

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 1367\*

Short Title: Fuel Tax Bond Increase.

(Public)

Sponsors: Senators Winner, Guy, Kincaid, Rauch, Staton; and Simpson.

Referred to: Finance.

May 23, 1990

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE MAXIMUM BOND THAT MAY BE REQUIRED OF FUEL DISTRIBUTORS AND SUPPLIERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-433 reads as rewritten:

"§ 105-433. Application for license as distributor.

Any distributor engaged in business on April 1, 1931, shall, within 30 days thereafter, and any other distributor shall, prior to the commencement of doing business, file a duly acknowledged application for a license with the Secretary of Revenue on a form prescribed and furnished by him setting forth the name under which such distributor transacts or intends to transact business within this State, the address of each place of business and a designation of the principal place of business. If such distributor is a firm or association, the application shall set forth the name and address of each person constituting the firm or association, and if a corporation, the names and addresses of the principal officers and such other information as the Secretary of Revenue may require. Each distributor shall at the same time file a bond in such amount, ~~not exceeding forty thousand dollars (\$40,000)~~ in such ~~form~~ form, and with such surety or sureties as may be required by the Secretary of Revenue, conditioned upon the rendition of the reports and the payment of the tax hereinafter provided for. The amount of the bond required by the Secretary may not exceed two times the distributor's average monthly tax liability under this Article or, in the case of an initial bond, two times the distributor's estimated average monthly tax liability under this Article, as determined by the Secretary. A distributor who is also required to be bonded under G.S. 105-449.5 as a supplier of special fuels may file a single bond, under either this section or under G.S.

1 105-449.5, for the combined amount required under these sections ~~but not exceeding~~  
2 ~~eighty thousand dollars (\$80,000)~~ and conditioned upon compliance with the requirements  
3 of Article 36 and Article 36A of this Subchapter. A distributor required to file a bond  
4 under this section shall, within 30 days after receiving a notice from the Secretary of  
5 Revenue, file an additional bond in the amount requested by the Secretary. The amount  
6 of the initial bond and any additional bonds filed by the distributor, however, may not  
7 exceed the limits set in this section. Upon approval of the application and bond, the  
8 Secretary of Revenue shall issue to the distributor a nonassignable license with a  
9 duplicate copy for each place of business of said distributor in this State, which shall be  
10 displayed in a conspicuous place at each such place of business and shall continue in  
11 force until surrendered or canceled. No distributor shall sell, offer for sale, or use any  
12 motor fuels within this State until such license has been issued. Any distributor failing  
13 to comply with or violating any of the provisions of this section shall be guilty of a  
14 misdemeanor and upon conviction thereof shall be fined not less than one hundred  
15 dollars (\$100.00), nor more than five thousand dollars (\$5,000), or imprisonment for not  
16 more than 24 months, or both."

17 Sec. 2. G.S. 105-449.5 reads as rewritten:

18 **"§ 105-449.5. Supplier to file bond.**

19 A supplier's license shall not be issued until the applicant has filed with the Secretary  
20 a bond in the approximate sum of ~~three-two~~ times the average monthly tax due to be  
21 paid by ~~such supplier, the supplier, as determined by the Secretary,~~ but the amount of the  
22 bond shall in no case be less than five hundred dollars (\$500.00). ~~(\$500.00) nor more than~~  
23 ~~forty thousand dollars (\$40,000).~~ Such bond shall be in such form and with such surety or  
24 sureties as may be required by the Secretary, conditioned upon making proper reports  
25 and paying the tax provided for in this Article, and otherwise complying with the  
26 provisions of this Article. A supplier who is also required to be bonded under G.S. 105-  
27 433 as a distributor of motor fuels may file a single bond, under either this section or  
28 under G.S. 105-433 for the combined amount required under these sections, ~~sections but~~  
29 ~~not exceeding eighty thousand dollars (\$80,000),~~ and conditioned upon compliance with the  
30 requirements of Article 36 and Article 36A of this Subchapter. A supplier required to  
31 file a bond under this section shall, within 30 days after receiving a notice from the  
32 Secretary, file an additional bond in the amount requested by the Secretary. The amount  
33 of the initial bond and any additional bonds filed by the supplier, however, may not  
34 exceed the limits set in this section."

35 Sec. 3. This act shall become effective January 1, 1991.