

Article 3.

Gasoline and Oil Inspection.

**§ 119-14. Title of Article.**

This Article shall be known as the Gasoline and Oil Inspection Act. (1937, c. 425, s. 1.)

**§ 119-15. Definitions that apply to Article.**

The following definitions apply in this Article:

- (1) Alternative fuel. – Defined in G.S. 105-449.130.
- (2) Aviation gasoline. – Defined in G.S. 105-449.60.
- (3) Dyed diesel fuel. – Defined in G.S. 105-449.60.
- (4) Dyed diesel fuel distributor. – A person who acquires dyed diesel fuel from either of the following:
  - a. A person who is not required to be licensed under Part 2 of Article 36C of Chapter 105 of the General Statutes and who maintains storage facilities for dyed diesel fuel to be used for nonhighway purposes.
  - b. Another dyed diesel fuel distributor.
- (5) Gasoline. – Defined in G.S. 105-449.60.
- (6) Jet fuel. – Defined in G.S. 105-449.60.
- (7) Kerosene. – Defined in G.S. 105-449.60.
- (8) Kerosene distributor. – A person who acquires kerosene from any of the following for subsequent sale:
  - a. A supplier licensed under Part 2 of Article 36C of Chapter 105 of the General Statutes.
  - b. A kerosene supplier.
  - c. Another kerosene distributor.
- (9) Kerosene supplier. – Either of the following:
  - a. A person who supplies both kerosene and motor fuel and, consequently, is required to be licensed under Part 2 of Article 36C of Chapter 105 of the General Statutes.
  - b. A person who is not required to be licensed as a supplier under Part 2 of Article 36C of Chapter 105 of the General Statutes and who maintains storage facilities for kerosene to be used to fuel an airplane.
- (10) Motor fuel. – Defined in G.S. 105-449.60.
- (11) Person. – Defined in G.S. 105-229.90.
- (12) Terminal. – Defined in G.S. 105-449.60.
- (13) Terminal operator. – Defined in G.S. 105-449.60. (1937, c. 425, s. 2; 1995, c. 390, s. 19; 1995 (Reg. Sess., 1996), c. 647, s. 53; 1997-6, s. 17; 2003-349, s. 10.12; 2005-435, s. 19; 2008-134, s. 59.)

**§ 119-15.1. List of persons who must have a license.**

(a) License. – A person may not engage in business in this State as any of the following unless the person has a license issued by the Secretary authorizing the person to engage in business:

- (1) A kerosene supplier.
- (2) A kerosene distributor.
- (3) A kerosene terminal operator.
- (4) A dyed diesel fuel distributor.

(b) Exception. – A kerosene supplier license is not required if the supplier is licensed as a supplier under Part 2 of Article 36C of Chapter 105 of the General Statutes. A kerosene distributor is required to have a kerosene distributor license only if the distributor imports kerosene. Other kerosene distributors may elect to have a kerosene license. A kerosene terminal operator license is not required if the terminal operator is licensed as a terminal operator under Part 2 of Article 36C of Chapter 105 of the General Statutes. (2003-349, s. 10.14; 2004-170, s. 33; 2004-203, s. 82; 2005-435, s. 20.)

**§ 119-15.2. How to apply for a license.**

To obtain a license, an applicant must file an application with the Secretary of Revenue on a form provided by the Secretary. An application must include the applicant's name, address, federal employer identification number, and any other information required by the Secretary. An applicant must meet the requirements for obtaining a license set out in G.S. 105-449.69(b) and (c). (2003-349, s. 10.14.)

**§ 119-15.3. Bond or letter of credit required as a condition of obtaining and keeping certain licenses.**

(a) Initial Bond. – An applicant for a license as a kerosene supplier, kerosene distributor, or kerosene terminal operator must file with the Secretary of Revenue a bond or an irrevocable letter of credit. A bond or irrevocable letter of credit must be conditioned upon compliance with the requirements of this Article, be payable to the State, and be in the form required by the Secretary. The amount of the bond or irrevocable letter of credit may not be less than five hundred dollars (\$500.00) and may not be more than twenty thousand dollars (\$20,000).

(b) Adjustments to Bond. – When notified by the Secretary of Revenue, a person that has filed a bond or irrevocable letter of credit and that holds a license listed in this Article must file an additional bond or irrevocable letter of credit in the amount requested by the Secretary. The person must file the additional bond or irrevocable letter of credit within 30 days after receiving the notice from the Secretary. The amount of the initial bond or irrevocable letter of credit and the additional bond or irrevocable letter of credit by the license holder, however, may not exceed the limits set in subsection (a) of this section.

(c) Class 1. – A person who fails to comply with this section is guilty of a Class 1 misdemeanor. (2003-349, s. 10.14; 2004-203, s. 82; 2005-435, s. 21.)

**§§ 119-16 through 119-16.1: Repealed by Session Laws 1995, c. 390, ss. 20 and 21.**

**§ 119-16.2: Repealed by Session Laws 2003-349, s. 10.13, effective January 1, 2004.**

**§ 119-16.3. Certain kerosene sales prohibited.**

It shall be a Class 1 misdemeanor for any distributor to sell kerosene dispensed from a pump located on the same island where there are pumps dispensing gasoline or gasohol. An island is a group of two or more dispensing pumps within 15 feet of each other. This section shall apply only to pumps installed after October 1, 1985. (1985, c. 314; 1993, c. 539, s. 903; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 119-17: Repealed by Session Laws 2007-527, s. 20, effective August 31, 2007.**

**§ 119-18. Inspection tax and distribution of the tax proceeds.**

(a) Tax. - An inspection tax of one fourth of one cent (1/4 of 1¢) per gallon is levied upon all of the fuel listed in this subsection regardless of whether the fuel is exempt from the per-gallon excise tax imposed by Article 36C or 36D of Chapter 105 of the General Statutes. The inspection tax on motor fuel is due and payable to the Secretary of Revenue on the date the per gallon excise tax on motor fuel is due and payable under Article 36C of Chapter 105 of the General Statutes. The inspection tax on alternative fuel is due and payable to the Secretary of Revenue on the date the excise tax on alternative fuel is due and payable under Article 36D of Chapter 105 of the General Statutes. The inspection tax on kerosene is payable monthly to the Secretary by a supplier that is licensed under Part 2 of Article 36C of Chapter 105 of the General Statutes and by a kerosene supplier. A monthly report is due on the date a monthly return is due under G.S. 105-449.90 and applies to kerosene sold during the preceding month by a supplier licensed under that Part and to kerosene received during the preceding month by a kerosene supplier. A kerosene terminal operator must file a return in accordance with the provisions of G.S. 105-449.90. The inspection tax on jet fuel and aviation gasoline is payable as specified by the Secretary of Revenue. A return must be in the form prescribed by, and contain information required by, the Secretary.

- (1) Motor fuel.
- (2) Alternative fuel used to operate a highway vehicle.
- (3) Kerosene.
- (4) Jet fuel.
- (5) Aviation gasoline.

(a1) Deferred Payment. – A licensed kerosene distributor that buys kerosene from a supplier licensed under Part 2 of Article 36C of Chapter 105 of the General Statutes has the right to defer payment of the inspection tax until the supplier is required to remit the tax to this State or another state. A licensed kerosene distributor that pays the tax due a supplier licensed under that Part by the date the supplier must pay the tax to the State may deduct from the amount due a discount in the amount set in G.S. 105-449.93.

(b) Proceeds. – The proceeds of the inspection tax levied by this section shall be applied first to the costs of administering this Article and Subchapter V of Chapter 105 of the General Statutes. The remainder of the proceeds shall be credited on a monthly basis to the Highway Fund to be used for the bridge program established under G.S. 136-76.2.

(c) No Local Tax. – No county, city, or town shall impose any inspection charge, tax, or fee, in the nature of the charge prescribed by this section, upon kerosene and motor fuel.

(d) Records. – A person required to remit the tax imposed by this section shall keep a record of all documents used to determine the information provided in a return. The records shall be kept for the applicable period of statute of limitations as set forth under Article 9 of Chapter 105 of the General Statutes. The Secretary or a person designated by the Secretary shall have the right at any reasonable time to inspect the records. (1917, c. 166, s. 4; C.S., s. 4856; 1933, c. 544, s. 5; 1937, c. 425, s. 5; 1967, c. 1110, s. 12; 1973, c. 476, s. 193; 1985, c. 602, s. 2; 1991, c. 636, s. 12; 1991 (Reg. Sess., 1992), c. 913, s. 12; 1993, c. 402, s. 8; 1995, c. 390, s. 23; 1995 (Reg. Sess., 1996), c. 647, s. 55; 2003-349, ss. 10.15, 10.16; 2006-162, s. 15(e); 2008-134, s. 60; 2011-145, s. 28.25A(b); 2014-100, s. 34.18(b); 2017-57, s. 34.10(c); 2023-12, s. 3.20(a).)

### **§ 119-19. Authority of Secretary to cancel or revoke a license.**

(a) Cancellation. – The Secretary of Revenue may cancel a license issued under this Article upon the written request of the licensee. The licensee's request must include a proposed effective date of the cancellation and must return the license to the Secretary on or before the proposed

effective date. If the licensee's request does not include a proposed effective date of cancellation, the license is cancelled 15 days after the Department receives the written request. If the license is unable to be returned, the licensee must include a written statement of the reason, satisfactory to the Secretary, why the license cannot be returned. The Secretary must notify the licensee when the license is cancelled.

(a1) Summary Revocation and Procedure. – The Secretary may summarily revoke a license issued under this Article or under Article 36C or 36D of this Chapter when the Secretary determines that the licensee is incurring liability for the tax imposed by this Article after failing to pay a tax when due under this Article. The Secretary must send a revoked licensee a notice of the revocation and a notice of hearing. The hearing must be held within 10 days after the date of the notice of revocation unless the revoked licensee requests, before the day of the hearing, that the hearing be rescheduled. Upon receipt of a timely request, the Secretary must reschedule the hearing and provide at least 10 days' notice of the rescheduled hearing. The revocation is not stayed pending the hearing decision. A notice of hearing under this subsection must be in writing and indicate the date, time, and place of the hearing. A hearing must be conducted as prescribed by the Secretary. The Secretary must issue a final decision and notify the revoked licensee in writing within 10 days of the hearing. The final decision must state the basis for the decision. The statement of the basis of a revocation does not limit the Department from changing the basis.

(a2) Non-Summary Revocation. – The Secretary may revoke the license of a licensee who files a false report under this Article or fails to file a report required under this Article after affording the licensee an opportunity to have a hearing as provided in subsections (a3) through (b2) of this section.

(a3) Notice of Proposed Revocation. – The Secretary must provide a licensee with a notice of proposed revocation that includes all of the following information:

- (1) The basis for the proposed revocation. The statement of the basis for the proposed revocation does not limit the Department from changing the basis.
- (2) The effective date of the revocation, which must be one of the following:
  - a. Forty-five days from the date of the notice of proposed revocation if the licensee does not file a timely request for hearing.
  - b. The tenth day after the date an adverse final decision is issued if the adverse final decision is mailed.
  - c. The date an adverse final decision is delivered if the adverse final decision is delivered in person.
- (3) The circumstances, if any, under which the Secretary will not revoke the license.
- (4) An explanation of how the licensee may contest the proposed revocation.

(a4) Request for Hearing and Decision. – A licensee may contest a proposed revocation by filing a written hearing request within 45 days of the date the notice of proposed revocation was mailed, if the notice was delivered by mail, or delivered to the licensee, if the notice was delivered in person. A hearing request is considered filed as provided under G.S. 105-241.11(b). If the licensee does not file a timely hearing request, the license is revoked as provided in the notice of proposed revocation and the revocation is final and not subject to further administrative or judicial review.

(b) Hearing Procedure. – The Secretary must give a licensee who filed a timely hearing request in accordance with subsection (a4) of this section at least 20 days' written notice of the date, time, and place of the hearing, unless the Department and the licensee agree to a shorter period. A

hearing must be conducted as prescribed by the Secretary. The Secretary must issue a final decision and notify the licensee in writing within 60 days of the hearing. The Department and the licensee may extend this time by mutual agreement. Failure to issue a final decision within the required time does not affect the validity of the decision. The final decision must state the basis for the decision and, if the final decision includes revocation of the license, the effective date of the revocation in accordance with subdivision (2) of subsection (a3) of this section. The statement of the basis of a revocation does not limit the Department from changing the basis.

(b1) Delivery of Notice. – The Secretary must deliver a notice in accordance with G.S. 105-241.20(b). In lieu of providing notice by United States mail, the Secretary may give notice by email or other electronic means if the licensee has consented to receiving notices via electronic means.

(b2) Return of Credentials. – If the license is revoked, the former licensee shall return to the Secretary, within 10 days of the issuance of the final decision, all licenses previously issued. If a license is unable to be returned, the licensee must include a written statement of the reasons, satisfactory to the Secretary, why the license cannot be returned.

(c) Release of Bond. – When the Secretary cancels or revokes a license and the licensee has paid all taxes and penalties due under this Article, the Secretary must either return to the licensee the bond filed by the licensee or notify the person liable on the bond and the licensee that the person is released from liability on the bond. (1933, c. 544, s. 10; 1967, c. 1110, s. 12; 1973, c. 476, s. 193; 1995, c. 390, s. 24; 2004-170, s. 34; 2017-204, s. 4.6(d); 2020-58, s. 2.13; 2021-180, s. 42.13D(d).)

**§ 119-20. Repealed by Session Laws 1963, c. 1169, s. 6.**

**§119-21. On failure to report, Secretary may determine tax.**

Whenever any person shall neglect or refuse to make and file any report as required by this Article, or shall file an incorrect or fraudulent report, the Secretary of Revenue shall determine after an investigation the number of gallons of kerosene oil and other motor fuel with respect to which the person has incurred liability under the tax laws of the State of North Carolina, and shall fix the amount of the taxes and penalties payable by the person under this Article accordingly. In any action or proceeding for the collection of the inspection tax for kerosene oil or motor fuel and/or any penalties or interest imposed in connection therewith, an assessment by the Secretary of Revenue of the amount of tax due, and/or interest and/or penalties due to the State, shall constitute prima facie evidence of the claim of the State; and the burden of proof shall be upon the person to show that the assessment was incorrect and contrary to law; and the Secretary of Revenue may institute action therefor in the Superior Court of Wake County, regardless of the residence of such person or the place where the default occurred. (1933, c. 544, s. 12; 1973, c. 476, s. 193.)

**§ 119-22: Repealed by Session Laws 1995, c. 390, s. 25.**

**§ 119-23. Administration by Commissioner of Agriculture; collection of fees by Department of Revenue and payment into State treasury; disposition of moneys by State Treasurer.**

Gasoline and oil inspection fees or taxes shall be collected by, and reports relating thereto, shall be made to, the Department of Revenue. The administration of the gasoline and oil inspection law shall otherwise be administered by the Commissioner of Agriculture. Except as provided in G.S.

119-26.1(c) and G.S. 119-39.1, all moneys received under the authority of this Article shall be paid into the State treasury and the State Treasurer shall place to the credit of the "State Highway Fund" that proportion of said funds representing inspection fees collected on highway use motor fuels, as certified monthly to the State Treasurer by the Secretary of Revenue, and the remainder of said funds shall be credited to the general fund. (1937, c. 425, s. 6; 1941, c. 36; 1949, c. 1167; 1963, c. 245; 1973, c. 476, s. 193; 1998-215, s. 23(b).)

**§ 119-24: Repealed by Session Laws 1991, c. 10, s. 3.**

**§ 119-25. Inspectors, clerks and assistants.**

The Secretary of Revenue and the Commissioner of Agriculture, respectively, shall appoint and employ such number of inspectors, clerks and assistants as may be necessary to administer and effectively enforce all the provisions of the gasoline and oil inspection law with the administration or enforcement of which each said Commissioner [or Secretary] is charged. All inspectors shall be bonded in the sum of one thousand dollars (\$1,000) in the usual manner provided for the bonding of State employees, and the expense of such bonding shall be paid from the Gasoline and Oil Inspection Fund created by this Article. Each inspector, before entering upon his duties, shall take an oath of office before some person authorized to administer oaths. Any inspector who, while in office, shall be interested directly or indirectly in the manufacture or vending of any illuminating oils or gasoline or other motor fuels shall be guilty of a Class 1 misdemeanor. (1937, c. 425, s. 8; 1949, c. 1167; 1973, c. 476, s. 193; 1993, c. 539, s. 904; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 119-26. Gasoline and Oil Inspection Board created; composition, appointment of members, etc.; expenses; powers generally; adoption of standards, etc.; sale of products not complying with standards; renaming, etc., of gasoline.**

In order to more fully carry out the provisions of this Article there is hereby created a Gasoline and Oil Inspection Board of five members, to be composed of the Commissioner of Agriculture, the Director of the Gasoline and Oil Inspection Division, and three members to be appointed by the Governor, who shall serve at his will. The Commissioner of Agriculture and the Director of the Gasoline and Oil Inspection Division shall serve without additional compensation. Other members of the Board shall each receive the amount provided by G.S. 138-5 for each day he attends a session of the Board and for each day necessarily spent in traveling to and from his place of residence, and he shall receive five cents (5¢) a mile for the distance to and from Raleigh by the usual direct route for each meeting of the Board which he attends. These expenses shall be paid from the Gasoline and Oil Inspection Fund created by this Article. The duly appointed and acting Gasoline and Oil Inspection Board shall have the power, in its discretion, after public notice and provision for the hearing of all interested parties, to adopt standards for kerosene and one or more grades of gasoline based upon scientific tests and ratings for each of the articles for which inspection is provided; to require the labeling of dispensing pumps or other dispensing devices, and to prescribe the forms therefor; to require that the label, name, or brand under which gasoline is thereafter to be sold be applied at the time of its first purchase within the State and to pass all rules and regulations necessary for enforcing the provisions of the laws relating to the transportation and inspection of petroleum products; provided, however, that the action of said Gasoline and Oil Inspection Board shall be subject to the approval of the Governor of the State; and provided further, that if the Gasoline and Oil Inspection Board should promulgate any regulation which requires that gasoline be labeled, named or branded at the time of its first sale in the State, that such regulation shall

provide in addition that any subsequent owner may rename, rebrand, or relabel such gasoline if such subsequent owner first files with the Board a notice of intention to do so, said notice to contain information showing the original brand, name, label, the company or person from whom the gasoline has been or is to be purchased, the minimum specifications registered by the seller, the brand, name, or label that is to be given such gasoline and the minimum specifications of such gasoline as filed with the Board; provided, further, that no labeling, naming or branding of gasoline which may be required by the Gasoline and Oil Inspection Board under the provisions of this Article, shall be construed as permitting gasoline to become the subject of fair trade contracts, as provided in G.S. 66-52. After the adoption and publication of said standards it shall be unlawful to sell or offer for sale or exchange or use in this State any products which do not comply with the standards so adopted. The said Gasoline and Oil Inspection Board shall, from time to time after a public hearing, have the right to amend, alter, or change said standards. Three members of said Board shall constitute a quorum. (1937, c. 425, s. 9; 1941, c. 220; 1949, c. 1167; 1961, c. 961; 1969, c. 445, s. 2.)

**§ 119-26.1. Content of motor fuels and reformulated gasoline.**

(a) Rules adopted pursuant to G.S. 143-215.107(a)(9) to regulate the content of motor fuels or to require the use of reformulated gasoline shall be implemented by the Department of Agriculture and Consumer Services and the Gasoline and Oil Inspection Board. Such rules shall be implemented within any area specified by the Environmental Management Commission when the Commission certifies to the Commissioner of Agriculture that implementation:

- (1) Will improve the ambient air quality within the specified county or counties;
- (2) Is necessary to achieve attainment or preclude violations of the National Ambient Air Quality Standards; or
- (3) Is otherwise necessary to meet federal requirements.

(b) The Department of Agriculture and Consumer Services and the Gasoline and Oil Inspection Board may adopt rules to implement this section. Rules shall be consistent with the implementation schedule and rules adopted by the Environmental Management Commission.

(c) The Commissioner of Agriculture may assess and collect civil penalties for violations of rules adopted under G.S. 143-215.107(a)(9) or this section in accordance with G.S. 143-215.114A. The Commissioner of Agriculture may institute a civil action for injunctive relief to restrain, abate, or prevent a violation or threatened violation of rules adopted under G.S. 143-215.107(a)(9) or this section in accordance with G.S. 143-215.114C. The assessment of a civil penalty under this section and G.S. 143-215.114A or institution of a civil action under G.S. 143-215.114C and this section shall not relieve any person from any other penalty or remedy authorized under this Article.

(c1) The clear proceeds of civil penalties assessed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(d) The Commissioner of Agriculture may delegate his powers and duties under this subsection to the Director of the Standards Division of the Department of Agriculture and Consumer Services. (1991 (Reg. Sess., 1992), c. 889, s. 4; 1997-261, s. 83; 1998-215, s. 23(a); 1999-328, s. 2.3.)

**§ 119-26.2:** Repealed by Session Laws 2013-265, s. 16, effective July 17, 2013.

**§ 119-26.3. MTBE in motor fuels prohibited.**

(a) Definitions. – As used in this section:

(1) "Motor fuel" has the same meaning as in G.S. 105-449.60.

(2) "MTBE" means the fuel additive methyl tertiary butyl ether.

(b) Prohibition; De Minimis Exception. – No person shall knowingly add MTBE to any motor fuel manufactured, distributed, stored, sold, or offered for sale in this State. No person shall manufacture, distribute, store, sell, or offer for sale motor fuel that contains a concentration of MTBE of more than one-half of one percent (0.5%) by volume in this State. The presence of MTBE in a motor fuel caused solely by incidental commingling of the motor fuel with other motor fuel that contains MTBE during transfer or storage of the motor fuel does not constitute a violation of this section.

(c) Transportation Through State Not Prohibited. – This section shall not be construed to prohibit the transport of motor fuel containing MTBE through this State.

(d) Rules. – The Gasoline and Oil Inspection Board shall adopt rules to implement this section. (2005-93, s. 1.)

**§ 119-27. Display of grade rating on pumps, etc.; sales from pumps or devices not labeled; sale of gasoline not meeting standard indicated on label.**

In the event that the Gasoline and Oil Inspection Board shall adopt standards for grades of gasoline, at all times there shall be firmly attached to or painted on each dispensing pump or other dispensing device used in the retailing of gasoline a label stating that the gasoline contained therein is North Carolina \_\_\_\_\_ grade. Any person, firm, partnership, or corporation who shall offer or expose for sale gasoline from any dispensing pump or other dispensing device which has not been labeled as required by this section, and/or offer and expose for sale any gasoline which does not meet the required standard for the grade indicated on the label attached to the dispensing pump or other dispensing device, shall be guilty of a Class 2 misdemeanor, and the gasoline offered or exposed for sale shall be confiscated.

The gasoline and oil inspectors shall have the authority to immediately seize and seal, to prevent further sales, any dispensing pump or other dispensing device from which gasoline is offered or exposed for sale in violation of or without complying with the provisions of this Article. Provided, however, that this section shall not be construed to permit the destruction of any gasoline which may be blended or rerefined or offered for sale as complying with the legal specifications of a lower grade except under order of the court in which an indictment is brought for violation of the provisions of this Article. Provided, further, that gasoline that has been confiscated and sealed by the gasoline and oil inspectors for violation of the provisions of this Article shall not be offered or exposed for sale until the Director of the Gasoline and Oil Inspection Division has been fully satisfied that the gasoline offered or exposed for sale has been blended or rerefined or properly labeled to meet the requirements of this Article and the owners of said gasoline have been notified in writing of this fact by said Director and, provided, further, that the permitting of blending, rerefining or properly labeling of confiscated gasoline shall not be construed to in any manner affect any indictment which may be brought for violation of this section. (1937, c. 425, s. 11; 1939, c. 276, s. 1; 1941, c. 220; 1993, c. 539, s. 905; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 119-27.1. Self-service gasoline pumps; display of owner's or operator's name, address and telephone number.**

(a) Every owner of, or other person in control of, a self-service gas pump or station whose equipment permits purchase and physical transfer of gasoline or oil products by insertion of money



into some device or machine without the necessity of personal service by the owner or his agent shall clearly affix a sticker to each pump showing his name, address, and telephone number.

(b) The North Carolina Department of Agriculture and Consumer Services shall have the responsibility for the enforcement of this section. (1973, c. 1324, s. 1; 1997-261, s. 84.)

**§ 119-27.2. Labels for dispensing pumps and devices offering ethanol-blended gasoline for retail sale.**

(a) The Gasoline and Oil Inspection Board shall adopt rules to require labels for all dispensing pumps and other dispensing devices that offer ethanol-blended gasoline for retail sale in North Carolina. The Board shall require the use of labels to indicate that the gasoline offered for retail sale contains either of the following:

- (1) Ten percent (10%) or less ethanol by volume.
- (2) Greater than ten percent (10%) ethanol by volume.

(b) Rules adopted pursuant to subsection (a) of this section may include information as to the ethanol content of blended gasoline that is more specific than the information required by subsection (a) of this section. (2011-25, s. 1.)

**§ 119-28. Regulations for sale of substitutes.**

All materials, fluids, or substances offered or exposed for sale, purporting to be substitutes for or motor fuel improvers, shall, before being sold, exposed or offered for sale, be submitted to the Commissioner of Agriculture for examination and inspection, and shall only be sold or offered for sale when properly labeled with a label, the form and contents of which label has been approved by the said Commissioner of Agriculture in writing. (1937, c. 425, s. 12; 1949, c. 1167.)

**§ 119-29. Rules and regulations of Board available to interested parties.**

It shall be the duty of the Commissioner of Agriculture to make available for all interested parties the rules and regulations adopted by the Gasoline and Oil Inspection Board for the purpose of carrying into effect the laws relating to the inspection and transportation of petroleum products. (1937, c. 425, s. 13; 1949, c. 1167.)

**§ 119-30. Establishment of laboratory for analysis of inspected products.**

The Commissioner of Agriculture is authorized to provide for the analysis of samples of inspected articles by establishing a laboratory under the Gasoline and Oil Inspection Division for the analysis of inspected products. (1937, c. 425, s. 14; 1949, c. 1167.)

**§ 119-31. Payment for samples taken for inspection.**

The gasoline and oil inspectors shall pay at the regular market price, at the time the sample is taken, for each sample obtained for inspection purposes when request for payment is made: Provided, however, that no payment shall be made any retailer or distributor unless said retailer or distributor or his agent shall sign a receipt furnished by the Commissioner of Agriculture showing that payment has been made as requested. (1937, c. 425, s. 15; 1949, c. 1167.)

**§ 119-32. Powers and authority of inspectors.**

The gasoline and oil inspectors shall have the right of access to the premises and records of any place where petroleum products are stored for the purpose of examination, inspection and/or drawing of samples, and said inspectors are hereby vested with the authority and powers of peace

and police officers in the enforcement of motor fuel tax and inspection laws throughout the State, including the authority to arrest, with or without warrants, and take offenders before the several courts of the State for prosecution or other proceedings, and seize or hold or deliver to the sheriff of the proper county all motor or other vehicles and all containers used in transporting motor fuels and/or other liquid petroleum products in violation of or without complying with the provisions of this Article or the rules, regulations or requirements of the Commissioner of Agriculture and/or the Gasoline and Oil Inspection Board and also all motor fuels contained therein. Said inspectors shall have power and authority on the public highways or any other place to stop and detain for inspection and investigation any vehicle containing any motor fuel and/or other liquid petroleum products in excess of 100 gallons or commonly used in the transportation of such fuels and the driver or person in charge thereof, and to require the production by such driver or person in charge of all records, documents and papers required by law to be carried and exhibited by persons in charge of vehicles engaged in transporting such fuels; and whenever said inspectors shall find or see any person engaged in handling, selling, using, or transporting any fuels in violation of any of the provisions of the motor fuel tax or inspection laws of this State, or whenever any such person shall fail or refuse to exhibit to said inspectors, upon demand therefor, any records, documents or papers required by law to be kept subject to inspection or to be exhibited by such person, said person shall be guilty of a Class 1 misdemeanor, and it shall be the duty of said inspectors to immediately arrest such violator and take him before some proper peace officer of the county in which the offense was committed and institute proper prosecution. (1937, c. 425, s. 16; 1949, c. 1167; 1993, c. 539, s. 906; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 119-33. Investigation and inspection of measuring equipment; devices calculated to falsify measures.**

(a) The gasoline and oil inspectors shall be required to investigate and inspect the equipment for measuring gasoline, kerosene, lubricating oil, and other liquid petroleum products. The inspectors shall be under the supervision of the Commissioner of Agriculture, and are hereby vested with the same power and authority now given by law to inspectors of weights and measures, in order to effectuate the provisions of this Article. The rules, regulations, specifications and tolerance limits as promulgated by the National Conference on Weights and Measures, and recommended by the National Institute of Standards and Technology, shall be observed by said inspectors insofar as they apply to the inspection of equipment used in measuring gasoline, kerosene, lubricating oil and other petroleum products. Inspectors of weights and measures appointed and maintained by the various counties and cities of the State shall have the same power and authority given by this section to inspectors under the supervision of the Commissioner of Agriculture. In all cases where it is found, after inspection, that the measuring equipment used in connection with the distribution of such products is inaccurate, the inspector shall condemn and seize all incorrect devices which in his best judgment cannot be satisfactorily repaired, but measuring equipment, that in the judgment of the inspector may be repaired, shall be marked or tagged as "condemned for repairs" in a manner prescribed by the Commissioner of Agriculture. After notice in writing the owners or users of such measuring devices which have been condemned for repairs shall have the devices repaired and corrected within 10 days by a registered petroleum device technician, and neither the owners nor the users of the devices shall use or dispose of the measuring devices in any manner, but shall hold the devices at the disposal of the gasoline and oil inspector. The inspector shall confiscate and destroy all measuring devices which have been condemned for repairs and have not been repaired as required by this Article. The gasoline and oil

inspectors shall officially seal all dispensing pumps or other dispensing devices found to be accurate on inspection. The finding, upon inspection at a later date, that any pump is inaccurate and the seal broken, shall constitute prima facie evidence of intent to defraud by giving inaccurate measure, and (i) the owner, (ii) the user, or (iii) both of them shall be guilty of a Class 2 misdemeanor. Any person other than a registered petroleum device technician who removes or breaks any seal placed upon a measuring or dispensing device by any oil and gas inspector until the provisions of this section have been complied with shall be guilty of a Class 2 misdemeanor. Any person, firm, or corporation who sells or has in his possession for the purpose of selling or using any measuring device to be used or calculated to be used to falsify any measure shall be guilty of a Class 1 misdemeanor.

(b) The Gasoline and Oil Inspection Board may adopt rules to provide for the registration of petroleum device technicians. The rules may establish qualifications for registration and may also establish grounds for the suspension or revocation of registration. The annual fee for registration of a petroleum device technician shall be twenty dollars (\$20.00). (1937, c. 425, s. 17; 1949, c. 1167; 1993, c. 539, s. 907; 1994, Ex. Sess., c. 24, s. 14(c); 2013-344, s. 1.)

#### **§ 119-34. Responsibility of retailers for quality of products.**

The retail dealer shall be held responsible for the quality of the petroleum products he sells or offers for sale: Provided, however, that the retail dealer shall be released if the results of analysis of a sealed sample taken in a manner prescribed by the Commissioner of Agriculture at the time of delivery, and in the presence of the distributor or his agent, show that the product delivered by the distributor was of inferior quality. It shall be the duty of the distributor or his agent to assist in sampling the product delivered. (1937, c. 425, s. 18; 1949, c. 1167.)

#### **§ 119-35. Adulteration of products offered for sale.**

It shall be unlawful for any person, firm, or corporation who has purchased gasoline or other liquid motor fuel upon which a road tax has been paid to in anywise adulterate the same by the addition thereto of kerosene or any other liquid substance and sell or offer for sale the same. Any person violating the provisions of this section shall be guilty of a Class 1 misdemeanor. (1937, c. 425, s. 19; 1993, c. 539, s. 908; 1994, Ex. Sess., c. 24, s. 14(c).)

#### **§ 119-36. Certified copies of official tests admissible in evidence.**

A certified copy of the official test of the analysis of any petroleum product, under the seal of the Commissioner of Agriculture, shall be admissible as evidence of the fact therein stated in any of the courts of this State on the trial of any issue involving the qualities of said product. (1937, c. 425, s. 20; 1949, c. 1167.)

#### **§ 119-37. Retail dealers required to keep copies of invoices and delivery tickets.**

Every person, firm, or corporation engaged in the retail business of dispensing gasoline and/or other petroleum products to the public shall keep on the premises of said place of business, for a period of one year, duplicate original copies of invoices or delivery tickets of each delivery received, showing the name and address of the party to whom delivery is made, the date of delivery, the kind and amount of each delivery received, and the name and address of the distributor. Each delivery ticket or invoice shall be signed by the retailer or his agent and the distributor or his agent. Such records shall be subject to inspection at any time by the gasoline and oil inspectors. (1937, c. 425, s. 21.)

**§ 119-38. Prosecution of offenders.**

All prosecutions for fines and penalties under the provisions of this Article shall be by indictment in a court of competent jurisdiction in the county in which the violation occurred. (1937, c. 425, s. 22.)

**§ 119-39. Violation a misdemeanor.**

Unless another penalty is provided in this Article, any person violating any of the provisions of this Article or any of the rules and regulations of the Secretary of Revenue or the Commissioner of Agriculture and/or the Gasoline and Oil Inspection Board shall be guilty of a Class 1 misdemeanor. (1937, c. 425, s. 23; 1949, c. 1167; 1973, c. 476, s. 193; 1993, c. 539, s. 909; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 119-39.1. Civil Penalties.**

The Commissioner of Agriculture may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation.

The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s. 4; 1998-215, s. 24.)

**§§ 119-40 through 119-41: Repealed by Session Laws 1995 (Regular Session, 1996), c. 647, s. 56.**

**§ 119-42. Persons engaged in transporting required to have in possession an invoice, bill of sale or bill of lading.**

Every person hauling, transporting or conveying into, out of, or between points in this State any motor fuel and/or any liquid petroleum product that is or may hereafter be made subject to the inspection laws of this State over either the public highways or waterways of this State, shall, during the entire time he is so engaged, have in his possession an invoice, or bill of sale, or bill of lading showing the true name and address of the person from whom he has received the motor fuel and/or other liquid petroleum products, the kind, and the number of gallons so originally received by him, and the true name and address of every person to whom he has made deliveries of said motor fuel and/or other liquid petroleum products or any part thereof and the number of gallons so delivered to each said person. Such person engaged in transporting said motor fuels and/or other petroleum products shall, at the request of any agent of the Commissioner of Agriculture, exhibit for inspection such papers or documents immediately, and if said person fails to produce said papers or documents or if, when produced, they fail to clearly disclose said information, the agent of the Commissioner of Agriculture shall hold for investigation the vehicle and contents thereof. If investigation shows that said motor fuels and/or other petroleum products are being transported in violation of or without compliance with the motor fuel tax and/or inspection laws of this State such fuels and/or other petroleum products and the vehicle used in the transportation thereof are hereby declared common nuisances and contraband, and shall be seized and sold and the proceeds shall go to the common school fund of the State: Provided, however, that this Article shall not be construed to include the carrying of motor fuel in the supply tank of vehicles which is regularly connected with the carburetor of the engine of the vehicle, except when said fuel supply tank shall have a capacity of more than 100 gallons: And, provided further, that this section shall not be construed to

include the carrying of motor fuel in the supply tank which is regularly connected with the carburetor of the engine of any vehicle operated by franchise carriers engaged solely in the transportation of passengers to, from and between points in North Carolina. (1937, c. 425, s. 25; 1939, c. 276, s. 3; 1949, c. 1167.)

**§119-43. Display required on containers used in making deliveries.**

Every person delivering at wholesale or retail any gasoline in this State shall deliver the same to the purchaser only in tanks, barrels, casks, cans, or other containers having the word "Gasoline" or the name of such other like products of petroleum, as the case may be, in English, plainly stenciled or labeled in colors to meet the requirements of the regulations adopted by the Commissioner of Agriculture and/or the Gasoline and Oil Inspection Board. Such dealers shall not deliver kerosene oil in any barrel, cask, can, or other container which has not been stenciled or labeled as hereinbefore provided. Every person purchasing gasoline for use or sale shall procure and keep the same only in tanks, barrels, casks, cans, or other containers stenciled or labeled as hereinbefore provided: Provided, that nothing in this section shall prohibit the delivery of gasoline by hose or pipe from a tank directly into the tank of any automobile or any other motor vehicle: Provided further, that in case gasoline or other inflammable liquid is sold in bottles, cans, or packages of not more than one gallon for cleaning and other similar purposes, the label shall also bear the words "Unsafe when exposed to heat or fire." (1937, c. 425, s. 26; 1939, c. 276, s. 4; 1949, c. 1167.)

**§ 119-44: Repealed by Session Laws 1995 (Regular Session, 1996), c. 647, s. 56.**

**§ 119-45. Certain laws adopted as part of Article.**

General Statutes 119-1 through 119-5 and G.S. 119-7 through 119-13 are hereby made a part of this Article. (1937, c. 425, s. 28.)

**§ 119-46. Charges for analysis of samples.**

The Secretary of Revenue is hereby authorized to fix and collect such charges as he may deem adequate and reasonable for any analysis made by the Gasoline and Oil Inspection Division of any sample submitted by any person, firm, association or corporation other than samples submitted by the gasoline and oil inspectors in the performance of the duties required of said inspectors under this Article: Provided, however, that no charge shall be made for the analysis of any sample submitted by any municipal, county, State or federal official when the results of such analyses are necessary for the performance of his official duties. All moneys collected for such analyses shall be paid into the State treasury to the credit of the Gasoline and Oil Inspection Fund. (1937, c. 425, s. 29; 1973, c. 476, s. 193.)

**§ 119-47. Inspection of fuels used by State.**

The Gasoline and Oil Inspection Division is hereby authorized, upon request of the proper State authority, to inspect, analyze, and report the result of such analysis of all fuels purchased by the State of North Carolina for the use of all departments and institutions. (1937, c. 153.)