

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1725  
Committee Substitute Favorable 6/27/94  
Senate Finance Committee Substitute Adopted 6/30/94  
Fourth Edition Engrossed 7/1/94

Short Title: Revenue Laws Changes.

(Public)

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Sponsors:

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Referred to:

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May 26, 1994

A BILL TO BE ENTITLED

1 AN ACT TO MAKE TECHNICAL AND CLARIFYING CHANGES TO THE  
2 REVENUE LAWS AND RELATED STATUTES, TO IMPROVE THE  
3 ADMINISTRATION OF THE SOFT DRINK EXCISE TAX, AND TO EXTEND  
4 THE SUNSET OF A TAX CREDIT, TO AMEND THE LAW REGARDING  
5 APPLICATION FOR CERTIFICATION AS A CLINICAL SOCIAL WORKER,  
6 TO RESTORE THE SOFT DRINK TAX EXEMPTION FOR NATURAL JUICE  
7 WITH NO ADDITIVES OTHER THAN VITAMINS, MINERALS, OR SUGAR,  
8 AND TO MAKE THE EFFECTIVE DATE OF CHANGES MADE DURING THE  
9 1993 SESSION TO THE CONSUMER CREDIT SALE LAWS RETROACTIVE.  
10

11 The General Assembly of North Carolina enacts:

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 Section 4 of Chapter 543 of the 1993 Session Laws is repealed.

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

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

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

20 "§ 105-113.45. Excise taxes on soft drinks and base products.

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

3 (b) Repealed by Session Laws 1991, c. 689, s. 276.

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

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

11 (1) Of one cent (1¢) an ounce ~~or a fraction of an ounce~~ if the dry base  
12 product is not converted into a syrup or other liquid base product  
13 before it is used to make a soft drink.

14 (2) That would apply under subsection (c) to the resulting liquid base  
15 product if the dry base product is converted into a liquid base product  
16 before it is used to make a soft drink.

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

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

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

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

25 "(11) ~~The amount by which~~ If a deduction for an ordinary and necessary  
26 business expense was required to be reduced or was not allowed  
27 under the Code for federal tax purposes or the amount of such a  
28 deduction that was not allowed under the Code because the corporation  
29 claimed a federal tax credit against its federal income tax liability  
30 for the income year in lieu of a deduction, the amount by  
31 which the deduction was reduced and the amount of the deduction  
32 that was disallowed."

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

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

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

39 "(10) The amount by which the basis of property under this Article  
40 exceeds the basis of the property under the Code, in the year the  
41 taxpayer disposes of the property."

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

43 "(d) ~~For purposes of this Article, Unless the taxpayer is required to add the amount~~  
44 of allowable credit to federal taxable income under G.S. 105-130.5(a)(10), the

1 taxpayer's basis in the equity securities or subordinated debt acquired as a result of an  
2 investment in a North Carolina Enterprise Corporation, qualified business venture, or  
3 qualified grantee business shall be reduced for the purposes of this Article by the  
4 amount of allowable credit. 'Allowable credit' means the amount of credit allowed  
5 under G.S. 105-163.011 reduced as provided in subsection (c) of this section."

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

7 "(d) Application Forms; Rules; Fees. Applications for registration, renewal of  
8 registration, and reinstatement of registration under this section shall be in the form  
9 required by the Secretary of State. The Secretary of State may, by rule, require  
10 applicants to furnish supporting information in addition to the information required by  
11 subsections ~~(a), (b),~~ (b) and (c) of this section. The Secretary of State may adopt rules in  
12 accordance with Chapter 150B of the General Statutes that are needed to carry out the  
13 Secretary's responsibilities under this Division. The Secretary of State shall prepare  
14 blank forms for the applications and shall distribute them throughout the State and  
15 furnish them on request. Each application shall be signed by the owners of the business  
16 or, in the case of a corporation, by its president, vice-president, treasurer, or secretary.  
17 There shall be annexed to the application the affirmation of the person making the  
18 application in the following form: 'Under penalties prescribed by law, I certify and  
19 affirm that to the best of my knowledge and belief this application is true and complete.'  
20 A person who submits a false application is guilty of a misdemeanor and is punishable  
21 as provided in G.S. 14-3.

22 The fee for filing an application for registration under this section ~~shall be~~ is one  
23 hundred dollars (\$100.00). The fee for filing an application for renewal of registration  
24 under this section ~~shall be~~ is fifty dollars (\$50.00). The fee for filing an application for  
25 reinstatement of registration under this section ~~shall be~~ is fifty dollars (\$50.00).

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

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

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

43 Sec. 11. Effective July 1, 1995, G.S. 105-213(b), as amended by Section  
44 26(a) of Chapter 321 of the 1993 Session Laws, reads as rewritten:

1       "(b) Allocation of Distribution. – The amount of revenue to be distributed under  
2 subsection (a) shall be allocated among the counties in proportion to the net amount of  
3 taxes collected under this Article in each county during the preceding fiscal year. The  
4 net amount of taxes collected in a county is the amount collected less the amount of  
5 refunds made of taxes previously collected. The Secretary shall keep a separate record  
6 by counties of the taxes collected under this Article. The Secretary shall allocate the  
7 amount of revenue to be distributed under subsection (a) to the counties in accordance  
8 with the tax records. The amounts so allocated to each county shall in turn be allocated  
9 between the county and the municipalities in the county in proportion to the total  
10 amount of ad valorem taxes levied by each during the fiscal year preceding the  
11 distribution. In dividing these amounts between each county and its municipalities, the  
12 Secretary shall treat taxes levied by a merged school administrative unit described in  
13 G.S. 115C-513 in a part of the unit located in a county as taxes levied by the county in  
14 which that part is located. After making these allocations, the Secretary shall certify to  
15 the State Controller and to the State Treasurer the amount to be distributed to each  
16 county and municipality in the State. The State Controller shall then issue a warrant on  
17 the State Treasurer to each county and municipality in the amount certified.

18       For the purpose of computing the ~~distribution of the intangibles tax~~ allocation of the  
19 tax under this subsection to any county and the municipalities located in the county for  
20 any quarter with respect to which the property valuation of a public service company is  
21 the subject of an appeal and the Department of Revenue is restrained by law from  
22 certifying the valuation to the county and the municipalities in the county, the  
23 Department shall use the last property valuation of the public service company that has  
24 been certified.

25       The chair of each board of county commissioners and the mayor of each  
26 municipality shall report to the Secretary information requested by the Secretary to  
27 enable the Secretary to allocate the amount distributed by this subsection. If a county or  
28 municipality fails to make a requested report within the time allowed, the Secretary may  
29 disregard the county or municipality in allocating the amount distributed by this  
30 subsection."

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

32       "(a) As a condition precedent to doing business in this State, an insurance  
33 company must apply for and obtain a certificate of registration from the Commissioner  
34 of Insurance by March 1 of each year. The certificate shall become effective the  
35 following July 1 and shall remain in effect for one year. Except as provided in  
36 subsections (b) and (c) of this section, the insurance company shall pay an annual fee  
37 for the certificate as follows: Each insurance company shall, as a condition precedent for  
38 doing business in this State, on or before the first day of March of each year apply for and  
39 obtain from the Commissioner of Insurance a certificate of registration, or license, effective the  
40 first day of July, and shall pay for such certificate the following annual fees except as  
41 hereinafter provided in subsections (b) and (c):

42               For each domestic farmer's mutual assessment

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

44               For each fraternal order 100.00

1 For each of all other insurance companies, except  
 2 mutual burial associations taxed under G.S.  
 3 105-121.1500.00

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

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

7 **"§ 105-228.90. Scope and definitions.**

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

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

12 (1) Code. – The Internal Revenue Code as enacted as of January 1, 1993,  
 13 including any provisions enacted as of that date which become  
 14 effective either before or after that date.

15 (2) Reserved.

16 (3) Electronic Funds Transfer. – A transfer of funds initiated by using an  
 17 electronic terminal, a telephone, a computer, or magnetic tape to  
 18 instruct or authorize a financial institution or its agent to credit or debit  
 19 an account.

20 (4) Reserved.

21 (5) Person. – An individual, a fiduciary, a firm, an association, a  
 22 partnership, a limited liability company, a corporation, a unit of  
 23 government, or another group acting as a unit. The term includes an  
 24 officer or employee of a corporation, a member, a manager, or an  
 25 employee of a limited liability company, and a member or employee of  
 26 a partnership who, as officer, employee, member, or manager, is under  
 27 a duty to perform an act in meeting the requirements of Subchapter I,  
 28 V, or VIII of this Chapter or of Article 3 of Chapter 119 of the General  
 29 Statutes.

30 (6) Secretary. – The Secretary of Revenue.

31 (7) Tax. – A tax levied under Subchapter I, V, or VIII of this Chapter or  
 32 an inspection ~~fee~~ tax levied under Article 3 of Chapter 119 of the  
 33 General Statutes. Unless the context clearly requires otherwise, the  
 34 terms 'tax' and 'additional tax' include penalties and interest as well as  
 35 the principal amount.

36 (8) Taxpayer. – A person subject to the tax or reporting requirements of  
 37 Subchapter I, V, or VIII of this Chapter or of Article 3 of Chapter 119  
 38 of the General Statutes."

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

40 "(e) ~~Where Statute of Limitations.~~ – If a proper application for a license or a return  
 41 has been filed and in the absence of fraud, the Secretary ~~of Revenue~~ shall assess any tax  
 42 or additional tax due from a taxpayer within three years after the date upon which ~~such~~  
 43 the application or return is was filed or within three years after the date upon which ~~such~~  
 44 the application or return was required by law to be filed, whichever is ~~the~~ later. If a

1 taxpayer forfeits a tax credit pursuant to G.S. 105-163.014, the Secretary shall assess  
2 any tax or additional tax due as a result of the forfeiture within three years after the date  
3 of the forfeiture. Any tax or additional tax due from the taxpayer may be assessed at  
4 any time if (i) no proper application for a license or no return has been filed, (ii) a false  
5 or fraudulent application or return has been filed, or (iii) there has been an attempt in  
6 any manner to fraudulently defeat or evade tax.

7 ~~Provided, the~~ The taxpayer may make a written waiver of any of the limitations of  
8 time set out in this section, for either a definite or an indefinite ~~time, and if such waiver is~~  
9 ~~accepted by the Secretary he~~ time. If the Secretary accepts the waiver, the Secretary may  
10 institute assessment procedures at any time within the time extended by ~~such~~ the waiver.  
11 ~~This proviso shall apply to assessments made or undertaken under any provision of all~~  
12 ~~schedules of the Revenue Act, and to assessments under Subchapter V of Chapter 105 and~~  
13 ~~Chapter 18 of the General Statutes."~~

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

15 "(b) Secretary to Provide Records. – Upon receipt by the Secretary of the  
16 taxpayer's petition, the Secretary shall transmit to the Tax Review Board all of the  
17 records, data, evidence, and other materials in the Secretary's possession pertaining to  
18 the matters the Tax Review Board is being requested by the taxpayer to review. The  
19 Secretary shall also transmit to the Board a copy of the decision of the ~~Board~~ Secretary  
20 on the matters."

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

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

43 Within five days after a jeopardy levy is made under this subsection that is not the  
44 result of a criminal investigation or of a liability for a tax imposed under Article 2D of

1 this Chapter, the Secretary must provide the taxpayer with a written statement of the  
2 information upon which the Secretary relied in making the levy. Within 30 days after  
3 receipt of this statement or, if no statement was received, within 30 days after the  
4 statement was due, the taxpayer may request the Secretary to review the action taken.  
5 After receipt of this request, the Secretary shall determine whether the levy was  
6 reasonable under the circumstances. The Secretary shall give the taxpayer written  
7 notice of this determination within 30 days after the request. The taxpayer may seek  
8 judicial review of this determination as provided in G.S. 105-241.5."

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

10 **"§ 105-248. State taxes; purposes. Purpose of State taxes.**

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

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

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

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

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

35 **"§ 105-269.3. Enforcement of Subchapter V and fuel inspection fee-tax."**

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

37 **"§ 105-446. Refund for tax on motor fuel used other than to propel-operate a motor**  
38 **vehicle.**

39 A person who purchases and uses motor fuel for a purpose other than to operate a  
40 licensed motor vehicle may receive an annual refund for the tax the person paid on fuel  
41 used during the preceding calendar year at a rate equal to the amount of the flat cents-  
42 per-gallon rate in effect during the year for which the refund is claimed plus the average  
43 of the two variable cents-per-gallon rates in effect during that year, less one cent (1¢)

1 per gallon. An application for a refund allowed under this section shall be made in  
2 accordance with G.S. 105-440."

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

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

- 5 (1) Fuel sold or delivered by a supplier to a licensed user-seller.
- 6 (2) Fuel used by a supplier in a motor vehicle owned, leased, or operated  
7 by the supplier.
- 8 (3) Fuel delivered by a supplier directly into the fuel supply tank of a  
9 motor vehicle.
- 10 (4) Fuel imported by a user-seller into this State, by a means other than  
11 carrying the fuel in a fuel supply tank of a motor vehicle, for resale or  
12 to ~~propel-operate~~ a motor vehicle.
- 13 (5) Fuel acquired tax free by a user-seller or user in this State for resale or  
14 to ~~propel-operate~~ a motor vehicle.

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

20 The primary purposes of this levy and this Article are to provide a more efficient and  
21 effective method of collecting the tax now imposed and collected pursuant to G.S. 105-  
22 435, by providing for the collection of the tax from the supplier instead of the user. The  
23 tax levied by this Article is in lieu of rather than in addition to the tax levied by G.S.  
24 105-435; payment of the tax levied by this Article constitutes compliance with G.S.  
25 105-435."

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

27 "**§ 105-449.17. Exemption for fuel sold for nonhighway use.**

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

- 30 (1) The fuel is for a purpose other than to ~~propel-operate~~ a motor vehicle.
- 31 (2) The supplier dispenses the fuel into a storage facility that is not  
32 required to be marked or is marked as follows with the phrase 'For  
33 Nonhighway Use' or a similar phrase that clearly indicates the fuel is  
34 not to be used to ~~propel-operate~~ a motor vehicle:
  - 35 a. The storage tank of the storage facility must be marked if the  
36 storage tank is visible.
  - 37 b. The fillcap or spill containment box of the storage facility must  
38 be marked.
  - 39 c. The dispensing device that serves the storage facility must be  
40 marked.

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



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

3 A supplier is liable for the tax due on fuel dispensed into a storage facility of a user  
4 or user-seller that is required to be marked but is not marked to indicate the fuel is to be  
5 used for a purpose other than to ~~propel-operate~~ a motor vehicle. A user or user-seller is  
6 liable for the tax due on fuel dispensed by a supplier into a storage facility that is  
7 marked for nonhighway use and is subsequently used or sold for use to ~~propel-operate~~ a  
8 motor vehicle."

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

10 **"§ 105-449.18. Liability for tax on non-tax-paid fuel sold or delivered to unlicensed**  
11 **persons.**

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

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

17 **"§ 105-449.19. Time when supplier must file return and pay any tax due.**

18 (a) Return. – A supplier of fuel who acquires, sells, delivers, or uses part or all of  
19 the fuel to ~~propel-operate~~ a motor vehicle must file a monthly return. A supplier of fuel  
20 who sells, delivers, or uses fuel only for a purpose other than to ~~propel-operate~~ a motor  
21 vehicle must file a quarterly return. A return must be filed with the Secretary on a form  
22 provided by the Secretary. A monthly return covers a calendar month and is due within  
23 25 days after the end of each month. A quarterly return covers a calendar quarter and is  
24 due within 30 days after the end of each quarter. Tax owed by a supplier on fuel  
25 acquired, sold, delivered, or used by the supplier during a reporting period is due when  
26 the return for that period is due.

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

29 (1) The amount of fuel the supplier had on hand on the first and last days  
30 of the reporting period.

31 (2) The amount of fuel the supplier received during the reporting period.

32 (3) The amount of fuel the supplier used during the reporting period to  
33 ~~propel-operate~~ a motor vehicle and the amount of fuel the supplier used  
34 during the reporting period for a purpose other than to ~~propel-operate~~ a  
35 motor vehicle, stated separately.

36 (4) The amount of fuel the supplier sold or delivered to a licensed bulk-  
37 user, a licensed reseller, a licensed user, or other persons, stated  
38 separately."

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

40 **"§ 105-449.20. When Secretary may estimate tax liability of supplier or user-seller.**

41 Whenever a supplier or a user-seller fails to file a report under G.S. 105-449.19 or  
42 105-449.21 or files a false report under one of those statutes, the Secretary shall  
43 determine, from any information obtainable, the number of gallons of fuel with respect  
44 to which the supplier or user-seller owes tax under this Article. When a user-seller sells

1 or uses more fuel than the user-seller reports to the Secretary as having been purchased  
2 from a supplier, the user-seller is presumed to have acquired the unreported fuel tax-free  
3 to ~~propel-operate~~ a motor vehicle. When a user-seller sells or uses more fuel to ~~propel~~  
4 ~~operate~~ a motor vehicle than the user-seller reports to the Secretary as having been  
5 purchased from a supplier to ~~propel-operate~~ a motor vehicle, the user-seller is presumed  
6 to have acquired tax-free to ~~propel-operate~~ a motor vehicle all fuel not reported as  
7 having been acquired to ~~propel-operate~~ a motor vehicle."

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

9 **"§ 105-449.26. User-sellers and certain suppliers must give receipts for and keep**  
10 **records of fuel sold at retail.**

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

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

20 If the fuel is sold to ~~propel-operate~~ a motor vehicle, the user-seller or supplier must  
21 give the buyer a receipt only when the buyer asks for a receipt and must keep a record  
22 of any receipt given. If the fuel is diesel and is sold for a purpose other than to ~~propel~~  
23 ~~operate~~ a motor vehicle, the user-seller or supplier must give the buyer a receipt only  
24 when the buyer asks for a receipt but must always keep a record of the sale unless  
25 subsection (c) exempts the user-seller or supplier from the requirement of keeping  
26 a record.

27 If the Secretary determines that a user-seller or a supplier has sold nontaxpaid fuel at  
28 retail to ~~propel-operate~~ a motor vehicle, the Secretary may require the user-seller or  
29 supplier to keep a record of all fuel sold at retail to ~~propel-operate~~ a motor vehicle. A  
30 user-seller or supplier who is required to keep a record of diesel sold at retail for a  
31 purpose other than to ~~propel-operate~~ a motor vehicle is liable for the excise tax and the  
32 inspection fee-tax on the diesel if the user-seller or supplier does not keep a record of the  
33 sale.

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

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

1                   b.       The license plate number of the motor vehicle into which the  
2                               fuel was dispensed and the state that issued the license plate.

3           (8)       If the fuel is diesel and is sold for a purpose other than to ~~propel~~  
4                   operate a motor vehicle, the type of container or equipment into which  
5                               the fuel was dispensed.

6       (c)       Exception. – A user-seller or supplier who sells diesel at a marina from a  
7       storage facility whose location makes it improbable that the diesel could be dispensed  
8       for a purpose other than to ~~propel~~operate a watercraft must keep a record of a sale only  
9       if the user-seller or supplier gives the buyer a receipt for the sale."

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

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

12       "(e)   Fee for Combined Applications. – If application is made at the same time for  
13       retail malt beverage, unfortified wine and fortified wine permits for a single business  
14       location, the total fee for those applications shall be two hundred dollars (\$200.00). If  
15       application is made at the same time for brown-bagging and special occasion permits  
16       for a single business location, the total fee for those applications shall be three hundred  
17       dollars (\$300.00). If application is made at the same time for wine and malt beverage  
18       importer permits, the total fee for those applications shall be one hundred fifty dollars  
19       (\$150.00). If application is made at the same time for wine and malt beverage  
20       wholesaler permits, the total fee for those applications shall be one hundred fifty dollars  
21       (\$150.00). If application is made in the same year for vendor representative permits to  
22       represent more than one vendor, only one fee shall be paid. If application is made at the  
23       same time for nonresident malt beverage vendor and nonresident wine vendor permits,  
24       the total fee for those applications shall be ~~twenty-five dollars (\$25.00).~~ fifty dollars  
25       (\$50.00)."

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

27       "**§ 119-16.2. Application for license.**

28       ~~Any person, firm or corporation having in his possession kerosene on which the~~  
29       ~~inspection fee has not been paid, and who is not required to be licensed under the~~  
30       ~~provisions of G.S. 105-433, shall, prior to the commencement of doing business, file a~~  
31       ~~duly acknowledged application for a license with the Secretary of Revenue on a form~~  
32       ~~prescribed by the Secretary setting forth the name under which such distributor transacts~~  
33       ~~or intends to transact business within this State, the address of each place of business~~  
34       ~~and a designation of the principal place of business. If such distributor is a firm or~~  
35       ~~association, the application shall set forth the name and address of each person~~  
36       ~~constituting the firm or association, and if a corporation, the names and addresses of the~~  
37       ~~principal officers and such other information as the Secretary of Revenue may require.~~  
38       ~~Each distributor shall at the same time file a bond in such amount, not exceeding twenty~~  
39       ~~thousand dollars (\$20,000) in such form and with such surety or sureties as may be~~  
40       ~~required by the Secretary of Revenue, conditioned upon the rendition of the reports and~~  
41       ~~the payment of the tax hereinafter provided for. Upon approval of the application and~~  
42       ~~bond, the Secretary of Revenue shall issue to the distributor a nonassignable license~~  
43       ~~with a duplicate copy of each place of business of said distributor in this State, a copy of~~  
44       ~~which shall be displayed conspicuously at each such place of business and shall~~

1 ~~continue in force until surrendered or cancelled. No distributor shall sell, offer for sale,~~  
2 ~~or use any kerosene within this State, until such license has been issued. Any~~  
3 ~~distributor failing to comply with or violating any of the provisions of this section shall~~  
4 ~~be. A person may not engage in business as a kerosene distributor unless the person has~~  
5 ~~either a license issued under G.S. 105-433 or a kerosene license issued under this~~  
6 ~~section. To obtain a license under this section, an applicant must file an application~~  
7 ~~with the Secretary of Revenue on a form provided by the Secretary and file with the~~  
8 ~~Secretary a bond in the amount required by the Secretary, not to exceed twenty~~  
9 ~~thousand dollars (\$20,000). An applicant must give the Secretary the same information~~  
10 ~~the applicant would be required to give under G.S. 105-433 if the applicant were~~  
11 ~~applying for a license under that section. A bond filed under this section must be~~  
12 ~~conditioned on compliance with this Article, be payable to the State, and be in the form~~  
13 ~~required by the Secretary. A license issued under this section remains in effect until~~  
14 ~~surrendered or canceled, must be displayed in the same manner as a license issued under~~  
15 ~~G.S. 105-433, and is subject to the same restrictions as a license issued under that~~  
16 ~~section. A person who fails to comply with this section is guilty of a Class 1~~  
17 ~~misdemeanor."~~

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

19 "(3) Except as otherwise provided in this Article, to exercise the powers  
20 granted to a local government for development by G.S. 158-7.1 and the  
21 powers granted to certain local governments for development in G.S. 158-  
22 7.1(d1), 158-7.1, except the power to levy a property tax."

23 Sec. 31. G.S. 158-37(b)(10) reads as rewritten:

24 "(10) To exercise the powers of a regional planning commission as  
25 provided in G.S. 153A-395 and the powers of a regional economic  
26 development commission as provided in G.S. 158-13, Article 2 of  
27 this Chapter, but the Zone does not have the authority to establish  
28 land-use zoning in any county."

29 Sec. 32. Effective October 1, 1994, G.S. 105-113.51 reads as rewritten:

30 **"§ 105-113.51. Liability for and payment of excise taxes.**

31 (a) ~~Primary Liability.~~ Liability. – The distributor, wholesale dealer, or retail dealer  
32 who first distributes, sells, consumes, or otherwise handles bottled soft drinks or base  
33 products in this State is liable for the tax imposed by this Article. A distributor,  
34 wholesale dealer, or retail dealer who brings into this State a bottled soft drink or base  
35 product made outside the State is the first person to handle the bottled soft drink or base  
36 product in this State. A distributor, wholesale dealer, or retail dealer who is the original  
37 consignee of a bottled soft drink or base product that is made outside the State and is  
38 shipped into the State is the first person to handle the bottled soft drink or base product  
39 in this State.

40 Presentation of a soft drink certificate of liability to a distributor or a wholesale  
41 dealer releases the distributor or wholesale dealer from liability under this subsection.

42 Subsection (b) of this section governs who is liable when a soft drink certificate of  
43 liability is presented.

1       (b) ~~Secondary Liability-Soft Drink Certificate of Liability. —A retail dealer who~~  
2 ~~acquires non-tax paid bottled soft drinks or non-tax paid base products from a~~  
3 ~~distributor or a wholesale dealer is liable for any tax due on the bottled soft drinks or~~  
4 ~~base products. A retail dealer who is liable for tax under this subsection may not deduct~~  
5 ~~a discount from the amount of tax due when reporting the tax. A distributor, a wholesale~~  
6 ~~dealer, or a retail dealer may apply to the Secretary for a soft drink certificate of~~  
7 ~~liability. A distributor, a wholesale dealer, or a retail dealer who has a soft drink~~  
8 ~~certificate of liability may purchase non-tax-paid bottled soft drinks or non-tax-paid~~  
9 ~~base products from a distributor or a wholesale dealer by presenting the certificate to the~~  
10 ~~distributor or wholesale dealer. Presentation of the certificate to a distributor or a~~  
11 ~~wholesale dealer authorizes the distributor or wholesale dealer to sell non-tax-paid~~  
12 ~~bottled soft drinks or non-tax-paid base products to the person who presents the~~  
13 ~~certificate; it releases the distributor or wholesale dealer from liability for any tax due~~  
14 ~~on the sale and transfers the liability to the person who presents the certificate.~~

15       A distributor or a wholesale dealer to whom a soft drink certificate of liability is  
16 presented must accept the certificate. A soft drink certificate of liability is considered to  
17 have been presented to a distributor or a wholesale dealer when the person to whom it is  
18 issued gives a copy of it to the distributor or wholesale dealer. When a person presents  
19 a soft drink certificate of liability to a distributor or a wholesale dealer, it indicates the  
20 person's intent that the certificate apply to all future sales to the person by the distributor  
21 or wholesale dealer. Once presented, a soft drink certificate of liability remains in effect  
22 until the person who presented the certificate gives the distributor or wholesale dealer to  
23 whom it was presented written notice that the certificate no longer applies.

24       (c) ~~Monthly Report. —Except for tax on a designated sale under subsection (d), the~~  
25 ~~The taxes levied by this Article are payable when a report is required to be filed. A~~  
26 ~~report is due on a monthly basis. A monthly report covers sales and other activities~~  
27 ~~occurring in a calendar month and is due within 15 days after the end of the month~~  
28 ~~covered by the report. A report shall be filed on a form provided by the Secretary and~~  
29 ~~shall contain the information required by the Secretary.~~

30       (d) ~~Designation of Exempt Sale. —A distributor or a wholesale dealer who sells a~~  
31 ~~bottled soft drink or a base product to a person who has notified the distributor or~~  
32 ~~wholesale dealer in writing that the person intends to resell the item in a transaction that~~  
33 ~~is exempt from tax under G.S. 105-113.46(7) or (8) may, when filing a monthly report~~  
34 ~~under subsection (c), designate the quantity of bottled soft drinks or base products sold~~  
35 ~~to the person for resale. A distributor or wholesale dealer shall report a designated sale~~  
36 ~~on a form provided by the Secretary.~~

37       ~~A distributor or a wholesale dealer is not required to pay tax on a designated sale~~  
38 ~~when filing a monthly report. The distributor or wholesale dealer shall pay the tax due~~  
39 ~~on all other sales in accordance with this section. A distributor, a wholesale dealer, or a~~  
40 ~~customer of a distributor or wholesale dealer may not delay payment of the tax due on a~~  
41 ~~bottled soft drink or base product by failing to pay tax on a sale that is not a designated~~  
42 ~~sale or by overstating the quantity of bottled soft drinks or base products that will be~~  
43 ~~resold in a transaction exempt under G.S. 105-113.46(7) or (8).~~

1 A person who does not sell a bottled soft drink or base product in a transaction  
2 exempt under G.S. 105-113.46(7) or (8) after a distributor or a wholesale dealer has  
3 failed to pay the tax due on the sale of the item to the person in reliance on the person's  
4 written notification of intent is liable for the tax and any penalties and interest due on  
5 the designated sale. If the Secretary determines that a bottled soft drink or a base  
6 product reported as a designated sale is not sold as reported, the Secretary shall assess  
7 the person who notified the distributor or wholesale dealer of an intention to resell the  
8 item in an exempt transaction for the tax due on the sale and any applicable penalties  
9 and interest. A distributor or a wholesale dealer who does not pay tax on a bottled soft  
10 drink or base product in reliance on a person's written notification of intent to resell the  
11 item in an exempt transaction is not liable for any tax assessed on the item.

12 (e) Repealed by Session Laws 1991 (Regular Session, 1992), c. 955, s. 16, effective  
13 July 15, 1992."

14 Sec. 33. Effective October 1, 1994, G.S. 105-113.52(a) reads as rewritten:

15 "(a) Tax Reduction. – The tax on the first 15,000 gross of bottled soft drinks sold  
16 at wholesale on or after October 1 of each year by a distributor or wholesale dealer who  
17 is liable for the tax and who files a timely report under G.S. 105-113.51 is seventy-two  
18 cents (72¢) a gross rather than the amount stated in G.S. 105-113.45. The tax reduction  
19 does not apply to bottled soft drinks acquired by the distributor or wholesale dealer in a  
20 sale in which the distributor or wholesale dealer presented a soft drink certificate of  
21 liability, and it does not apply to sales made by a distributor or wholesale dealer who is  
22 not licensed as required by this Article. When reporting tax due on bottled soft drinks  
23 to which this reduced rate applies, a distributor or wholesale dealer shall pay the  
24 reduced amount."

25 Sec. 34. G.S. 105-130.27(g) reads as rewritten:

26 "(g) Expiration. – This section applies only to costs incurred during taxable years  
27 beginning prior to January 1, ~~1996-1998.~~"

28 Sec. 35. G.S. 105-151.6(g) reads as rewritten:

29 "(g) Expiration. – This section applies only to costs incurred during taxable years  
30 beginning prior to January 1, ~~1996-1998.~~"

31 Sec. 36. Effective August 1, 1994, G.S. 130A-309.81 reads as rewritten:

32 "**§ 130A-309.81. Management of discarded white goods; additional disposal fee**  
33 **prohibited.**

34 (a) Duty. – Each county is responsible for providing at least one site for the  
35 collection of discarded white goods. It must also provide for the disposal of discarded  
36 white goods and for the removal of chlorofluorocarbon refrigerants from white goods.  
37 A county may contract with another unit of local government or a private entity in  
38 accordance with Article 15 of Chapter 153A of the General Statutes to provide for the  
39 management of discarded white goods or for the removal of chlorofluorocarbon  
40 refrigerants from white goods.

41 (b) Restrictions. – A unit of local government or a contracting party may not  
42 charge a disposal fee for the disposal of white goods ~~that is in addition to the fee charged~~  
43 ~~for the disposal of any other type of municipal solid waste goods.~~ A white good may not be  
44 disposed of in a landfill, an incinerator, or a waste-to-energy facility.

1 (c) Plan. – Each county shall establish written procedures for the management  
2 of white goods. The county shall include the procedures in any solid waste  
3 management plan required by the Department under this Article."

4 Sec. 37. Section 6 of Chapter 471 of the 1993 Session Laws is repealed.

5 Sec. 38. Effective July 1, 1998, G.S. 130A-309.81, as amended by this act,  
6 reads as rewritten:

7 "**§ 130A-309.81. Management of discarded white goods; disposal fee ~~prohibited.~~**  
8 **allowed.**

9 (a) Duty. – Each county is responsible for providing at least one site for the  
10 collection of discarded white goods. It must also provide for the disposal of discarded  
11 white goods and for the removal of chlorofluorocarbon refrigerants from white goods.  
12 A county may contract with another unit of local government or a private entity in  
13 accordance with Article 15 of Chapter 153A of the General Statutes to provide for the  
14 management of discarded white goods or for the removal of chlorofluorocarbon  
15 refrigerants from white goods.

16 (b) Restrictions. – A unit of local government or a contracting party may ~~not~~  
17 charge a disposal fee for the disposal of white goods. A white good may not be  
18 disposed of in a landfill, an incinerator, or a waste-to-energy facility.

19 (c) Plan. – Each county shall establish written procedures for the management  
20 of white goods. The county shall include the procedures in any solid waste  
21 management plan required by the Department under this Article."

22 Sec. 38.1. G.S. 90B-10(b)(1) reads as rewritten:

23 "(1) A person who has engaged in clinical social work practice for  
24 one year prior to the effective date of this act and who properly  
25 applies for and pays the required fees for a certificate as a  
26 certified clinical social worker prior to January 1, 1993.  
27 Notwithstanding the foregoing provision of this subdivision,  
28 any applicant who applied for certification pursuant to this  
29 subdivision between December 1, 1993, and January 15, 1994,  
30 and who is otherwise eligible for certification under this  
31 subdivision but for the January 1, 1993, deadline shall be  
32 certified."

33 Sec. 38.2. (a) G.S. 105-113.46 reads as rewritten:

34 "**§ 105-113.46. Exemptions.**

35 The taxes imposed by this Article do not apply to an item that is listed in this section  
36 and, if the item is a bottled soft drink or a juice concentrate included in subdivision (2)  
37 ~~or (3),~~ (2), (3), or (3a), is registered with the Secretary in accordance with

38 G.S. 105-113.47:

- 39 (1) A natural liquid milk drink produced by a farmer or a dairy.  
40 (2) A bottled soft drink that contains at least thirty-five percent (35%)  
41 natural milk measured by volume and is not exempt under  
42 subdivision (1).  
43 (3) Natural juice.  
44 (3a) Juice that would be natural if it did not contain sugar.

- 1 (4) Natural water.  
2 (5) A base product used to make a bottled soft drink subject to tax  
3 under this Article.  
4 (6) Coffee or tea in any form.  
5 (7) A bottled soft drink or base product sold outside the State.  
6 (8) A bottled soft drink or base product sold to the federal government.  
7 (9) A base product for domestic use that either contains milk or,  
8 according to directions on the base product's container, requires  
9 milk to be added to make a soft drink."

10 (b) G.S. 105-113.47(a) reads as rewritten:

11 "(a) Requirement. – To be exempt from the tax imposed by this Article, the  
12 following items must be registered with the Secretary as an exempt item:

- 13 (1) A bottled soft drink that contains at least thirty-five percent (35%)  
14 natural milk measured by volume and is not exempt under G.S.  
15 105-113.46(1).  
16 (2) A natural juice bottled soft drink.  
17 (3) A natural juice concentrate.  
18 (4) A juice concentrate or juice bottled soft drink that would be natural  
19 if it did not contain sugar.

20 To register an item as exempt, the person who controls the brand name or formula of  
21 the item must file an application for registration with the Secretary on a form provided  
22 by the Secretary. An application must include an affidavit stating the complete and  
23 itemized formula by volume of the bottled soft drink or juice concentrate that is the  
24 subject of the application."

25 (c) This section becomes effective October 1, 1994.

26 Sec. 38.3. G.S. 25A-27 is amended by adding a new subsection to read:

27 "(c) For payments received by a seller on or after October 1, 1988, but before  
28 October 1, 1993, a seller may elect to apply the provisions of this section as the section  
29 read October 1, 1993, or as the section read September 30, 1993. A seller made this  
30 election when the seller determined, and disclosed to the buyer, how payments received  
31 on a consumer credit sale would be applied: either on a proportional basis or on a 'first  
32 in - first out' basis with the payments applied first to finance charges and then to  
33 principal in the order that each obligation is assumed."

34 Sec. 39. G.S. 105-275(19) reads as rewritten:

- 35 "(19) Real and personal property belonging to the Loyal Order of Moose,  
36 the Benevolent and Protective Order of Elks, the Knights of  
37 Pythias, the Odd ~~Fellows~~-Fellows, the Woodmen of the World, and  
38 similar fraternal or civic orders and organizations operated for  
39 nonprofit benevolent, patriotic, historical, charitable, or civic  
40 purposes, when used exclusively for meeting or lodge purposes by  
41 ~~said~~ the organization, together with ~~such~~ as much additional  
42 adjacent real property as may be necessary for the convenient  
43 normal use of the ~~buildings thereon~~ buildings. Notwithstanding the  
44 exclusive-use requirement ~~hereinabove~~ established, of this



1                    subdivision, if a part of a property that otherwise meets this  
2                    subdivision's requirements is used for a purpose that would require  
3                    that it not be listed, appraised, ~~assessed~~assessed, or taxed if the  
4                    entire property were so used, that part, according to its ~~value~~value,  
5                    shall not be listed, appraised, ~~assessed~~assessed, or taxed. The fact  
6                    that a building or facility is incidentally available to and patronized  
7                    by the general public, so far as there is no material amount of  
8                    business or patronage with the general public, shall not defeat the  
9                    classification granted by this section. Nothing in this ~~section~~  
10                   subdivision shall be construed so as to include social fraternities,  
11                   sororities, and similar college, university, or high school  
12                   organizations in the classification for exclusion from ad valorem  
13                   taxes."

14                   Sec. 40. Except as otherwise provided in this act, this act is effective upon  
15                   ratification.