

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE DRH60617-MA-126A (4/19)

Short Title: Cap Variable Rate of the Gasoline Excise Tax.

(Public)

Sponsors: Representative Gibson.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO STABILIZE THE MOTOR FUEL TAX BY IMPOSING A CAP ON THE VARIABLE WHOLESALE COMPONENT OF THE MOTOR FUEL TAX RATE AT ITS CURRENT RATE AND PROVIDING RELIEF FOR CONSUMERS BY PROVIDING FOR PRICE GOUGING INVESTIGATIONS BY THE ATTORNEY GENERAL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-449.80(a) reads as rewritten:

"(a) Rate. – The motor fuel excise tax rate is a flat rate of seventeen and one-half cents (17 1/2¢) a gallon plus a variable wholesale component. The variable wholesale component is either three and one-half cents (3 1/2¢) a gallon or seven percent (7%) of the average wholesale price of motor fuel for the applicable base period, whichever is greater. In no case may the variable wholesale component be greater than twelve and four-tenths cents (12.4¢) a gallon.

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

SECTION 2. G.S. 75-38 reads as rewritten:

"§ 75-38. Prohibit excessive pricing during states of disaster.

(a) It shall be a violation of G.S. 75-1.1 for any person to sell or rent or offer to sell or rent at retail during a state of disaster, in the area for which the state of disaster has been declared, any merchandise or services which are consumed or used as a direct result of an emergency or which are consumed or used to preserve, protect, or sustain

1 life, health, safety, or comfort of persons or their property with the knowledge and
2 intent to charge a price that is unreasonably excessive under the circumstances. In
3 determining whether a price is unreasonably excessive, it shall be considered whether:

- 4 (1) The price charged by the seller is attributable to additional costs
5 imposed by the seller's supplier or other costs of providing the good or
6 service during the state of disaster; and
7 (2) The seller offered to sell or rent the merchandise or service at a price
8 that was below the seller's average price in the preceding 60 days
9 before the state of ~~disaster~~-disaster; and
10 (3) The seller was pricing above market prices when no alternative seller
11 was available.

12 If the seller did not sell or rent or offer to sell or rent the merchandise or service in
13 question prior to the time the state of disaster was declared, the price at which the
14 merchandise or service was generally available in the trade area shall be used as a factor
15 in determining if the seller is charging an unreasonably excessive price.

16 (b) In the event the Attorney General investigates a complaint for a violation of
17 this section and determines that the seller has not violated the provisions of this section
18 and if the seller so requests, the Attorney General shall promptly issue a signed
19 statement indicating that the Attorney General has not found a violation of this section.
20 The Attorney General shall maintain the confidentiality of all evidence, testimony,
21 documents, statements, or other results of an investigation under this section, including
22 the names of the complainant and the individual, corporation, or other entity that is the
23 subject of the investigation. Nothing herein shall be construed to prevent the
24 presentation or disclosure of any information or evidence in an action or proceeding
25 brought under this section or pursuant to an order from a court of competent
26 jurisdiction.

27 (c) For the purposes of this section, the end of a state of disaster is the earlier of
28 45 days or the termination of a natural or man-made disaster or emergency as declared
29 in accordance with G.S. 166A-6 or G.S. 166A-8.

30 (d) The Office of the Governor shall maintain a mailing list of individuals who
31 have requested, in writing, notice of the issuance of a declaration of a state of disaster or
32 emergency. When the Office of the Governor declares a state of disaster or emergency,
33 it must provide, by electronic or U.S. mail, a copy of the declaration to each individual
34 on the list."

35 **SECTION 3.** G.S. 166A-4(1) reads as rewritten:

36 "(1) Disaster. – An occurrence or imminent threat of widespread or severe
37 damage, injury, economic well-being, or loss of life or property
38 resulting from any natural or man-made incidental, accidental, military
39 or paramilitary cause."

40 **SECTION 4.** There is appropriated from the General Fund to the Highway
41 Fund and Highway Trust Fund an appropriate amount of funds to offset the loss of
42 revenue from capping the motor fuels excise tax.

43 **SECTION 5.** This act becomes effective July 1, 2006.