

GENERAL ASSEMBLY OF NORTH CAROLINA  
1991 SESSION

CHAPTER 613  
HOUSE BILL 544

AN ACT CREATING CIVIL PENALTIES FOR BUYING OR SELLING NON-TAX-PAID FUEL.

The General Assembly of North Carolina enacts:

Section 1. Article 36 of Chapter 105 is amended by adding a new section to read:

**"§ 105-441.1. Civil penalty for buying or selling non-tax-paid motor fuel.**

(a) Penalty. – A person who dispenses non-tax-paid motor fuel into the supply tank of a motor vehicle or who allows non-tax-paid motor fuel to be dispensed into the supply tank of a motor vehicle is subject to a civil penalty. The penalty is based on the amount of motor fuel dispensed and is set at the following amounts:

<u>Number of Gallons Dispensed</u>	<u>Penalty</u>
<u>Less than 25</u>	<u>\$ 75</u>
<u>At least 25 but less than 50</u>	<u>\$150</u>
<u>At least 50</u>	<u>\$300.</u>

The penalty is payable to the Department of Transportation, Division of Motor Vehicles, or the Department of Revenue. Failure to pay a penalty imposed under this section is grounds under G.S. 20-88.01(b) to withhold or revoke the registration plate of the motor vehicle into which the motor fuel was dispensed.

(b) Hearing. – A person who denies liability for a penalty imposed under this section must pay the penalty under protest and make a written demand to the Department of Revenue for a refund. The written demand must be made within 30 days after the penalty is imposed. Upon receiving a demand for a refund, the Secretary shall schedule a hearing on the matter before an employee or an agent of the Department. The hearing must be held within 30 days after receiving the written demand for a refund. If, after the hearing, the Department determines that the person was not liable for the penalty, the amount collected shall be refunded. If after the hearing the Department determines that the person was liable for the penalty, the person paying the penalty may appeal the imposition of the penalty in accordance with G.S. 105-241.2, 105-241.3, and 105-241.4.

(c) Proceeds. – Amounts collected under this section shall be credited to the Highway Fund."

Sec. 2. G.S. 105-445 reads as rewritten:

**"§ 105-445. Application of proceeds of gasoline tax.**

Seventy-five percent (75%) of the tax revenue collected under this Article shall be credited to the Highway Fund and the remaining twenty-five percent (25%) shall be

credited to the Highway Trust Fund. A proportionate share of a refund allowed under this Article shall be charged to the Highway Fund and the Highway Trust Fund so that seventy-five percent (75%) of the amount of a refund is charged to the Highway Fund and twenty-five percent (25%) is charged to the Highway Trust Fund."

Sec. 3. G.S. 105-449.24 reads as rewritten:

**"§ 105-449.24. Exemptions and refunds. ~~Exemptions, refunds, and civil penalties.~~**

The exemptions from and the refunds of the tax levied by Article 36 on motor fuel apply to the tax levied by this Article on fuel, except the exemption and refund for losses in G.S. 105-434(a). The civil penalty under G.S. 105-441.1 for dispensing non-tax-paid motor fuel applies to dispensing non-tax-paid fuel. The civil penalty for dispensing non-tax-paid fuel shall be applied in the same manner as the penalty for dispensing non-tax-paid motor fuel."

Sec. 4. G.S. 20-88.01 reads as rewritten:

**"§ 20-88.01. Revocation of registration for failure to register for or comply with road tax. ~~tax or pay civil penalty for buying or selling non-tax-paid fuel.~~**

(a) Road Tax. – The Secretary of Revenue may notify the Commissioner of those motor vehicles that are registered or are required to be registered under Article 36B of Chapter 105 and whose owners or lessees, as appropriate, are not in compliance with Article 36A or 36B of Chapter 105. When notified, the Commissioner shall withhold or revoke the registration plate for the vehicle.

(b) Non-tax-paid Fuel. – The Secretary of Revenue may notify the Commissioner of those motor vehicles for which a civil penalty imposed under G.S. 105-441.1 or G.S. 105-449.24 has not been paid. When notified, the Commissioner shall withhold or revoke the registration plate of the vehicle."

Sec. 5. This act becomes effective October 1, 1991.

In the General Assembly read three times and ratified this the 9th day of July, 1991.

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James C. Gardner  
President of the Senate

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Daniel Blue, Jr.  
Speaker of the House of Representatives