

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 1679
Corrected Copy 5/31/04

Short Title: Reduce Gasoline and Diesel Tax. (Public)

Sponsors: Representatives Allred, Pate, Gorman, Eddins (Primary Sponsors); Adams, Creech, Culp, Ellis, Frye, Goodwin, Lewis, McGee, McHenry, Moore, Munford, Parmon, Sauls, Steen, Wainwright, Walend, Walker, and Womble.

Referred to: Finance.

May 26, 2004

A BILL TO BE ENTITLED

1 AN ACT TO REDUCE GASOLINE AND DIESEL TAXES BY ELIMINATING THE
2 VARIABLE WHOLESALE COMPONENT OF THE MOTOR FUELS TAX.
3

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S 105-449.80 reads as rewritten:

6 "**§ 105-449.80. Tax rate.**

7 (a) **Rate.**—The motor fuel excise tax rate is a flat rate of seventeen and one-half
8 cents (17 1/2¢) a gallon. ~~gallon plus a variable wholesale component. The variable~~
9 ~~wholesale component is either three and one half cents (3 1/2¢) a gallon or seven~~
10 ~~percent (7%) of the average wholesale price of motor fuel for the applicable base~~
11 ~~period, whichever is greater.~~

12 ~~The two base periods are six month periods; one ends on September 30 and one ends~~
13 ~~on March 31. The Secretary must set the tax rate twice a year based on the wholesale~~
14 ~~price for each base period. A tax rate set by the Secretary using information for the base~~
15 ~~period that ends on September 30 applies to the six month period that begins the~~
16 ~~following January 1. A tax rate set by the Secretary using information for the base~~
17 ~~period that ends on March 31 applies to the six month period that begins the following~~
18 ~~July 1.~~

19 (b) **Wholesale Price.**—~~The Secretary must determine the average wholesale price~~
20 ~~of motor fuel for each base period. To do this, the Secretary must use information on~~
21 ~~refiner and gas plant operator sales prices of finished motor gasoline and No. 2 diesel~~
22 ~~fuel for resale, published by the United States Department of Energy in the "Monthly~~
23 ~~Energy Review", or equivalent data.~~

24 ~~The Secretary must compute the average sales price of finished motor gasoline for~~
25 ~~the base period, compute the average sales price for No. 2 diesel fuel for the base~~
26 ~~period, and then compute a weighted average of the results of the first two computations~~

1 based on the proportion of tax collected on each under this Article for the base period.
2 The Secretary must then convert the weighted average price to a cents per gallon rate
3 and round the rate to the nearest one-tenth of a cent (1/10¢). If the converted cents per
4 gallon rate is exactly between two-tenths of a cent (2/10¢) the Secretary must round the
5 rate up to the higher of the two.

6 (e) Notification.—The Secretary must notify affected taxpayers of the tax rate to
7 be in effect for each six-month period beginning January 1 and July 1."

8 **SECTION 2.** G.S. 105-449.106 reads as rewritten:

9 **"§ 105-449.106. Quarterly refunds for certain local governmental entities,**
10 **nonprofit organizations, taxicabs, and special mobile equipment.**

11 (a) Nonprofits. – A nonprofit organization listed below that purchases and uses
12 motor fuel may receive a quarterly refund, for the excise tax paid during the preceding
13 quarter, at a rate equal to the amount of the flat cents per gallon rate plus the variable
14 cents per gallon rate in effect during the quarter for which the refund is claimed, the
15 motor fuels tax rate less one cent (1¢) per gallon.

16 An application for a refund allowed under this subsection must be made in
17 accordance with this Part and must be signed by the chief executive officer of the
18 organization. The chief executive officer of a nonprofit organization is the president of
19 the organization or another officer of the organization designated in the charter or
20 bylaws of the organization.

21 Any of the following entities may receive a refund under this subsection:

- 22 (1) Repealed by Session Laws 2002-108, s. 13, effective January 1, 2003.
- 23 (2) A private, nonprofit organization that transports passengers under
24 contract with or at the express designation of a unit of local
25 government.
- 26 (3) A volunteer fire department.
- 27 (4) A volunteer rescue squad.
- 28 (5) A sheltered workshop recognized by the Department of Health and
29 Human Services.

30 (b) Taxi. – A person who purchases and uses motor fuel in a taxicab, as defined
31 in G.S. 20-87(1), while the taxicab is engaged in transporting passengers for hire, or in a
32 bus operated as part of a city transit system that is exempt from regulation by the North
33 Carolina Utilities Commission under G.S. 62-260(a)(8), may receive a quarterly refund,
34 for the excise tax paid during the preceding quarter, at a rate equal to the flat
35 cents per gallon rate plus the variable cents per gallon rate in effect during the quarter
36 for which the refund is claimed, the motor fuels tax rate less one cent (1¢) per gallon. An
37 application for a refund must be made in accordance with this Part.

38 (c) Special Mobile Equipment. – A person who purchases and uses motor fuel to
39 operate special mobile equipment off-highway may receive a quarterly refund, for the
40 excise tax paid during the preceding quarter, at a rate equal to the flat cents per gallon
41 rate plus the variable cents per gallon rate in effect during the quarter for which the
42 refund is claimed, motor fuels tax rate less the amount of sales and use tax due on the
43 fuel under this Chapter, as determined in accordance with G.S. 105-449.107(c). An
44 application for a refund must be made in accordance with this Part."

1 **SECTION 3.** G.S. 105-449.107 reads as rewritten:

2 "**§ 105-449.107. Annual refunds for off-highway use and use by certain vehicles**
3 **with power attachments.**

4 (a) Off-Highway. – A person who purchases and uses motor fuel for a purpose
5 other than to operate a licensed highway vehicle may receive an annual refund for the
6 excise tax the person paid on fuel used during the preceding calendar year. The amount
7 of refund allowed is the amount of the ~~flat cents per gallon rate in effect during the year~~
8 ~~for which the refund is claimed plus the average of the two variable cents per gallon~~
9 ~~rates in effect during that year,~~ motor fuels tax paid less the amount of sales and use tax
10 due on the fuel under this Chapter. An application for a refund allowed under this
11 section must be made in accordance with this Part.

12 (b) Certain Vehicles. – A person who purchases and uses motor fuel in one of the
13 vehicles listed below may receive an annual refund for the amount of fuel consumed by
14 the vehicle:

- 15 (1) A concrete mixing vehicle.
- 16 (2) A solid waste compacting vehicle.
- 17 (3) A bulk feed vehicle that delivers feed to poultry or livestock and uses a
18 power takeoff to unload the feed.
- 19 (4) A vehicle that delivers lime or fertilizer in bulk to farms and uses a
20 power takeoff to unload the lime or fertilizer.
- 21 (5) A tank wagon that delivers alternative fuel, as defined in
22 G.S. 105-449.130, or motor fuel or another type of liquid fuel into
23 storage tanks and uses a power takeoff to make the delivery.
- 24 (6) A commercial vehicle that delivers and spreads mulch, soils,
25 composts, sand, sawdust, and similar materials and that uses a power
26 takeoff to unload, blow, and spread the materials.

27 The amount of refund allowed is thirty-three and one-third percent (33 1/3%) of the
28 following: the ~~sum of the flat cents per gallon rate in effect during the year for which~~
29 ~~the refund is claimed and the average of the two variable cents per gallon rates in effect~~
30 ~~during that year,~~ amount of motor fuels tax paid less the amount of sales and use tax due
31 on the fuel under this Chapter. An application for a refund allowed under this section
32 must be made in accordance with this Part. This refund is allowed for the amount of fuel
33 consumed by the vehicle in its mixing, compacting, or unloading operations, as
34 distinguished from propelling the vehicle, which amount is considered to be one-third of
35 the amount of fuel consumed by the vehicle.

36 **(b1) Sales Price.** – The Secretary must determine the average wholesale price of
37 motor fuel for the year. To do this, the Secretary must use information on refiner and
38 gas plant operator sales prices of finished motor gasoline and No. 2 diesel fuel for
39 resale, published by the United States Department of Energy in the "Monthly Energy
40 Review", or equivalent data.

41 The Secretary must compute the average sales price of finished motor gasoline for
42 the year, compute the average sales price for No. 2 diesel fuel for the year, and then
43 compute a weighted average of the results of the first two computations based on the
44 proportion of tax collected on each under this Article for the year.

1 (c) Sales Tax Amount. – Article 5 of this Chapter determines the amount of sales
2 and use tax to be deducted under this section from a motor fuel excise tax refund. The
3 sales price ~~and the cost price~~ of motor fuel to be used in determining the amount to
4 deduct is the ~~average of the wholesale prices used~~ price computed under
5 G.S. 105-449.80 to determine the excise tax rates in effect subsection (b1) of this section
6 for the ~~two six-month periods of the year~~ for which the refund is claimed."
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SECTION 4. This act becomes effective July 1, 2004.