

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 112
Second Edition Engrossed 3/19/91

Short Title: Diesel Annual Report/Conforming Changes.

(Public)

Sponsors: Senators Winner, Kincaid, and Staton.

Referred to: Transportation.

February 20, 1991

A BILL TO BE ENTITLED

AN ACT TO MAKE ANNUAL SPECIAL FUEL REPORTS DUE THE SAME TIME AS ANNUAL MOTOR CARRIER REPORTS AND TO MAKE CONFORMING CHANGES TO THE MOTOR CARRIER LAWS TO FACILITATE ANNUAL MOTOR CARRIER REPORTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-449.10 reads as rewritten:

"§ 105-449.10. ~~Records and reports required of user-user.~~ Reports and payment of tax by user.

(a) Report.— Each ~~user-seller or user~~ required to be licensed under this Article shall keep records and make reports to the Secretary in accordance with regulations adopted by the Secretary. The records and reports shall show all purchases, sales, deliveries, and use of fuel by the ~~user-seller or licensed~~ user. A licensed user ~~that is not authorized by this subsection to file an annual report shall file a quarterly report on or before the last day of the month immediately following the end of the quarter. A licensed user that uses fuel only in a motor vehicle operated in this State or that has been granted permission to file an annual report under G.S. 105-449.45 shall file an annual report for a calendar year by January 1 following the end of the year. A user-seller shall file a report as required by G.S. 105-449.21.~~ shall file a report on a quarterly basis unless the Secretary has given the licensed user permission to file a report on an annual basis. A quarterly report covers a calendar quarter and is due by the last day in April, July, October, and January.

The Secretary may authorize a licensed user to file an annual report if either of the following applies:

1 (1) The licensed user is not a motor carrier under Article 36B of this
2 Chapter.

3 (2) The licensed user is a motor carrier under Article 36B of this Chapter
4 but is not required to file a quarterly report under G.S. 105-449.45.

5 An annual report covers a fiscal year beginning on July 1 and ending on the following
6 June 30 and is due by July 31 after the end of a fiscal year. To file an annual report, a
7 licensed user must apply to the Secretary for permission to file on an annual basis. An
8 application must be submitted by the date set by the Secretary. Once granted
9 permission, a licensed user may continue to file an annual report until notified by the
10 Secretary to file a quarterly report.

11 (b) Payment.— A user who acquires nontaxpaid fuel is liable for ~~shall pay~~ the tax
12 levied by this Article on ~~any nontaxpaid fuel acquired by him.~~ the fuel. A licensed user
13 shall pay the tax due on nontaxpaid fuel acquired during a reporting period when filing
14 a report for that period. An unlicensed user who acquires nontaxpaid fuel shall report
15 the fuel and pay the tax due on the fuel in the same manner as a licensed user."

16 Sec. 2. G.S. 105-449.37(b) reads as rewritten:

17 "(b) Liability.— A motor carrier who operates on one or more days of a quarter
18 reporting period is liable for the tax imposed by this Article for that quarter ~~reporting~~
19 period and is entitled to the credits allowed for that quarter ~~reporting period.~~"

20 Sec. 3. G.S. 105-449.39 reads as rewritten:

21 **"§ 105-449.39. Credit for payment of motor fuel tax.**

22 Every motor carrier subject to the tax levied by this Article is entitled to a credit for
23 tax paid by the carrier on fuel purchased in the ~~State.~~ State. A motor carrier who files a
24 quarterly report is entitled to a credit at a rate equal to the flat cents-per-gallon rate plus
25 the variable cents-per-gallon rate of tax in effect during the quarter for which the credit
26 is claimed. A motor carrier who files an annual report is entitled to a credit at a rate
27 equal to the flat cents-per-gallon rate plus the average of the two variable cents-per-
28 gallon rates of tax in effect during the year for which the credit is claimed. To obtain
29 this a credit, the motor carrier must furnish evidence satisfactory to the Secretary that
30 the tax for which the credit is claimed has been paid.

31 If the amount of a credit to which a motor carrier is entitled for a ~~quarter~~ quarter
32 reporting period exceeds the motor carrier's liability for that quarter ~~reporting period,~~
33 the excess may, in accordance with rules adopted by the Secretary, be refunded to the motor carrier
34 or carried forward and applied to the motor carrier's tax liability for another quarter
35 reporting period. The Secretary may not allow a refund without auditing the motor
36 carrier's records unless the motor carrier:

37 (1) Has furnished a bond under G.S. 105-449.40; or

38 (2) Has complied with this Subchapter and the rules adopted under the
39 Subchapter for at least a one-year period preceding the date the
40 application for a refund is filed."

41 Sec. 4. G.S. 105-449.42 reads as rewritten:

42 **"§ 105-449.42. Payment of tax.**

43 ~~For the purposes of making payment of taxes pursuant to this Article and making~~
44 ~~reports pursuant to this Article, the year is divided into four quarters of three~~

1 ~~consecutive months each, and the first quarter shall consist of the months of January,~~
2 ~~February and March. The tax herein imposed shall be paid by each motor carrier to the~~
3 ~~Secretary on or before the last day of the month immediately following the quarter with~~
4 ~~respect to which tax liability hereunder accrues and~~ The tax levied by this Article is due
5 when a motor carrier files a quarterly or an annual report under G.S. 105-449.45. The
6 amount of tax due shall be calculated upon the amount of gasoline or other motor fuel
7 used by the motor carrier in its operations within this State by each such carrier during
8 the quarter ending with the last day of the preceding month. reporting period covered
9 by the report."

10 Sec. 5. G.S. 105-449.45(b) reads as rewritten:

11 "(b) Annual Report. – The Secretary may authorize a motor carrier whose
12 estimated annual tax liability under this Article does not exceed two hundred dollars
13 (\$200.00) to file an annual report of its operations. The tax liability of a motor carrier
14 that files an annual report shall be computed at a rate equal to the flat cents-per-gallon
15 rate plus the average of the two cents-per-gallon rates in effect during the year for which
16 the liability is computed.

17 An annual report covers a fiscal year beginning on July 1 and ending on the
18 following June 30 and is due by July 31 after the end of a fiscal year. To file an annual
19 report, a motor carrier must apply to the Secretary for permission to file on an annual
20 basis. An application must be submitted by the date set by the Secretary. Once granted
21 permission, a motor carrier may continue to file an annual report until notified by the
22 Secretary to file a quarterly report."

23 Sec. 6. G.S. 105-449.49 reads as rewritten:

24 **"§ 105-449.49. Temporary permits.**

25 Upon application to the Secretary and payment of a fee of twenty-five dollars
26 (\$25.00), a motor carrier may obtain a temporary permit authorizing the carrier to
27 operate a vehicle in the State without registering the vehicle in accordance with G.S.
28 105-449.47 for not more than 20 days. A motor carrier to whom a temporary permit has
29 been issued may elect not to report its operation of the vehicle during the 20-day ~~period,~~
30 ~~as otherwise required by G.S. 105-449.45. period.~~ A motor carrier who files a report for a
31 quarter-reporting period in which the carrier paid a temporary permit fee may claim a
32 credit for the amount of the fee. A motor carrier whose operations are exclusively
33 intrastate may obtain a refund of the fee by filing a report for the quarter-reporting period
34 in which the fee was paid."

35 Sec. 7. This act is effective upon ratification.