible under G.S. 105-130.9 or 105-147(15) or~~
26 ~~(16).~~ to which charitable contributions are deductible from gross
27 income under the Code."

28 Sec. 7. G.S. 105-134.6(b) is amended by adding a new subdivision to read:

29 "(10) The amount by which the basis of property under this Article
30 exceeds the basis of the property under the Code, in the year the
31 taxpayer disposes of the property."

32 Sec. 8. G.S. 105-163.012(d) reads as rewritten:

33 "(d) ~~For purposes of this Article,~~ Unless the taxpayer is required to add the amount
34 of allowable credit to federal taxable income under G.S. 105-130.5(a)(10), the
35 taxpayer's basis in the equity securities or subordinated debt acquired as a result of an
36 investment in a North Carolina Enterprise Corporation, qualified business venture, or
37 qualified grantee business shall be reduced for the purposes of this Article by the
38 amount of allowable credit. 'Allowable credit' means the amount of credit allowed
39 under G.S. 105-163.011 reduced as provided in subsection (c) of this section."

40 Sec. 9. G.S. 105-163.013(d) reads as rewritten:

41 "(d) Application Forms; Rules; Fees. Applications for registration, renewal of
42 registration, and reinstatement of registration under this section shall be in the form
43 required by the Secretary of State. The Secretary of State may, by rule, require
44 applicants to furnish supporting information in addition to the information required by

1 subsections ~~(a)~~, ~~(b)~~, (b) and (c) of this section. The Secretary of State may adopt rules in
2 accordance with Chapter 150B of the General Statutes that are needed to carry out the
3 Secretary's responsibilities under this Division. The Secretary of State shall prepare
4 blank forms for the applications and shall distribute them throughout the State and
5 furnish them on request. Each application shall be signed by the owners of the business
6 or, in the case of a corporation, by its president, vice-president, treasurer, or secretary.
7 There shall be annexed to the application the affirmation of the person making the
8 application in the following form: 'Under penalties prescribed by law, I certify and
9 affirm that to the best of my knowledge and belief this application is true and complete.'
10 A person who submits a false application is guilty of a misdemeanor and is punishable
11 as provided in G.S. 14-3.

12 The fee for filing an application for registration under this section ~~shall be~~ is one
13 hundred dollars (\$100.00). The fee for filing an application for renewal of registration
14 under this section ~~shall be~~ is fifty dollars (\$50.00). The fee for filing an application for
15 reinstatement of registration under this section ~~shall be~~ is fifty dollars (\$50.00).

16 An application for renewal of registration under this section shall indicate whether
17 the applicant is a minority business, as defined in G.S. 143-128, and shall include a
18 report of the number of jobs the business created during the preceding year that are
19 attributable to investments that qualify under this section for a tax credit and the average
20 wages paid by each job. An application that does not contain this information is
21 incomplete and the applicant's registration may not be renewed until the information is
22 provided."

23 Sec. 10. G.S. 105-163.013(g) reads as rewritten:

24 "(g) ~~[Report by Secretary of State]~~ Report by Secretary of State. – The Secretary of
25 State shall report to the Legislative Research Commission by October 1 of each odd-
26 numbered year and by February 1 of each even-numbered year all of the businesses that
27 have registered with the Secretary of State as qualified business ventures and qualified
28 grantee businesses. The report shall include the name and address of each business, a
29 detailed description of the types of business in which it engages, whether the business is
30 a minority business as defined in G.S. 143-128, the number of jobs created by the
31 business during the period covered by the report, and the average wages paid by these
32 jobs."

33 Sec. 11. Effective July 1, 1995, G.S. 105-213(b), as amended by Section
34 26(a) of Chapter 321 of the 1993 Session Laws, reads as rewritten:

35 "(b) Allocation of Distribution. – The amount of revenue to be distributed under
36 subsection (a) shall be allocated among the counties in proportion to the net amount of
37 taxes collected under this Article in each county during the preceding fiscal year. The
38 net amount of taxes collected in a county is the amount collected less the amount of
39 refunds made of taxes previously collected. The Secretary shall keep a separate record
40 by counties of the taxes collected under this Article. The Secretary shall allocate the
41 amount of revenue to be distributed under subsection (a) to the counties in accordance
42 with the tax records. The amounts so allocated to each county shall in turn be allocated
43 between the county and the municipalities in the county in proportion to the total
44 amount of ad valorem taxes levied by each during the fiscal year preceding the

1 distribution. In dividing these amounts between each county and its municipalities, the
2 Secretary shall treat taxes levied by a merged school administrative unit described in
3 G.S. 115C-513 in a part of the unit located in a county as taxes levied by the county in
4 which that part is located. After making these allocations, the Secretary shall certify to
5 the State Controller and to the State Treasurer the amount to be distributed to each
6 county and municipality in the State. The State Controller shall then issue a warrant on
7 the State Treasurer to each county and municipality in the amount certified.

8 For the purpose of computing the ~~distribution of the intangibles tax~~ allocation of the
9 tax under this subsection to any county and the municipalities located in the county for
10 any quarter with respect to which the property valuation of a public service company is
11 the subject of an appeal and the Department of Revenue is restrained by law from
12 certifying the valuation to the county and the municipalities in the county, the
13 Department shall use the last property valuation of the public service company that has
14 been certified.

15 The chair of each board of county commissioners and the mayor of each
16 municipality shall report to the Secretary information requested by the Secretary to
17 enable the Secretary to allocate the amount distributed by this subsection. If a county or
18 municipality fails to make a requested report within the time allowed, the Secretary may
19 disregard the county or municipality in allocating the amount distributed by this
20 subsection."

21 Sec. 12. G.S. 105-228.4(a) reads as rewritten:

22 "(a) As a condition precedent to doing business in this State, an insurance
23 company must apply for and obtain a certificate of registration from the Commissioner
24 of Insurance by March 1 of each year. The certificate shall become effective the
25 following July 1 and shall remain in effect for one year. Except as provided in
26 subsections (b) and (c) of this section, the insurance company shall pay an annual fee
27 for the certificate as follows: ~~Each insurance company shall, as a condition precedent for~~
28 ~~doing business in this State, on or before the first day of March of each year apply for and~~
29 ~~obtain from the Commissioner of Insurance a certificate of registration, or license, effective the~~
30 ~~first day of July, and shall pay for such certificate the following annual fees except as~~
31 ~~hereinafter provided in subsections (b) and (c):~~

32 For each domestic farmer's mutual assessment

33 fire insurance company ~~each~~ \$ 25.00

34 For each fraternal order 100.00

35 For each of all other insurance companies, except
36 mutual burial associations taxed under G.S.

37 105-121.1500.00

38 The fees levied ~~above~~ in this subsection shall be in addition to those specified in G.S.
39 58-6-5."

40 Sec. 13. G.S. 105-228.90 reads as rewritten:

41 "**§ 105-228.90. Scope and definitions.**

42 (a) Scope. – This Article applies to Subchapters I, V, and VIII of this Chapter
43 and to inspection ~~fees~~ taxes levied under Article 3 of Chapter 119 of the General
44 Statutes.

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

- 2 (1) Code. – The Internal Revenue Code as enacted as of January 1, 1993,
3 including any provisions enacted as of that date which become
4 effective either before or after that date.
- 5 (2) Reserved.
- 6 (3) Electronic Funds Transfer. – A transfer of funds initiated by using an
7 electronic terminal, a telephone, a computer, or magnetic tape to
8 instruct or authorize a financial institution or its agent to credit or debit
9 an account.
- 10 (4) Reserved.
- 11 (5) Person. – An individual, a fiduciary, a firm, an association, a
12 partnership, a limited liability company, a corporation, a unit of
13 government, or another group acting as a unit. The term includes an
14 officer or employee of a corporation, a member, a manager, or an
15 employee of a limited liability company, and a member or employee of
16 a partnership who, as officer, employee, member, or manager, is under
17 a duty to perform an act in meeting the requirements of Subchapter I,
18 V, or VIII of this Chapter or of Article 3 of Chapter 119 of the General
19 Statutes.
- 20 (6) Secretary. – The Secretary of Revenue.
- 21 (7) Tax. – A tax levied under Subchapter I, V, or VIII of this Chapter or
22 an inspection ~~fee-tax~~ levied under Article 3 of Chapter 119 of the
23 General Statutes. Unless the context clearly requires otherwise, the
24 terms 'tax' and 'additional tax' include penalties and interest as well as
25 the principal amount.
- 26 (8) Taxpayer. – A person subject to the tax or reporting requirements of
27 Subchapter I, V, or VIII of this Chapter or of Article 3 of Chapter 119
28 of the General Statutes."

29 Sec. 14. G.S. 105-241.1(e) reads as rewritten:

30 "(e) ~~Where Statute of Limitations.~~ – If a proper application for a license or a return
31 has been filed and in the absence of fraud, the Secretary ~~of Revenue~~ shall assess any tax
32 or additional tax due from a taxpayer within three years after the date upon which ~~such~~
33 the application or return is was filed or within three years after the date upon which ~~such~~
34 the application or return was required by law to be filed, whichever is ~~the~~ later. If a
35 taxpayer forfeits a tax credit pursuant to G.S. 105-163.014, the Secretary shall assess
36 any tax or additional tax due as a result of the forfeiture within three years after the date
37 of the forfeiture. Any tax or additional tax due from the taxpayer may be assessed at
38 any time if (i) no proper application for a license or no return has been filed, (ii) a false
39 or fraudulent application or return has been filed, or (iii) there has been an attempt in
40 any manner to fraudulently defeat or evade tax.

41 ~~Provided, the~~ The taxpayer may make a written waiver of any of the limitations of
42 time set out in this section, for either a definite or an indefinite time, and if such waiver is
43 accepted by the Secretary he time. If the Secretary accepts the waiver, the Secretary may
44 institute assessment procedures at any time within the time extended by such the waiver.

1 This proviso shall apply to assessments made or undertaken under any provision of all
2 schedules of the Revenue Act, and to assessments under Subchapter V of Chapter 105 and
3 Chapter 18 of the General Statutes."

4 Sec. 15. G.S. 105-241.2(b) reads as rewritten:

5 "(b) Secretary to Provide Records. – Upon receipt by the Secretary of the
6 taxpayer's petition, the Secretary shall transmit to the Tax Review Board all of the
7 records, data, evidence, and other materials in the Secretary's possession pertaining to
8 the matters the Tax Review Board is being requested by the taxpayer to review. The
9 Secretary shall also transmit to the Board a copy of the decision of the ~~Board~~ Secretary
10 on the matters."

11 Sec. 16. G.S. 105-241.2(e) reads as rewritten:

12 "(e) ~~Jeopardy Assessments.~~ Levies. – At any time the Secretary may, if in the
13 Secretary's opinion, such action is necessary for the protection of the interest of the
14 State, proceed at once to levy the assessment for the amount of the tax against the
15 property of the taxpayer seeking the administrative review. In levying the assessment
16 the Secretary shall make a certificate verifying the essential parts relating to the tax,
17 including the amount thereof asserted to be due, the date when same is asserted to have
18 become due and payable, the person, firm, or corporation chargeable therewith, and the
19 nature of the tax. The Secretary shall transmit this certificate to the clerk of the superior
20 court of any county in which the taxpayer resides or has property; whereupon, it shall be
21 the duty of the clerk of the superior court of the county to docket the certificate and to
22 index it on the cross index of judgments. When so docketed and indexed, the certificate
23 of tax liability shall constitute a lien upon the property of the taxpayer to the same
24 extent as that provided for by G.S. 105-241. No execution shall issue on the certificate
25 before final determination of the administrative review by the Tax Review Board;
26 provided, however, if the Secretary determines that the collection of the tax would be
27 jeopardized by delay, the Secretary may cause execution to be issued, as provided in
28 this Chapter, immediately against the personal property of the taxpayer unless the
29 taxpayer files with the Secretary a bond in the amount of the asserted liability for tax,
30 penalty and interest. If upon final administrative determination the tax asserted or any
31 part thereof is sustained, execution may issue on the certificate at the request of the
32 Secretary and the sheriff shall proceed to advertise and sell the property of the taxpayer.

33 Within five days after a jeopardy levy is made under this subsection that is not the
34 result of a criminal investigation or of a liability for a tax imposed under Article 2D of
35 this Chapter, the Secretary must provide the taxpayer with a written statement of the
36 information upon which the Secretary relied in making the levy. Within 30 days after
37 receipt of this statement or, if no statement was received, within 30 days after the
38 statement was due, the taxpayer may request the Secretary to review the action taken.
39 After receipt of this request, the Secretary shall determine whether the levy was
40 reasonable under the circumstances. The Secretary shall give the taxpayer written
41 notice of this determination within 30 days after the request. The taxpayer may seek
42 judicial review of this determination as provided in G.S. 105-241.5."

43 Sec. 17. G.S. 105-248 reads as rewritten:

44 "**§ 105-248. State taxes; purposes. Purpose of State taxes.**

1 The taxes levied in this Subchapter are for the expenses of the State government, the
2 appropriations to its educational, charitable, and penal institutions, ~~pensions for~~
3 ~~Confederate soldiers and widows,~~ the interest on the debt of the State, ~~for the public~~
4 schools, and other specific appropriations made by law, and shall be collected and paid
5 into the ~~general fund of the State Treasurer.~~ General Fund.

6 ~~Whenever in any law or act of incorporation, granted either under the general law or~~
7 ~~by special act, there is any limitation or exemption of taxation, the same is hereby~~
8 ~~repealed, and all the property and effects of all such corporations, other than the bonds~~
9 ~~of this State and of the United States government, shall be liable to taxation, except~~
10 ~~property belonging to the United States and to municipal corporations, and property of~~
11 ~~churches, religious societies, charitable, educational, literary, or benevolent institutions~~
12 ~~or orders, and also cemeteries: Provided, that no property whatever, held or used for~~
13 ~~investment, speculation, or rent, shall be exempt, other than bonds of this State and of~~
14 ~~the United States government, unless said rent or the interest on or income from such~~
15 ~~investment shall be used exclusively for religious, charitable, educational, or benevolent~~
16 ~~purposes, or the interest upon the bonded indebtedness of said religious, charitable, or~~
17 ~~benevolent institutions."~~

18 Sec. 18. G.S. 105-258.1(e) reads as rewritten:

19 "(e) Suspension of Interview. – The Department shall suspend an interview
20 relating to the determination of a tax ~~if, if the taxpayer is not accompanied by a~~
21 representative and, at any time during the interview, ~~the taxpayer expresses the desire to~~
22 ~~consult with a person permitted to represent the taxpayer before the Department.~~ another
23 person."

24 Sec. 19. The catch line of G.S. 105-269.3 reads as rewritten:

25 "**§ 105-269.3. Enforcement of Subchapter V and fuel inspection fee.** tax."

26 Sec. 20. G.S. 105-446 reads as rewritten:

27 "**§ 105-446. Refund for tax on motor fuel used other than to propel operate a motor**
28 **vehicle.**

29 A person who purchases and uses motor fuel for a purpose other than to operate a
30 licensed motor vehicle may receive an annual refund for the tax the person paid on fuel
31 used during the preceding calendar year at a rate equal to the amount of the flat cents-
32 per-gallon rate in effect during the year for which the refund is claimed plus the average
33 of the two variable cents-per-gallon rates in effect during that year, less one cent (1¢)
34 per gallon. An application for a refund allowed under this section shall be made in
35 accordance with G.S. 105-440."

36 Sec. 21. G.S. 105-449.16(a) reads as rewritten:

37 "(a) A tax is imposed upon all of the following fuel:

- 38 (1) Fuel sold or delivered by a supplier to a licensed user-seller.
- 39 (2) Fuel used by a supplier in a motor vehicle owned, leased, or operated
40 by the supplier.
- 41 (3) Fuel delivered by a supplier directly into the fuel supply tank of a
42 motor vehicle.

- 1 (4) Fuel imported by a user-seller into this State, by a means other than
2 carrying the fuel in a fuel supply tank of a motor vehicle, for resale or
3 to ~~propel-operate~~ a motor vehicle.
- 4 (5) Fuel acquired tax free by a user-seller or user in this State for resale or
5 to ~~propel-operate~~ a motor vehicle.

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

11 The primary purposes of this levy and this Article are to provide a more efficient and
12 effective method of collecting the tax now imposed and collected pursuant to G.S. 105-
13 435, by providing for the collection of the tax from the supplier instead of the user. The
14 tax levied by this Article is in lieu of rather than in addition to the tax levied by G.S.
15 105-435; payment of the tax levied by this Article constitutes compliance with G.S.
16 105-435."

17 Sec. 22. G.S. 105-449.17 reads as rewritten:

18 "**§ 105-449.17. Exemption for fuel sold for nonhighway use.**

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

- 21 (1) The fuel is for a purpose other than to ~~propel-operate~~ a motor vehicle.
- 22 (2) The supplier dispenses the fuel into a storage facility that is not
23 required to be marked or is marked as follows with the phrase 'For
24 Nonhighway Use' or a similar phrase that clearly indicates the fuel is
25 not to be used to ~~propel-operate~~ a motor vehicle:
- 26 a. The storage tank of the storage facility must be marked if the
27 storage tank is visible.
- 28 b. The fillcap or spill containment box of the storage facility must
29 be marked.
- 30 c. The dispensing device that serves the storage facility must be
31 marked.

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

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

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

43 Sec. 23. G.S. 105-449.18 reads as rewritten:

1 **"§ 105-449.18. Liability for tax on non-tax-paid fuel sold or delivered to unlicensed**
2 **persons.**

3 A person who, knowing or having reason to know that the fuel is to be sold or used
4 to ~~propel-operate~~ a motor vehicle, sells or delivers to a person who is not licensed under
5 this Article fuel on which the tax due under this Article has not been paid is liable for
6 the tax imposed on the fuel by this Article."

7 Sec. 24. G.S. 105-449.19 reads as rewritten:

8 **"§ 105-449.19. Time when supplier must file return and pay any tax due.**

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

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

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

30 Sec. 25. G.S. 105-449.20 reads as rewritten:

31 **"§ 105-449.20. When Secretary may estimate tax liability of supplier or user-seller.**

32 Whenever a supplier or a user-seller fails to file a report under G.S. 105-449.19 or
33 105-449.21 or files a false report under one of those statutes, the Secretary shall
34 determine, from any information obtainable, the number of gallons of fuel with respect
35 to which the supplier or user-seller owes tax under this Article. When a user-seller sells
36 or uses more fuel than the user-seller reports to the Secretary as having been purchased
37 from a supplier, the user-seller is presumed to have acquired the unreported fuel tax-free
38 to ~~propel-operate~~ a motor vehicle. When a user-seller sells or uses more fuel to ~~propel~~
39 ~~operate~~ a motor vehicle than the user-seller reports to the Secretary as having been
40 purchased from a supplier to ~~propel-operate~~ a motor vehicle, the user-seller is presumed
41 to have acquired tax-free to ~~propel-operate~~ a motor vehicle all fuel not reported as
42 having been acquired to ~~propel-operate~~ a motor vehicle."

43 Sec. 26. G.S. 105-449.26 reads as rewritten:

1 **"§ 105-449.26. User-sellers and certain suppliers must give receipts for and keep**
2 **records of fuel sold at retail.**

3 (a) Receipts and Records. – When required by this section, a user-seller and a
4 supplier who is also a reseller but is licensed only as a supplier must give a receipt for
5 and keep a record of certain fuel sold at retail from any of the following locations:

- 6 (1) A retail service station or other retail establishment operated by the
7 user-seller or supplier.
8 (2) A bulk storage facility of the user-seller or supplier to which the buyer
9 came to buy the fuel.
10 (3) Any other location at which the user-seller or supplier dispenses fuel
11 into a motor vehicle.

12 If the fuel is sold to ~~propel-operate~~ a motor vehicle, the user-seller or supplier must
13 give the buyer a receipt only when the buyer asks for a receipt and must keep a record
14 of any receipt given. If the fuel is diesel and is sold for a purpose other than to ~~propel~~
15 operate a motor vehicle, the user-seller or supplier must give the buyer a receipt only
16 when the buyer asks for a receipt but must always keep a record of the sale unless
17 subsection (c) exempts the user-seller or supplier from the requirement of keeping
18 a record.

19 If the Secretary determines that a user-seller or a supplier has sold nontaxpaid fuel at
20 retail to ~~propel-operate~~ a motor vehicle, the Secretary may require the user-seller or
21 supplier to keep a record of all fuel sold at retail to ~~propel-operate~~ a motor vehicle. A
22 user-seller or supplier who is required to keep a record of diesel sold at retail for a
23 purpose other than to ~~propel-operate~~ a motor vehicle is liable for the excise tax and the
24 inspection ~~fee-tax~~ on the diesel if the user-seller or supplier does not keep a record of the
25 sale.

26 (b) Content. – A record of a sale and a receipt for a sale shall include all of the
27 following information:

- 28 (1) The name and address of the user-seller or supplier.
29 (2) The name and address of the person buying the fuel.
30 (3) The date the fuel was sold.
31 (4) The amount of fuel sold.
32 (5) The type of fuel sold.
33 (6) The total sales price of the fuel.
34 (7) Either of the following:
35 a. The company name and company unit number of the motor
36 vehicle into which the fuel was dispensed.
37 b. The license plate number of the motor vehicle into which the
38 fuel was dispensed and the state that issued the license plate.
39 (8) If the fuel is diesel and is sold for a purpose other than to ~~propel~~
40 operate a motor vehicle, the type of container or equipment into which
41 the fuel was dispensed.

42 (c) Exception. – A user-seller or supplier who sells diesel at a marina from a
43 storage facility whose location makes it improbable that the diesel could be dispensed

1 for a purpose other than to ~~propel~~operate a watercraft must keep a record of a sale only
2 if the user-seller or supplier gives the buyer a receipt for the sale."

3 Sec. 27. G.S. 105-449.32 is repealed.

4 Sec. 28. G.S. 18B-902(e) reads as rewritten:

5 "(e) Fee for Combined Applications. – If application is made at the same time for
6 retail malt beverage, unfortified wine and fortified wine permits for a single business
7 location, the total fee for those applications shall be two hundred dollars (\$200.00). If
8 application is made at the same time for brown-bagging and special occasion permits
9 for a single business location, the total fee for those applications shall be three hundred
10 dollars (\$300.00). If application is made at the same time for wine and malt beverage
11 importer permits, the total fee for those applications shall be one hundred fifty dollars
12 (\$150.00). If application is made at the same time for wine and malt beverage
13 wholesaler permits, the total fee for those applications shall be one hundred fifty dollars
14 (\$150.00). If application is made in the same year for vendor representative permits to
15 represent more than one vendor, only one fee shall be paid. If application is made at the
16 same time for nonresident malt beverage vendor and nonresident wine vendor permits,
17 the total fee for those applications shall be ~~twenty-five dollars (\$25.00).~~ fifty dollars
18 (\$50.00)."

19 Sec. 29. G.S. 119-16.2 reads as rewritten:

20 "**§ 119-16.2. Application for license.**

21 ~~Any person, firm or corporation having in his possession kerosene on which the~~
22 ~~inspection fee has not been paid, and who is not required to be licensed under the~~
23 ~~provisions of G.S. 105-433, shall, prior to the commencement of doing business, file a~~
24 ~~duly acknowledged application for a license with the Secretary of Revenue on a form~~
25 ~~prescribed by the Secretary setting forth the name under which such distributor transacts~~
26 ~~or intends to transact business within this State, the address of each place of business~~
27 ~~and a designation of the principal place of business. If such distributor is a firm or~~
28 ~~association, the application shall set forth the name and address of each person~~
29 ~~constituting the firm or association, and if a corporation, the names and addresses of the~~
30 ~~principal officers and such other information as the Secretary of Revenue may require.~~
31 ~~Each distributor shall at the same time file a bond in such amount, not exceeding twenty~~
32 ~~thousand dollars (\$20,000) in such form and with such surety or sureties as may be~~
33 ~~required by the Secretary of Revenue, conditioned upon the rendition of the reports and~~
34 ~~the payment of the tax hereinafter provided for. Upon approval of the application and~~
35 ~~bond, the Secretary of Revenue shall issue to the distributor a nonassignable license~~
36 ~~with a duplicate copy of each place of business of said distributor in this State, a copy of~~
37 ~~which shall be displayed conspicuously at each such place of business and shall~~
38 ~~continue in force until surrendered or cancelled. No distributor shall sell, offer for sale,~~
39 ~~or use any kerosene within this State, until such license has been issued. Any~~
40 ~~distributor failing to comply with or violating any of the provisions of this section shall~~
41 ~~be~~ A person may not engage in business as a kerosene distributor unless the person has
42 either a license issued under G.S. 105-433 or a kerosene license issued under this
43 section. To obtain a license under this section, an applicant must file an application
44 with the Secretary of Revenue on a form provided by the Secretary and file with the

1 Secretary a bond in the amount required by the Secretary, not to exceed twenty
2 thousand dollars (\$20,000). An applicant must give the Secretary the same information
3 the applicant would be required to give under G.S. 105-433 if the applicant were
4 applying for a license under that section. A bond filed under this section must be
5 conditioned on compliance with this Article, be payable to the State, and be in the form
6 required by the Secretary. A license issued under this section remains in effect until
7 surrendered or canceled, must be displayed in the same manner as a license issued under
8 G.S. 105-433, and is subject to the same restrictions as a license issued under that
9 section. A person who fails to comply with this section is guilty of a Class 1
10 misdemeanor."

11 Sec. 30. G.S. 158-37(b)(3) reads as rewritten:

12 "(3) Except as otherwise provided in this Article, to exercise the powers
13 granted to a local government for development by G.S. 158-7.1 and the
14 powers granted to certain local governments for development in G.S. 158-
15 7.1(d1), ~~158-7.1~~, except the power to levy a property tax."

16 Sec. 31. Except as otherwise provided in this act, this act is effective upon
17 ratification.