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**Chapter 119.**  
**Gasoline and Oil Inspection and Regulation.**  
Article 1.  
Lubricating Oils.

**§ 119-1. Unlawful substitution.**

It shall be unlawful for any person, firm or corporation to fill any order for lubricating oil, designated by a trademark or distinctive trade name for an automobile or other internal combustion engine with a spurious or substitute oil unless and until it is explained to the person giving the order that the oil offered is not the oil that he has ordered, and the purchaser shall thereupon elect to take the substitute article that is being offered to him. (1927, c. 174, s. 1.)

**§ 119-2. Brand or trade name of lubricating oil to be displayed.**

It shall be unlawful for any person, firm or corporation to sell, offer for sale or delivery, or to cause or permit to be sold, offered for sale or delivery, any oil represented as lubricating oil for internal combustion engines unless there shall be firmly attached to or painted at or near the point or outlet from which said oil represented as lubricating oil for internal combustion engines is drawn or poured out for sale or delivery, a sign or label consisting of the word or words in at all times legible letters not less than one-half inch in height comprising the brand or trade name of said lubricating oil: Provided, that if any of said lubricating oil shall have no brand or trade name, the above required sign or label shall consist of the words in letters not less than three inches high, "Lubricating Oil No Brand." (1927, c. 174, s. 2.)

**§ 119-3. Misrepresentation of brands for sale.**

It shall be unlawful for any person, firm or corporation to display, at the place of sale, any sign, label or other designating mark which describes any lubricating oil for internal combustion engines not actually sold or offered for sale or delivered at the location at which the sign, label or other designating mark is displayed, or to display any label upon any container which label names or describes any lubricating oil for internal combustion engines not actually contained therein, but offered for sale or sold as such: Provided, this section shall not prevent the advertising of such products when no lubricating oil is offered for sale at such place of advertisement. (1927, c. 174, s. 3.)

**§ 119-4. Misdemeanor.**

Any person, firm or corporation violating any of the provisions of this Article shall for each offense be deemed guilty of a Class 2 misdemeanor. (1927, c. 174, s. 4; 1993, c. 539, s. 899; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 119-5. Person violating or allowing employee to violate Article to forfeit \$100.00.**

Any person violating this Article, or any person, firm or corporation whose servant, agent or other employee violates this Article in the course of his employment shall forfeit to the manufacturer whose oil was ordered, or to the proprietor of the trademark or trade name by which the oil order was designated by the purchaser, as the case may be, one hundred dollars (\$100.00) for each such offense, to be recovered by suit by the person, firm or corporation claiming the penalty against the person, firm or corporation from whom the penalty is claimed. (1927, c. 174, s. 5.)

**§ 119-6. Inspection duties devolve upon Commissioner of Agriculture.**

The duties of inspection required by G.S. 119-1 through 119-5 shall be performed by the Commissioner of Agriculture. (1933, c. 214, s. 9; 1949, c. 1167.)

Article 2.

Liquid Fuels, Lubricating Oils, Greases, etc.

1  
2 **§ 119-7. Sale of automobile fuels and lubricants by deception as to quality, etc.,**  
3 **prohibited.**

4 It shall be unlawful for any person, firm, copartnership, partnership or corporation to store,  
5 sell, offer or expose for sale any liquid fuels, lubricating oils, greases or other similar products  
6 in any manner whatsoever which may deceive, tend to deceive or have the effect of deceiving  
7 the purchaser of said products, as to the nature, quality or quantity of the products so sold,  
8 exposed or offered for sale. (1933, c. 108, s. 1.)  
9

10 **§ 119-8. Sale of fuels, etc., different from advertised name prohibited.**

11 No person, firm, partnership, copartnership, or corporation shall keep, expose or offer for  
12 sale, or sell any liquid fuels, lubricating oils, greases or other similar products from any  
13 container, tank, pump or other distributing device other than those manufactured or distributed  
14 by the manufacturer or distributor indicated by the name, trademark, symbol, sign or other  
15 distinguishing mark or device appearing upon said tank, container, pump or other distributing  
16 device in which said products were sold, offered for sale or distributed. (1933, c. 108, s. 2.)  
17

18 **§ 119-9. Imitation of standard equipment prohibited.**

19 It shall be unlawful for any person, firm or corporation to disguise or camouflage his or  
20 their own equipment, by imitating the design, symbol, or trade name of the equipment under  
21 which recognized brands of liquid fuels, lubricating oils and similar products are generally  
22 marketed. (1933, c. 108, s. 3.)  
23

24 **§ 119-10. Juggling trade names, etc., prohibited.**

25 It shall be unlawful for any person, firm or corporation to expose or offer for sale or sell  
26 under any trademark, trade name or name or other distinguishing mark any liquid fuels,  
27 lubricating oils, greases or other similar products other than those manufactured or distributed  
28 by the manufacturer or distributor marketing such products under such trade name, trademark  
29 or name or other distinguishing mark. (1933, c. 108, s. 4.)  
30

31 **§ 119-11. Mixing different brands for sale under standard trade name prohibited.**

32 It shall be unlawful for any person or persons, firm or firms, corporation or corporations or  
33 any of their servants, agents or employees, to mix, blend or compound the liquid fuels,  
34 lubricating oils, greases or similar products of the manufacturer or distributor with the products  
35 of any other manufacturer or distributor, or adulterate the same, and expose or offer for sale or  
36 sell such mixed, blended or compounded products under the trade name, trademark or name or  
37 other distinguishing mark of either of said manufacturers or distributors, or as the adulterated  
38 products of such manufacturer or distributor: Provided, however, that nothing herein shall  
39 prevent the lawful owner thereof from applying its own trademark, trade name or symbol to  
40 any product or material. (1933, c. 108, s. 5.)  
41

42 **§ 119-12. Aiding and assisting in violation of Article prohibited.**

43 It shall be unlawful, and upon conviction punishable as will hereinafter be stated, for any  
44 person or persons, firm or firms, partnership or copartnership, corporation or corporations or  
45 any of their agents or employees, to aid or assist any other person in violating any of the  
46 provisions of this Article by depositing or delivering into any tank, pump, receptacle or other  
47 container any liquid fuels, lubricating oils, greases or other like products other than those  
48 intended to be stored, therein, as indicated by the name of the manufacturer or distributor, or  
49 the trademark, the trade name, name or other distinguishing mark of the product displayed in  
50 the container itself, or on the pump or other distributing device used in connection therewith, or

1 shall by any other means aid or assist another in the violation of any of the provisions of this  
2 Article. (1933, c. 108, s. 6.)

3  
4 **§ 119-13. Violation made misdemeanor.**

5 Every person, firm or firms, partnership or copartnership, corporation or corporations, or  
6 any of their agents, servants or employees, violating any of the provisions of this Article shall  
7 be guilty of a Class 1 misdemeanor. (1933, c. 108, s. 7; 1993, c. 539, s. 900; 1994, Ex. Sess., c.  
8 24, s. 14(c).)

9  
10 Article 2A.

11 Regulation of Rerefined or Reprocessed Oil.

12 **§ 119-13.1. Definitions.**

13 As used in this Article:

- 14 (1) "Lubricating oil" means any oil classified for the use in an internal  
15 combustion engine, hydraulic system, gear box, differential, or wheel  
16 bearings.
- 17 (1a) "Recycled oil" means any oil prepared from used oil for energy recovery or  
18 reuse as a petroleum product by reclaiming, reprocessing, rerefining, or  
19 other means that use properly treated used oil as a substitute for petroleum  
20 products.
- 21 (1b) "Rerefined oil" means used oil that is refined to remove the physical and  
22 chemical contaminants acquired through use and that, by itself or when  
23 blended with new lubricating oil or additives, meets applicable American  
24 Petroleum Institute (A.P.I.) service classifications.
- 25 (2) "Specifications" means the minimum chemical properties or analysis as  
26 determined by the American Society for Testing Materials (A.S.T.M.) test  
27 methods using current ASTM analytical procedures.
- 28 (3) "Used oil" means any oil that has been refined from crude or synthetic oil  
29 and, as a result of use, storage, or handling becomes unsuitable for its  
30 original purpose due to the loss of its original properties or the presence of  
31 impurities, but that may be rerefined for further use. (1953, c. 1137; 1979, c.  
32 158, s. 1; 1995, c. 516, s. 1.)

33  
34 **§ 119-13.2. Labels required on sealed containers; oil to meet minimum specifications.**

35 (a) It shall be unlawful to offer for sale or sell or deliver in this State previously used oil  
36 that has not been rerefined or recycled oil that has not been rerefined, as defined in G.S.  
37 119-13.1, in a sealed container unless this container be labeled or bear a label on which shall be  
38 expressed the brand or trade name of the oil and the words "made from previously used  
39 lubricating oil"; the name and address of the person, firm, or corporation that has rerefined or  
40 reprocessed said oil or placed it in the container; the Society of Automotive Engineers (S.A.E.)  
41 viscosity grade; the net contents of the container expressed in U.S. liquid measure of quarts,  
42 gallons, or pints; which label has been registered and approved by the Gasoline and Oil  
43 Inspection Division of the Department of Agriculture and Consumer Services; and that the oil  
44 in each container shall meet the minimum specifications. The Gasoline and Oil Inspection  
45 Board shall adopt minimum quality specifications, the measurement of which shall be  
46 accomplished using current A.S.T.M. analytical procedures.

47 (b) A person may represent a product made in whole or in part from rerefined oil to be  
48 substantially equivalent to a product made from virgin oil for a particular end use if the product  
49 conforms with the applicable American Petroleum Institute (A.P.I.) service classifications.  
50 (1953, c. 1137; 1979, c. 158, s. 2; 1995, c. 516, s. 2; 1997-261, s. 109.)

1 **§ 119-13.3. Violation a misdemeanor.**

2 Any person, firm, or corporation violating any of the provisions of this Article shall for  
3 each offense be guilty of a Class 1 misdemeanor. For a second or subsequent offense, the  
4 person shall also be enjoined from selling or distributing previously used oil for not less than  
5 one year nor more than five years. (1953, c. 1137; 1993, c. 539, s. 901; 1994, Ex. Sess., c. 24, s.  
6 14(c); 1995, c. 516, s. 3.)  
7

8 Article 3.

9 Gasoline and Oil Inspection.

10 **§ 119-14. Title of Article.**

11 This Article shall be known as the Gasoline and Oil Inspection Act. (1937, c. 425, s. 1.)  
12

13 **§ 119-15. Definitions that apply to Article.**

14 The following definitions apply in this Article:

- 15 (1) Alternative fuel. – Defined in G.S. 105-449.130.  
16 (2) Aviation gasoline. – Defined in G.S. 105-449.60.  
17 (3) Dyed diesel fuel. – Defined in G.S. 105-449.60.  
18 (4) Dyed diesel fuel distributor. – A person who acquires dyed diesel fuel from  
19 either of the following:  
20 a. A person who is not required to be licensed under Part 2 of Article  
21 36C of Chapter 105 of the General Statutes and who maintains  
22 storage facilities for dyed diesel fuel to be used for nonhighway  
23 purposes.  
24 b. Another dyed diesel fuel distributor.  
25 (5) Gasoline. – Defined in G.S. 105-449.60.  
26 (6) Jet fuel. – Defined in G.S. 105-449.60.  
27 (7) Kerosene. – Defined in G.S. 105-449.60.  
28 (8) Kerosene distributor. – A person who acquires kerosene from any of the  
29 following for subsequent sale:  
30 a. A supplier licensed under Part 2 of Article 36C of Chapter 105 of the  
31 General Statutes.  
32 b. A kerosene supplier.  
33 c. Another kerosene distributor.  
34 (9) Kerosene supplier. – Either of the following:  
35 a. A person who supplies both kerosene and motor fuel and,  
36 consequently, is required to be licensed under Part 2 of Article 36C  
37 of Chapter 105 of the General Statutes.  
38 b. A person who is not required to be licensed as a supplier under Part 2  
39 of Article 36C of Chapter 105 of the General Statutes and who  
40 maintains storage facilities for kerosene to be used to fuel an  
41 airplane.  
42 (10) Motor fuel. – Defined in G.S. 105-449.60.  
43 (11) Person. – Defined in G.S. 105-229.90.  
44 (12) Terminal. – Defined in G.S. 105-449.60.  
45 (13) Terminal operator. – Defined in G.S. 105-449.60. (1937, c. 425, s. 2; 1995,  
46 c. 390, s. 19; 1995 (Reg. Sess., 1996), c. 647, s. 53; 1997-6, s. 17; 2003-349,  
47 s. 10.12; 2005-435, s. 19; 2008-134, s. 59.)  
48

49 **§ 119-15.1. List of persons who must have a license.**

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

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

8 (b) Exception. – A kerosene supplier license is not required if the supplier is licensed as  
9 a supplier under Part 2 of Article 36C of Chapter 105 of the General Statutes. A kerosene  
10 distributor is required to have a kerosene distributor license only if the distributor imports  
11 kerosene. Other kerosene distributors may elect to have a kerosene license. A kerosene terminal  
12 operator license is not required if the terminal operator is licensed as a terminal operator under  
13 Part 2 of Article 36C of Chapter 105 of the General Statutes. (2003-349, s. 10.14; 2004-170, s.  
14 33; 2004-203, s. 82; 2005-435, s. 20.)  
15

#### 16 **§ 119-15.2. How to apply for a license.**

17 To obtain a license, an applicant must file an application with the Secretary of Revenue on  
18 a form provided by the Secretary. An application must include the applicant's name, address,  
19 federal employer identification number, and any other information required by the Secretary.  
20 An applicant must meet the requirements for obtaining a license set out in G.S. 105-449.69(b)  
21 and (c). (2003-349, s. 10.14.)  
22

#### 23 **§ 119-15.3. Bond or letter of credit required as a condition of obtaining and keeping** 24 **certain licenses.**

25 (a) Initial Bond. – An applicant for a license as a kerosene supplier, kerosene  
26 distributor, or kerosene terminal operator must file with the Secretary of Revenue a bond or an  
27 irrevocable letter of credit. A bond or irrevocable letter of credit must be conditioned upon  
28 compliance with the requirements of this Article, be payable to the State, and be in the form  
29 required by the Secretary. The amount of the bond or irrevocable letter of credit may not be less  
30 than five hundred dollars (\$500.00) and may not be more than twenty thousand dollars  
31 (\$20,000).

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

39 (c) Class 1. – A person who fails to comply with this section is guilty of a Class 1  
40 misdemeanor. (2003-349, s. 10.14; 2004-203, s. 82; 2005-435, s. 21.)  
41

#### 42 **§§ 119-16 through 119-16.1: Repealed by Session Laws 1995, c. 390, ss. 20 and 21.**

43  
44 **§ 119-16.2:** Repealed by Session Laws 2003-349, s. 10.13, effective January 1, 2004.  
45

#### 46 **§ 119-16.3. Certain kerosene sales prohibited.**

47 It shall be a Class 1 misdemeanor for any distributor to sell kerosene dispensed from a  
48 pump located on the same island where there are pumps dispensing gasoline or gasohol. An  
49 island is a group of two or more dispensing pumps within 15 feet of each other. This section  
50 shall apply only to pumps installed after October 1, 1985. (1985, c. 314; 1993, c. 539, s. 903;  
51 1994, Ex. Sess., c. 24, s. 14(c).)

1  
2 § 119-17: Repealed by Session Laws 2007-527, s. 20, effective August 31, 2007.  
3

4 **§ 119-18. Inspection tax and distribution of the tax proceeds.**

5 (a) Tax. – An inspection tax of one fourth of one cent (1/4 of 1¢) per gallon is levied  
6 upon all of the fuel listed in this subsection regardless of whether the fuel is exempt from the  
7 per-gallon excise tax imposed by Article 36C or 36D of Chapter 105 of the General Statutes.  
8 The inspection tax on motor fuel is due and payable to the Secretary of Revenue on the date the  
9 per gallon excise tax on motor fuel is due and payable under Article 36C of Chapter 105 of the  
10 General Statutes. The inspection tax on alternative fuel is due and payable to the Secretary of  
11 Revenue on the date the excise tax on alternative fuel is due and payable under Article 36D of  
12 Chapter 105 of the General Statutes. The inspection tax on kerosene is payable monthly to the  
13 Secretary by a supplier that is licensed under Part 2 of Article 36C of Chapter 105 of the  
14 General Statutes and by a kerosene supplier. A monthly report is due on the date a monthly  
15 return is due under G.S. 105-449.90 and applies to kerosene sold during the preceding month  
16 by a supplier licensed under that Part and to kerosene received during the preceding month by a  
17 kerosene supplier. A kerosene terminal operator must file a return in accordance with the  
18 provisions of G.S. 105-449.90. The inspection tax on jet fuel and aviation gasoline is payable  
19 as specified by the Secretary of Revenue.

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

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

31 (b) Proceeds. – The proceeds of the inspection tax levied by this section shall be applied  
32 first to the costs of administering this Article and Subchapter V of Chapter 105 of the General  
33 Statutes. The remainder of the proceeds shall be credited on a monthly basis to the Highway  
34 Fund to be used for system preservation under the Department of Transportation in the highway  
35 maintenance program.

36 (c) No Local Tax. – No county, city, or town shall impose any inspection charge, tax, or  
37 fee, in the nature of the charge prescribed by this section, upon kerosene and motor fuel.  
38 (1917, c. 166, s. 4; C.S., s. 4856; 1933, c. 544, s. 5; 1937, c. 425, s. 5; 1967, c. 1110, s. 12;  
39 1973, c. 476, s. 193; 1985, c. 602, s. 2; 1991, c. 636, s. 12; 1991 (Reg. Sess., 1992), c. 913, s.  
40 12; 1993, c. 402, s. 8; 1995, c. 390, s. 23; 1995 (Reg. Sess., 1996), c. 647, s. 55; 2003-349, ss.  
41 10.15, 10.16; 2006-162, s. 15(e); 2008-134, s. 60; 2011-145, s. 28.25A(b).)  
42

43 **§ 119-19. Authority of Secretary to cancel a license.**

44 The Secretary of Revenue may cancel a license issued under this Article upon the written  
45 request of the license holder. The Secretary may summarily cancel a license issued under this  
46 Article or under Article 36C or 36D of Chapter 105 of the General Statutes when the Secretary  
47 finds that the license holder is incurring liability for the tax imposed by this Article after failing  
48 to pay a tax when due under this Article. The Secretary may cancel the license of a license  
49 holder who files a false report under this Article or fails to file a report required under this  
50 Article after holding a hearing on whether the license should be cancelled.

1 The Secretary must send a person whose license is summarily cancelled a notice of the  
2 cancellation and must give the person an opportunity to have a hearing on the cancellation  
3 within 10 days after the cancellation. The Secretary must give a person whose license may be  
4 cancelled after a hearing at least 10 days' written notice of the date, time, and place of the  
5 hearing. A notice of a summary license cancellation and a notice of hearing must be sent by  
6 registered mail to the last known address of the license holder.

7 When the Secretary cancels a license and the license holder has paid all taxes and penalties  
8 due under this Article, the Secretary must either return to the license holder the bond filed by  
9 the license holder or notify the person liable on the bond and the license holder that the person  
10 is released from liability on the bond. (1933, c. 544, s. 10; 1967, c. 1110, s. 12; 1973, c. 476, s.  
11 193; 1995, c. 390, s. 24; 2004-170, s. 34.)  
12

13 **§ 119-20. Repealed by Session Laws 1963, c. 1169, s. 6.**  
14

15 **§119-21. On failure to report, Secretary may determine tax.**

16 Whenever any person shall neglect or refuse to make and file any report as required by this  
17 Article, or shall file an incorrect or fraudulent report, the Secretary of Revenue shall determine  
18 after an investigation the number of gallons of kerosene oil and other motor fuel with respect to  
19 which the person has incurred liability under the tax laws of the State of North Carolina, and  
20 shall fix the amount of the taxes and penalties payable by the person under this Article  
21 accordingly. In any action or proceeding for the collection of the inspection tax for kerosene oil  
22 or motor fuel and/or any penalties or interest imposed in connection therewith, an assessment  
23 by the Secretary of Revenue of the amount of tax due, and/or interest and/or penalties due to  
24 the State, shall constitute prima facie evidence of the claim of the State; and the burden of proof  
25 shall be upon the person to show that the assessment was incorrect and contrary to law; and the  
26 Secretary of Revenue may institute action therefor in the Superior Court of Wake County,  
27 regardless of the residence of such person or the place where the default occurred. (1933, c.  
28 544, s. 12; 1973, c. 476, s. 193.)  
29

30 **§ 119-22: Repealed by Session Laws 1995, c. 390, s. 25.**  
31

32 **§ 119-23. Administration by Commissioner of Agriculture; collection of fees by**  
33 **Department of Revenue and payment into State treasury; disposition of**  
34 **moneys by State Treasurer.**

35 Gasoline and oil inspection fees or taxes shall be collected by, and reports relating thereto,  
36 shall be made to, the Department of Revenue. The administration of the gasoline and oil  
37 inspection law shall otherwise be administered by the Commissioner of Agriculture. Except as  
38 provided in G.S. 119-26.1(c) and G.S. 119-39.1, all moneys received under the authority of this  
39 Article shall be paid into the State treasury and the State Treasurer shall place to the credit of  
40 the "State Highway Fund" that proportion of said funds representing inspection fees collected  
41 on highway use motor fuels, as certified monthly to the State Treasurer by the Secretary of  
42 Revenue, and the remainder of said funds shall be credited to the general fund. (1937, c. 425, s.  
43 6; 1941, c. 36; 1949, c. 1167; 1963, c. 245; 1973, c. 476, s. 193; 1998-215, s. 23(b).)  
44

45 **§ 119-24: Repealed by Session Laws 1991, c. 10, s. 3.**  
46

47 **§ 119-25. Inspectors, clerks and assistants.**

48 The Secretary of Revenue and the Commissioner of Agriculture, respectively, shall appoint  
49 and employ such number of inspectors, clerks and assistants as may be necessary to administer  
50 and effectively enforce all the provisions of the gasoline and oil inspection law with the  
51 administration or enforcement of which each said Commissioner [or Secretary] is charged. All

1 inspectors shall be bonded in the sum of one thousand dollars (\$1,000) in the usual manner  
2 provided for the bonding of State employees, and the expense of such bonding shall be paid  
3 from the Gasoline and Oil Inspection Fund created by this Article. Each inspector, before  
4 entering upon his duties, shall take an oath of office before some person authorized to  
5 administer oaths. Any inspector who, while in office, shall be interested directly or indirectly  
6 in the manufacture or vending of any illuminating oils or gasoline or other motor fuels shall be  
7 guilty of a Class 1 misdemeanor. (1937, c. 425, s. 8; 1949, c. 1167; 1973, c. 476, s. 193; 1993,  
8 c. 539, s. 904; 1994, Ex. Sess., c. 24, s. 14(c).)

9  
10 **§ 119-26. Gasoline and Oil Inspection Board created; composition, appointment of**  
11 **members, etc.; expenses; powers generally; adoption of standards, etc.; sale of**  
12 **products not complying with standards; renaming, etc., of gasoline.**

13 In order to more fully carry out the provisions of this Article there is hereby created a  
14 Gasoline and Oil Inspection Board of five members, to be composed of the Commissioner of  
15 Agriculture, the Director of the Gasoline and Oil Inspection Division, and three members to be  
16 appointed by the Governor, who shall serve at his will. The Commissioner of Agriculture and  
17 the Director of the Gasoline and Oil Inspection Division shall serve without additional  
18 compensation. Other members of the Board shall each receive the amount provided by G.S.  
19 138-5 for each day he attends a session of the Board and for each day necessarily spent in  
20 traveling to and from his place of residence, and he shall receive five cents (5¢) a mile for the  
21 distance to and from Raleigh by the usual direct route for each meeting of the Board which he  
22 attends. These expenses shall be paid from the Gasoline and Oil Inspection Fund created by this  
23 Article. The duly appointed and acting Gasoline and Oil Inspection Board shall have the power,  
24 in its discretion, after public notice and provision for the hearing of all interested parties, to  
25 adopt standards for kerosene and one or more grades of gasoline based upon scientific tests and  
26 ratings for each of the articles for which inspection is provided; to require the labeling of  
27 dispensing pumps or other dispensing devices, and to prescribe the forms therefor; to require  
28 that the label, name, or brand under which gasoline is thereafter to be sold be applied at the  
29 time of its first purchase within the State and to pass all rules and regulations necessary for  
30 enforcing the provisions of the laws relating to the transportation and inspection of petroleum  
31 products; provided, however, that the action of said Gasoline and Oil Inspection Board shall be  
32 subject to the approval of the Governor of the State; and provided further, that if the Gasoline  
33 and Oil Inspection Board should promulgate any regulation which requires that gasoline be  
34 labeled, named or branded at the time of its first sale in the State, that such regulation shall  
35 provide in addition that any subsequent owner may rename, rebrand, or relabel such gasoline if  
36 such subsequent owner first files with the Board a notice of intention to do so, said notice to  
37 contain information showing the original brand, name, label, the company or person from  
38 whom the gasoline has been or is to be purchased, the minimum specifications registered by the  
39 seller, the brand, name, or label that is to be given such gasoline and the minimum  
40 specifications of such gasoline as filed with the Board; provided, further, that no labeling,  
41 naming or branding of gasoline which may be required by the Gasoline and Oil Inspection  
42 Board under the provisions of this Article, shall be construed as permitting gasoline to become  
43 the subject of fair trade contracts, as provided in G.S. 66-52. After the adoption and publication  
44 of said standards it shall be unlawful to sell or offer for sale or exchange or use in this State any  
45 products which do not comply with the standards so adopted. The said Gasoline and Oil  
46 Inspection Board shall, from time to time after a public hearing, have the right to amend, alter,  
47 or change said standards. Three members of said Board shall constitute a quorum. (1937, c.  
48 425, s. 9; 1941, c. 220; 1949, c. 1167; 1961, c. 961; 1969, c. 445, s. 2.)

49  
50 **§ 119-26.1. Content of motor fuels and reformulated gasoline.**

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

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

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

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

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

24 (d) The Commissioner of Agriculture may delegate his powers and duties under this  
25 subsection to the Director of the Standards Division of the Department of Agriculture and  
26 Consumer Services. (1991 (Reg. Sess., 1992), c. 889, s. 4; 1997-261, s. 83; 1998-215, s. 23(a);  
27 1999-328, s. 2.3.)

### 28 29 **§ 119-26.2. Sulfur content standards.**

30 (a) No person shall manufacture, sell, or offer for sale gasoline that contains a  
31 concentration of sulfur greater than 30 parts per million except that a person may manufacture,  
32 sell, or offer for sale gasoline that contains a concentration of sulfur of not more than 80 parts  
33 per million if the average concentration of sulfur in the gasoline manufactured, sold, or offered  
34 for sale by that person is 30 parts per million or less. The average concentration of sulfur  
35 contained in gasoline shall be determined on the basis of a one-year period established by rule.

36 (a1) Gasoline that meets the requirements of Tier 2 Motor Vehicle Emissions Standards  
37 and Gasoline Sulfur Control Requirements as set out in 65 Federal Register No. 28 (10  
38 February 2000) pages 6698 through 6870, as codified in 40 Code of Federal Regulations Parts  
39 80, 85, and 96 (1 July 2001 Edition), shall be deemed to comply with the requirements of this  
40 section.

41 (b) The Gasoline and Oil Inspection Board shall adopt rules to implement this section.  
42 (1999-328, s. 2.1; 2002-75, s. 2; 2005-196, s. 1)

### 43 44 **§ 119-26.3. MTBE in motor fuels prohibited.**

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

- 46 (1) "Motor fuel" has the same meaning as in G.S. 105-449.60.  
47 (2) "MTBE" means the fuel additive methyl tertiary butyl ether.

48 (b) Prohibition; De Minimis Exception. – No person shall knowingly add MTBE to any  
49 motor fuel manufactured, distributed, stored, sold, or offered for sale in this State. No person  
50 shall manufacture, distribute, store, sell, or offer for sale motor fuel that contains a  
51 concentration of MTBE of more than one-half of one percent (0.5%) by volume in this State.

1 The presence of MTBE in a motor fuel caused solely by incidental commingling of the motor  
2 fuel with other motor fuel that contains MTBE during transfer or storage of the motor fuel does  
3 not constitute a violation of this section.

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

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

8  
9 **§ 119-27. Display of grade rating on pumps, etc.; sales from pumps or devices not**  
10 **labeled; sale of gasoline not meeting standard indicated on label.**

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

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

36  
37 **§ 119-27.1. Self-service gasoline pumps; display of owner's or operator's name, address**  
38 **and telephone number.**

39 (a) Every owner of, or other person in control of, a self-service gas pump or station  
40 whose equipment permits purchase and physical transfer of gasoline or oil products by  
41 insertion of money into some device or machine without the necessity of personal service by  
42 the owner or his agent shall clearly affix a sticker to each pump showing his name, address, and  
43 telephone number.

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

46  
47 **§ 119-27.2. Labels for dispensing pumps and devices offering ethanol-blended gasoline**  
48 **for retail sale.**

49 (a) The Gasoline and Oil Inspection Board shall adopt rules to require labels for all  
50 dispensing pumps and other dispensing devices that offer ethanol-blended gasoline for retail

1 sale in North Carolina. The Board shall require the use of labels to indicate that the gasoline  
2 offered for retail sale contains either of the following:

3 (1) Ten percent (10%) or less ethanol by volume.

4 (2) Greater than ten percent (10%) ethanol by volume.

5 (b) Rules adopted pursuant to subsection (a) of this section may include information as  
6 to the ethanol content of blended gasoline that is more specific than the information required by  
7 subsection (a) of this section. (2011-25, s. 1.)  
8

9 **§ 119-28. Regulations for sale of substitutes.**

10 All materials, fluids, or substances offered or exposed for sale, purporting to be substitutes  
11 for or motor fuel improvers, shall, before being sold, exposed or offered for sale, be submitted  
12 to the Commissioner of Agriculture for examination and inspection, and shall only be sold or  
13 offered for sale when properly labeled with a label, the form and contents of which label has  
14 been approved by the said Commissioner of Agriculture in writing. (1937, c. 425, s. 12; 1949,  
15 c. 1167.)  
16

17 **§ 119-29. Rules and regulations of Board available to interested parties.**

18 It shall be the duty of the Commissioner of Agriculture to make available for all interested  
19 parties the rules and regulations adopted by the Gasoline and Oil Inspection Board for the  
20 purpose of carrying into effect the laws relating to the inspection and transportation of  
21 petroleum products. (1937, c. 425, s. 13; 1949, c. 1167.)  
22

23 **§ 119-30. Establishment of laboratory for analysis of inspected products.**

24 The Commissioner of Agriculture is authorized to provide for the analysis of samples of  
25 inspected articles by establishing a laboratory under the Gasoline and Oil Inspection Division  
26 for the analysis of inspected products. (1937, c. 425, s. 14; 1949, c. 1167.)  
27

28 **§ 119-31. Payment for samples taken for inspection.**

29 The gasoline and oil inspectors shall pay at the regular market price, at the time the sample  
30 is taken, for each sample obtained for inspection purposes when request for payment is made:  
31 Provided, however, that no payment shall be made any retailer or distributor unless said retailer  
32 or distributor or his agent shall sign a receipt furnished by the Commissioner of Agriculture  
33 showing that payment has been made as requested. (1937, c. 425, s. 15; 1949, c. 1167.)  
34

35 **§ 119-32. Powers and authority of inspectors.**

36 The gasoline and oil inspectors shall have the right of access to the premises and records of  
37 any place where petroleum products are stored for the purpose of examination, inspection  
38 and/or drawing of samples, and said inspectors are hereby vested with the authority and powers  
39 of peace and police officers in the enforcement of motor fuel tax and inspection laws  
40 throughout the State, including the authority to arrest, with or without warrants, and take  
41 offenders before the several courts of the State for prosecution or other proceedings, and seize  
42 or hold or deliver to the sheriff of the proper county all motor or other vehicles and all  
43 containers used in transporting motor fuels and/or other liquid petroleum products in violation  
44 of or without complying with the provisions of this Article or the rules, regulations or  
45 requirements of the Commissioner of Agriculture and/or the Gasoline and Oil Inspection Board  
46 and also all motor fuels contained therein. Said inspectors shall have power and authority on  
47 the public highways or any other place to stop and detain for inspection and investigation any  
48 vehicle containing any motor fuel and/or other liquid petroleum products in excess of 100  
49 gallons or commonly used in the transportation of such fuels and the driver or person in charge  
50 thereof, and to require the production by such driver or person in charge of all records,  
51 documents and papers required by law to be carried and exhibited by persons in charge of

1 vehicles engaged in transporting such fuels; and whenever said inspectors shall find or see any  
2 person engaged in handling, selling, using, or transporting any fuels in violation of any of the  
3 provisions of the motor fuel tax or inspection laws of this State, or whenever any such person  
4 shall fail or refuse to exhibit to said inspectors, upon demand therefor, any records, documents  
5 or papers required by law to be kept subject to inspection or to be exhibited by such person,  
6 said person shall be guilty of a Class 1 misdemeanor, and it shall be the duty of said inspectors  
7 to immediately arrest such violator and take him before some proper peace officer of the county  
8 in which the offense was committed and institute proper prosecution. (1937, c. 425, s. 16; 1949,  
9 c. 1167; 1993, c. 539, s. 906; 1994, Ex. Sess., c. 24, s. 14(c).)

10  
11 **§ 119-33. Investigation and inspection of measuring equipment; devices calculated to**  
12 **falsify measures.**

13 The gasoline and oil inspectors shall be required to investigate and inspect the equipment  
14 for measuring gasoline, kerosene, lubricating oil, and other liquid petroleum products. Said  
15 inspectors shall be under the supervision of the Commissioner of Agriculture, and are hereby  
16 vested with the same power and authority now given by law to inspectors of weights and  
17 measures, insofar as the same may be necessary to effectuate the provisions of this Article. The  
18 rules, regulations, specifications and tolerance limits as promulgated by the National  
19 Conference of Weights and Measures, and recommended by the United States Bureau of  
20 Standards, shall be observed by said inspectors insofar as they apply to the inspection of  
21 equipment used in measuring gasoline, kerosene, lubricating oil and other petroleum products.  
22 Inspectors of weights and measures appointed and maintained by the various counties and cities  
23 of the State shall have the same power and authority given by this section to inspectors under  
24 the supervision of the Commissioner of Agriculture. In all cases where it is found, after  
25 inspection, that the measuring equipment used in connection with the distribution of such  
26 products is inaccurate, the inspector shall condemn and seize all incorrect devices which in his  
27 best judgment are not susceptible of satisfactory repair, but such as are incorrect, and in his best  
28 judgment may be repaired, he shall mark or tag as "condemned for repairs" in a manner  
29 prescribed by the Commissioner of Agriculture. After notice in writing the owners or users of  
30 such measuring devices which have been condemned for repairs shall have the same repaired  
31 and corrected within 10 days, and the owners and/or users thereof shall neither use nor dispose  
32 of said measuring devices in any manner, but shall hold the same at the disposal of the gasoline  
33 and oil inspector. The inspector shall confiscate and destroy all measuring devices which have  
34 been condemned for repairs and have not been repaired as required by this Article. The  
35 gasoline and oil inspectors shall officially seal all dispensing pumps or other dispensing devices  
36 found to be accurate on inspection, and if, upon inspection at a later date, any pump is found to  
37 be inaccurate and the seal broken, the same shall constitute prima facie evidence of intent to  
38 defraud by giving inaccurate measure, and the owner and/or user thereof shall be guilty of a  
39 Class 2 misdemeanor. Any person who shall remove or break any seal placed upon said  
40 measuring and/or dispensing devices by said inspectors until the provisions of this section have  
41 been complied with shall be guilty of a Class 2 misdemeanor. Any person, firm, or corporation  
42 who shall sell or have in his possession for the purpose of selling or using any measuring  
43 device to be used or calculated to be used to falsify any measure shall be guilty of a Class 1  
44 misdemeanor. (1937, c. 425, s. 17; 1949, c. 1167; 1993, c. 539, s. 907; 1994, Ex. Sess., c. 24, s.  
45 14(c).)

46  
47 **§ 119-34. Responsibility of retailers for quality of products.**

48 The retail dealer shall be held responsible for the quality of the petroleum products he sells  
49 or offers for sale: Provided, however, that the retail dealer shall be released if the results of  
50 analysis of a sealed sample taken in a manner prescribed by the Commissioner of Agriculture at  
51 the time of delivery, and in the presence of the distributor or his agent, show that the product

1 delivered by the distributor was of inferior quality. It shall be the duty of the distributor or his  
2 agent to assist in sampling the product delivered. (1937, c. 425, s. 18; 1949, c. 1167.)

3  
4 **§ 119-35. Adulteration of products offered for sale.**

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

10  
11 **§ 119-36. Certified copies of official tests admissible in evidence.**

12 A certified copy of the official test of the analysis of any petroleum product, under the seal  
13 of the Commissioner of Agriculture, shall be admissible as evidence of the fact therein stated in  
14 any of the courts of this State on the trial of any issue involving the qualities of said product.  
15 (1937, c. 425, s. 20; 1949, c. 1167.)

16  
17 **§ 119-37. Retail dealers required to keep copies of invoices and delivery tickets.**

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

26  
27 **§ 119-38. Prosecution of offenders.**

28 All prosecutions for fines and penalties under the provisions of this Article shall be by  
29 indictment in a court of competent jurisdiction in the county in which the violation occurred.  
30 (1937, c. 425, s. 22.)

31  
32 **§ 119-39. Violation a misdemeanor.**

33 Unless another penalty is provided in this Article, any person violating any of the  
34 provisions of this Article or any of the rules and regulations of the Secretary of Revenue or the  
35 Commissioner of Agriculture and/or the Gasoline and Oil Inspection Board shall be guilty of a  
36 Class 1 misdemeanor. (1937, c. 425, s. 23; 1949, c. 1167; 1973, c. 476, s. 193; 1993, c. 539, s.  
37 909; 1994, Ex. Sess., c. 24, s. 14(c).)

38  
39 **§ 119-39.1. Civil Penalties.**

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

44 The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to  
45 the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s. 4;  
46 1998-215, s. 24.)

47  
48 **§§ 119-40 through 119-41: Repealed by Session Laws 1995 (Regular Session, 1996), c.**  
49 **647, s. 56.**

1 **§ 119-42. Persons engaged in transporting required to have in possession an invoice, bill**  
2 **of sale or bill of lading.**

3 Every person hauling, transporting or conveying into, out of, or between points in this State  
4 any motor fuel and/or any liquid petroleum product that is or may hereafter be made subject to  
5 the inspection laws of this State over either the public highways or waterways of this State,  
6 shall, during the entire time he is so engaged, have in his possession an invoice, or bill of sale,  
7 or bill of lading showing the true name and address of the person from whom he has received  
8 the motor fuel and/or other liquid petroleum products, the kind, and the number of gallons so  
9 originally received by him, and the true name and address of every person to whom he has  
10 made deliveries of said motor fuel and/or other liquid petroleum products or any part thereof  
11 and the number of gallons so delivered to each said person. Such person engaged in  
12 transporting said motor fuels and/or other petroleum products shall, at the request of any agent  
13 of the Commissioner of Agriculture, exhibit for inspection such papers or documents  
14 immediately, and if said person fails to produce said papers or documents or if, when produced,  
15 they fail to clearly disclose said information, the agent of the Commissioner of Agriculture  
16 shall hold for investigation the vehicle and contents thereof. If investigation shows that said  
17 motor fuels and/or other petroleum products are being transported in violation of or without  
18 compliance with the motor fuel tax and/or inspection laws of this State such fuels and/or other  
19 petroleum products and the vehicle used in the transportation thereof are hereby declared  
20 common nuisances and contraband, and shall be seized and sold and the proceeds shall go to  
21 the common school fund of the State: Provided, however, that this Article shall not be  
22 construed to include the carrying of motor fuel in the supply tank of vehicles which is regularly  
23 connected with the carburetor of the engine of the vehicle, except when said fuel supply tank  
24 shall have a capacity of more than 100 gallons: And, provided further, that this section shall not  
25 be construed to include the carrying of motor fuel in the supply tank which is regularly  
26 connected with the carburetor of the engine of any vehicle operated by franchise carriers  
27 engaged solely in the transportation of passengers to, from and between points in North  
28 Carolina. (1937, c. 425, s. 25; 1939, c. 276, s. 3; 1949, c. 1167.)  
29

30 **§119-43. Display required on containers used in making deliveries.**

31 Every person delivering at wholesale or retail any gasoline in this State shall deliver the  
32 same to the purchaser only in tanks, barrels, casks, cans, or other containers having the word  
33 "Gasoline" or the name of such other like products of petroleum, as the case may be, in  
34 English, plainly stenciled or labeled in colors to meet the requirements of the regulations  
35 adopted by the Commissioner of Agriculture and/or the Gasoline and Oil Inspection Board.  
36 Such dealers shall not deliver kerosene oil in any barrel, cask, can, or other container which has  
37 not been stenciled or labeled as hereinbefore provided. Every person purchasing gasoline for  
38 use or sale shall procure and keep the same only in tanks, barrels, casks, cans, or other  
39 containers stenciled or labeled as hereinbefore provided: Provided, that nothing in this section  
40 shall prohibit the delivery of gasoline by hose or pipe from a tank directly into the tank of any  
41 automobile or any other motor vehicle: Provided further, that in case gasoline or other  
42 inflammable liquid is sold in bottles, cans, or packages of not more than one gallon for cleaning  
43 and other similar purposes, the label shall also bear the words "Unsafe when exposed to heat or  
44 fire." (1937, c. 425, s. 26; 1939, c. 276, s. 4; 1949, c. 1167.)  
45

46 **§ 119-44: Repealed by Session Laws 1995 (Regular Session, 1996), c. 647, s. 56.**

47  
48 **§ 119-45. Certain laws adopted as part of Article.**

49 General Statutes 119-1 through 119-5 and G.S. 119-7 through 119-13 are hereby made a  
50 part of this Article. (1937, c. 425, s. 28.)  
51

1 **§ 119-46. Charges for analysis of samples.**

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

11  
12 **§ 119-47. Inspection of fuels used by State.**

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

16  
17 Article 4.

18 Liquefied Petroleum Gases.

19 **§§ 119-48 through 119-53. Recodified as §§ 119-54 to 119-59.**

20  
21 Article 5.

22 Liquefied Petroleum Gases.

23 **§ 119-54. Purpose; definitions; scope of Article.**

24 (a) It is the purpose of this Article to provide for the adoption and promulgation of a code of  
25 safety, and such rules and regulations setting forth minimum general standards of safety for the  
26 design, construction, location, installation, and operation of the equipment used in handling,  
27 storing, measuring, transporting, distributing, and utilizing liquefied petroleum gases and to  
28 provide for the administration and enforcement of the code and such rules and regulations  
29 thereby adopted. Words used in this Article shall be defined as follows:

- 30 (1) "Board" means the North Carolina Board of Agriculture.  
31 (2) "Commissioner" means the Commissioner of Agriculture or his designated  
32 agent.  
33 (3) "Dealer" means any person, firm, or corporation who is engaged in or  
34 desires to engage in:  
35 a. The business of selling or otherwise dealing in liquefied petroleum  
36 gases which require handling, storing, measuring, transporting, or  
37 distributing liquefied petroleum gas; or  
38 b. The business of installing, servicing, repairing, adjusting, connecting,  
39 or disconnecting containers, equipment, or appliances which use  
40 liquefied gas. A person who engages in any of the aforementioned  
41 activities only in connection with his or his employer's use of  
42 liquefied petroleum gas and not as a business shall not be deemed to  
43 be a "dealer" for the purposes of this Article.  
44 (4) "Liquefied petroleum gas" means any material which is composed  
45 predominantly of any of the following hydrocarbons, or mixtures of the  
46 same: propane, propylene, butanes (normal butanes or isobutane), butylenes.

47 (b) This Article does not apply to the design, construction, location, installation, or  
48 operation of equipment or facilities covered by the Building Code pursuant to Article 9 of  
49 Chapter 143 of the General Statutes. (1955, c. 487; 1959, c. 796, s. 1; 1961, c. 1072; 1981, c.  
50 486, s. 1; 1989, c. 25, s. 1.)

1 **§ 119-55. Power of Board of Agriculture to set minimum standards; regulation by**  
2 **political subdivisions.**

3 The Board shall have the power and authority to set minimum standards and promulgate  
4 rules and regulations for the design, construction, location, installation, and operation of  
5 equipment and facilities used in handling, storing, measuring, transporting, distributing, and  
6 utilizing liquefied petroleum gas.

7 Any municipality or political subdivision may adopt and enforce a safety code dealing with  
8 the handling of liquefied petroleum gas which conforms with the regulations adopted by the  
9 Board, and the inspection service rendered by such municipality or political subdivision shall  
10 conform to the requirements of the inspection service rendered by the Board in the enforcement  
11 of this Article. (1955, c. 487; 1959, c. 796, s. 2; 1961, c. 1072; 1963, c. 671; 1967, c. 1231;  
12 1969, c. 1133; 1975, c. 610, s. 1; 1977, c. 410; 1981, c. 486, s. 1.)  
13

14 **§ 119-56. Registration of dealers; liability insurance or substitute required.**

15 A person shall not hold himself out or commence operation as a dealer without first having  
16 registered as provided in this section. A dealer shall register with the Commissioner on a form  
17 to be furnished by the Commissioner. Such form shall give the name and address of the dealer,  
18 the place or places of and type or types of business of such dealer, and such other pertinent  
19 information as the Commissioner may deem necessary. Verification of the insurance coverage  
20 required by this section or of proof of alternative means of financial responsibility permitted by  
21 this section shall be submitted to the Commissioner as a condition of the issuance of any  
22 registration or renewal of such registration.

23 There shall be two classes of dealers:

- 24 (1) A Class A dealer is one who engages in the transportation of liquefied  
25 petroleum gas.  
26 (2) A Class B dealer is one who does not engage in the transportation of  
27 liquefied petroleum gas.

28 A Class A dealer shall obtain and maintain general liability insurance, including product  
29 liability, of one million dollars (\$1,000,000) and motor vehicle liability insurance of one  
30 million dollars (\$1,000,000) combined single limit. A Class B dealer shall obtain and maintain  
31 general liability insurance, including product liability, of one hundred thousand dollars  
32 (\$100,000). Verification of said insurance coverage shall be made in a manner satisfactory to  
33 the Commissioner. The Commissioner may from time to time request in writing that a dealer  
34 provide within 10 days of such request verification of said insurance coverage or proof of  
35 alternative means of financial responsibility. In lieu of insurance, the dealer may file and  
36 maintain a bond, certificate of deposit or irrevocable letter of credit in a form satisfactory to the  
37 Commissioner which provides protection for the public in the same amounts and to the same  
38 extent as said insurance.

39 The provisions of this section shall not apply to a dealer who retails liquefied petroleum gas  
40 in containers of less than 50 pounds water capacity and which retailing does not involve the  
41 filling or transportation of such containers. (1955, c. 487; 1961, c. 1072; 1981, c. 486, s. 1;  
42 1987, c. 453; 2009-386, s. 1.)  
43

44 **§ 119-57. Administration of Article; rules and regulations given force and effect of law.**

45 It shall be the duty of the Commissioner to administer all the provisions of this Article and  
46 all the rules and regulations made and promulgated under this Article; to conduct inspections of  
47 liquefied petroleum gas containers and installations; to investigate for violations of this Article  
48 and the rules and regulations adopted pursuant to the provisions thereof, and to prosecute  
49 violations of this Article or of such rules and regulations adopted pursuant to the provisions  
50 thereof. (1955, c. 487; 1961, c. 1072; 1981, c. 486, s. 1; 2009-386, s. 2.)  
51

1 **§ 119-58. Unlawful acts.**

2 (a) It shall be an unlawful act for any person to:

- 3 (1) Sell any liquefied petroleum gas burning appliance designed or built for  
4 domestic use that has not been approved by the American Gas Association,  
5 Inc., the Underwriters Laboratory, Inc., or other laboratory approved by the  
6 Building Code Council.
- 7 (2) Repealed by Session Laws 1999-344, s. 1, effective July 22, 1999, and  
8 applicable to liquefied petroleum gas burning appliances installed on and  
9 after that date.
- 10 (3) Repealed by Session Laws 1999-344, s. 1, effective July 22, 1999, and  
11 applicable to liquefied petroleum gas burning appliances installed on and  
12 after that date.
- 13 (4) Fill a consumer tank or container in excess of 85 percent (85%) of its water  
14 capacity, or to fill a tank or container on the premises of a consumer that is  
15 not equipped with a fill tube or gauge; provided, the tank or container may  
16 be filled by weight if the tank or container is weighed before and after  
17 filling.
- 18 (5) Disconnect an appliance from a gas supply line without capping or plugging  
19 the line before leaving the premises.
- 20 (6) Turn on the gas after reestablishing an interrupted service without first  
21 having checked and closed all gas outlets.
- 22 (7) Violate any provisions of this Article or any rules adopted pursuant to this  
23 Article.

24 (b) Every supply tank or container with its regulating equipment connected in a service  
25 system, shall be identified while in service by the supplier with an attached tag, label, or other  
26 marking that includes the name of the person supplying liquefied petroleum gas to the system,  
27 and it shall be unlawful for any person, other than the supplier or the owner of the system, to  
28 disconnect, interrupt or fill the system with liquefied petroleum gas without the consent of the  
29 supplier. If another registered supplier is requested by the consumer to connect service and is  
30 given permission by the consumer to do so, the new supplier shall notify the former supplier  
31 before disconnecting the former service and connecting the new service and shall cap or plug  
32 all disconnected equipment outlets and leave the equipment in a condition consistent with this  
33 Article and the rules adopted pursuant to this Article. (1955, c. 487; 1959, c. 796, s. 3; 1961, c.  
34 1072; 1981, c. 486, s. 1; 1987, c. 282, s. 17; 1999-344, s. 1.)

35  
36 **§ 119-59. Sanctions for violations.**

37 (a) Criminal. – A dealer who violates a provision of this Article or a rule adopted under  
38 it is guilty of a Class 1 misdemeanor.

39 (b) Injunction. – The Commissioner or an agent of the Commissioner may apply to any  
40 superior court judge and the court may temporarily restrain or preliminarily or permanently  
41 enjoin any violation of this Article or a rule adopted under it.

42 (c) Civil Penalty. – The Commissioner may assess a civil penalty against any person  
43 who violates a provision of this Article or a rule adopted under it. The penalty may not exceed  
44 three hundred dollars (\$300.00) for the first violation, five hundred dollars (\$500.00) for a  
45 second violation, and one thousand dollars (\$1,000) for a third or subsequent violation. In  
46 determining the amount of a penalty, the Commissioner shall consider the degree and extent of  
47 harm or potential harm that has resulted or could have resulted from the violation. The clear  
48 proceeds of civil penalties assessed pursuant to this subsection shall be remitted to the Civil  
49 Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

50 (d) Registration. – The Commissioner may deny, suspend, or revoke the registration of  
51 a dealer who violates a provision of this Article or a rule adopted under it. (1955, c. 487; 1961,

1 c. 1072; 1981, c. 486, s. 1; 1993, c. 356, s. 2; c. 539, s. 911; 1994, Ex. Sess., c. 24, s. 14(c);  
2 1998-215, s. 25; 2009-386, s. 3.)

3  
4 **§ 119-60. Liquefied petroleum gas accidents; liability limitations.**

5 Any person who provides assistance upon request of any police agency, fire department,  
6 rescue or emergency squad, or any governmental agency in the event of an accident or other  
7 emergency involving the use, handling, transportation, transmission or storage of liquefied  
8 petroleum gas, when the reasonably apparent circumstances require prompt decisions and  
9 actions, shall not be liable for any civil damages resulting from any act of commission or  
10 omission on his part in the course of his rendering such assistance unless such acts or omissions  
11 amount to willful or wanton negligence or intentional wrongdoing. Nothing in this section shall  
12 be deemed or construed to relieve any person from liability for civil damages (a) where the  
13 accident or emergency referred to above involved his own facilities or equipment or (b)  
14 resulting from any act of commission or omission on his part in the course of providing care or  
15 assistance in the normal and ordinary course of conducting his own business or profession, nor  
16 shall this section be construed to relieve from liability for civil damages any other tortfeasor not  
17 referred to herein. When the assistance takes the form of rendering first aid or emergency  
18 health care treatment, questions of liability shall be governed by G.S. 90-21.14. (1981, c. 660.)  
19

20 **§ 119-61. Replacement data plates for liquefied petroleum gas tanks.**

21 A liquefied petroleum gas tank of 120 gallons or more that is subject to the American  
22 Society of Mechanical Engineers (ASME) Code must have a data plate indicating that it was  
23 built in accordance with that Code. The Commissioner may issue a data plate to replace a  
24 rusting or partially detached data plate on a liquefied petroleum gas tank. The Commissioner  
25 shall charge a person to whom a replacement data plate is issued a fee of twenty dollars  
26 (\$20.00) for the plate. Fees collected under this section shall be credited to the Department of  
27 Agriculture and Consumer Services and applied to the cost of issuing replacement data plates.  
28 (1993, c. 356, s. 1; 1997-261, s. 109; 2009-386, s. 4.)  
29

30 **§ 119-62. Liquefied petroleum gas dealers and their employees, agents, subcontractors;  
31 liability limitations.**

32 (a) A dealer shall not be liable for any civil damages resulting from any act or failure to  
33 act if the alleged injury, damage, or loss claimed in the action was caused by any one or more  
34 of the following:

- 35 (1) The installation, alteration, modification, or repair of liquefied petroleum gas  
36 equipment or a liquefied petroleum gas appliance by a person, other than the  
37 dealer, and the installation, alteration, modification, or repair was done  
38 without the knowledge and consent of the dealer.
- 39 (2) The use of liquefied petroleum gas equipment or a liquefied petroleum gas  
40 appliance by a person, other than the dealer, in a manner or for a purpose  
41 other than that for which the equipment or appliance was intended, and the  
42 use of the equipment or appliance in a manner or for a purpose other than  
43 that for which the equipment or appliance was intended took place without  
44 the knowledge and consent of the dealer.
- 45 (3) The installation of liquefied petroleum gas equipment or a liquefied  
46 petroleum gas appliance by a person, other than the dealer, in a manner not  
47 in accordance with the instructions of the manufacturer of the equipment or  
48 appliance or in a manner not in accordance with rules adopted under this  
49 Article, and the installation of the equipment or appliance in a manner not in  
50 accordance with the instructions of the manufacturer of the equipment or

