

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

S

1

SENATE BILL 322

Short Title: 2021 Revenue Laws Changes. (Public)

Sponsors: Senators Newton, Rabon, and Daniel (Primary Sponsors).

Referred to: Rules and Operations of the Senate

March 22, 2021

A BILL TO BE ENTITLED

AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE, TO EXEMPT COVID-19 RELIEF PAYMENTS FROM THE INCOME DETERMINATION FOR THE PROPERTY TAX HOMESTEAD EXCLUSION, AND TO MAKE VARIOUS TECHNICAL, ADMINISTRATIVE, AND CLARIFYING CHANGES TO THE REVENUE LAWS.

The General Assembly of North Carolina enacts:

PART I. IRC UPDATE

SECTION 1.1.(a) G.S. 105-228.90(b)(7) reads as rewritten:

"(7) Code. – The Internal Revenue Code as enacted as of ~~May 1, 2020~~, January 1, 2021, including any provisions enacted as of that date that become effective either before or after that date."

SECTION 1.1.(b) G.S. 105-153.5(a)(2)b. reads as rewritten:

"b. Mortgage Expense and Property Tax. – The amount allowed as a deduction for interest paid or accrued during the taxable year under section 163(h) of the Code with respect to any qualified residence plus the amount allowed as a deduction for property taxes paid or accrued on real estate under section 164 of the Code for that taxable year. For taxable years 2014 through ~~2020~~, 2021, the amount allowed as a deduction for interest paid or accrued during the taxable year under section 163(h) of the Code with respect to any qualified residence shall not include the amount for mortgage insurance premiums treated as qualified residence interest. The amount allowed under this sub-subdivision may not exceed twenty thousand dollars (\$20,000). For spouses filing as married filing separately or married filing jointly, the total mortgage interest and real estate taxes claimed by both spouses combined may not exceed twenty thousand dollars (\$20,000). For spouses filing as married filing separately with a joint obligation for mortgage interest and real estate taxes, the deduction for these items is allowable to the spouse who actually paid them. If the amount of the mortgage interest and real estate taxes paid by both spouses exceeds twenty thousand dollars (\$20,000), these deductions must be prorated based on the percentage paid by each spouse. For joint obligations paid from joint accounts, the proration is based on the income reported by each spouse for that taxable year."



1 **SECTION 1.1.(c)** G.S. 105-153.5(c2) reads as rewritten:

2 "(c2) Decoupling Adjustments. – In calculating North Carolina taxable income, a taxpayer
3 must make the following adjustments to the taxpayer's adjusted gross income:

4 (1) For taxable years 2014 through ~~2020, 2025~~, the taxpayer must add the amount
5 excluded from the taxpayer's gross income for the discharge of qualified
6 principal residence indebtedness under section 108 of the Code. The purpose
7 of this subdivision is to decouple from the income exclusion available under
8 federal tax law. If the taxpayer is insolvent, as defined in section 108(d)(3)
9 of the Code, then the addition required under this subdivision is limited to the
10 amount of discharge of qualified principal residence indebtedness excluded
11 from adjusted gross income under section 108(a)(1)(E) of the Code that
12 exceeds the amount of discharge of indebtedness that would have been
13 excluded under section 108(a)(1)(B) of the Code.

14 ...

15 (18) For taxable ~~year 2020, years 2020 through 2025~~, a taxpayer must add the
16 amount excluded from the taxpayer's gross income for payment by an
17 employer, whether paid to the taxpayer or to a lender, of principal or interest
18 on any qualified education loan, as defined in section 221(d)(1) of the Code,
19 incurred by the taxpayer for education of the taxpayer. The purpose of this
20 subdivision is to decouple from the exclusion for certain employer payments
21 of student loans under section 2206 of the CARES ~~Act~~ Act or under the
22 Consolidated Appropriations Act, 2021.

23 ...

24 (21) For taxable years 2021 and 2022, a taxpayer must add an amount equal to the
25 amount by which the taxpayer's deduction under section 274(n) of the Code
26 exceeds the deduction that would have been allowed under the Internal
27 Revenue Code as enacted as of May 1, 2020. The purpose of this subdivision
28 is to decouple from the increased deduction under the Consolidated
29 Appropriations Act, 2021, for business-related expenses for food and
30 beverages provided by a restaurant."

31 **PART II. EXEMPT COVID-19 RELIEF FROM HOMESTEAD INCOME**

32 **SECTION 2.1.** For purposes of determining a person's eligibility under the elderly
33 or disabled property tax homestead exclusion, G.S. 105-277.1, Extra Credit Grants and
34 COVID-19 Recovery Rebates are not considered income. For purposes of this section,
35 COVID-19 Recovery Rebates are the following:

- 36 (1) Payments received under Section 6428 of the Internal Revenue Code.
37 (2) Payments received under Section 6428A of the Internal Revenue Code.
38 (3) Any similar relief payments to those listed in subdivisions (1) and (2) of this
39 section received by an individual from the federal government due to the
40 COVID-19 pandemic.
41

42 **PART III. PERSONAL INCOME TAX CHANGES**

43 **SECTION 3.1.** G.S. 105-153.5(b) reads as rewritten:

44 "(b) Other Deductions. – In calculating North Carolina taxable income, a taxpayer may
45 deduct from the taxpayer's adjusted gross income any of the following items that are included in
46 the taxpayer's adjusted gross income:
47

48 ...

49 ~~(14)~~(15) The amount granted to the taxpayer during the taxable year under the Extra
50 Credit grant program. This subdivision expires for taxable years beginning on
51 or after January 1, ~~2021, 2022~~."

1 **SECTION 3.2.** G.S. 105-153.5(c2) reads as rewritten:

2 "(c2) Decoupling Adjustments. – In calculating North Carolina taxable income, a taxpayer
3 must make the following adjustments to the taxpayer's adjusted gross income:

4 ...

5 (17) For taxable years 2019 and 2020, a taxpayer must add an amount equal to the
6 amount by which the taxpayer's interest expense deduction under section
7 163(j) of the Code exceeds the interest expense deduction that would have
8 been allowed under the Internal Revenue Code as enacted as of January 1,
9 2020. An add-back under this subdivision is not required to the extent the
10 amount was required to be added back under another provision of this
11 subsection. The purpose of this subdivision is to decouple from the
12 modification of limitation on business interest allowed under section 2306 of
13 the CARES Act.

14 ...

15 (21) A taxpayer who made an addition under subdivision (17) of this subsection
16 may deduct twenty percent (20%) of the addition in each of the taxable years
17 2021 through 2025."

18 **SECTION 3.3.** G.S. 105-153.9(a)(2) reads as rewritten:

19 "(2) The fraction of the gross income, as modified as provided in ~~G.S. 105-134.6A,~~
20 ~~G.S. 105-153.5,~~ G.S. 105-153.5 and G.S. 105-153.6, that is subject to income
21 tax in another state or country shall be ascertained, and the North Carolina net
22 income tax before credit under this section shall be multiplied by that fraction.
23 The credit allowed is either the product thus calculated or the income tax
24 actually paid the other state or country, whichever is smaller."

25 **SECTION 3.4.** G.S. 105-163.7(b) reads as rewritten:

26 "(b) Informational Return to Secretary. – Every employer shall annually file an
27 informational return with the Secretary that contains the information given on each of the
28 employer's written statements to an employee. The Secretary may require additional information
29 to be included on the informational return, provided the Secretary has given a minimum of 90
30 days' notice of the additional information required. ~~The informational return is due on or before~~
31 ~~January 31 of the succeeding year and must be filed in an electronic format as prescribed by the~~
32 ~~Secretary. If Secretary and is due on or before January 31 of the succeeding year or, if the~~
33 ~~employer terminates its business or permanently ceases paying wages during before the close of~~
34 ~~the calendar year, the informational return must be filed within 30 days of the last payment of~~
35 ~~remuneration. on or before the last day of the month following the end of the calendar quarter in~~
36 which the employer terminates its business, but no later than January 31 of the succeeding year.
37 The informational return required by this subsection is in lieu of the report required by
38 G.S. 105-154."

39 **SECTION 3.5.** G.S. 105-163.8 is amended by adding a new subsection to read:

40 "(c) If a withholding agent fails to file a return and pay the tax due under this Article or
41 files a grossly incorrect or false or fraudulent return, the Secretary must estimate the tax due and
42 assess the withholding agent based on the estimate."

43 **SECTION 3.6.** G.S. 105-241.6(b)(5) reads as rewritten:

44 "(5) Contingent Event. – The period to request a refund of an overpayment may be
45 extended once as provided in this subdivision:

46 ...

47 b. Other Event. – If a taxpayer contends that an event has occurred that
48 prevents the taxpayer from filing an accurate and definite request for
49 a refund of an overpayment within the period under this section, the
50 period to request a refund of an overpayment is six months after the
51 event concludes. Prior to the expiration of the statute of limitations

1 under this section, the taxpayer ~~may~~ must submit a written request to
2 the Secretary seeking an extension of the statute of limitations. ~~The~~
3 ~~taxpayer must file a written request to the Secretary prior to expiration~~
4 ~~of the statute of limitations under this section.~~ The request must
5 establish by clear, convincing proof that the event is beyond the
6 taxpayer's control and prevents the taxpayer from timely filing an
7 accurate and definite request for a refund of an overpayment. The
8 Secretary's decision on the request is final and is not subject to
9 administrative or judicial review."

10 **SECTION 3.7.** G.S. 105-252.1 reads as rewritten:

11 **"§ 105-252.1. Use of a TTIN.**

12 A TTIN may not be used on any return, statement, or other document required to be filed
13 with or furnished to the Department unless specifically authorized ~~in this Chapter by the~~
14 Secretary."

15
16 **PART IV. CORPORATE INCOME TAX CHANGES**

17 **SECTION 4.1.(a)** G.S. 105-83(d) reads as rewritten:

18 "(d) This section does not apply to the following:

19 (1) ~~corporations liable for the tax levied under G.S. 105-102.3 or to savings~~
20 Banks. For purposes of this subdivision, the term "bank" has the same
21 meaning as defined in G.S. 105-130.7B(b).

22 (2) Savings and loan associations."

23 **SECTION 4.1.(b)** This section is effective when it becomes law and applies
24 retroactively for taxable years beginning on or after July 1, 2016.

25 **SECTION 4.2.(a)** G.S. 105-130.5(a)(31) reads as rewritten:

26 "(a) The following additions to federal taxable income shall be made in determining State
27 net income:

28 ...

29 (31) For taxable years 2019 and 2020, a taxpayer must add an amount equal to the
30 amount by which the taxpayer's interest expense deduction under section
31 163(j) of the Code exceeds the interest expense deduction that would have
32 been allowed under the Internal Revenue Code as enacted as of January 1,
33 2020, as calculated on a separate entity basis. An add-back under this
34 subdivision is not required to the extent the amount was required to be added
35 back under another provision of this subsection. The purpose of this
36 subdivision is to decouple from the modification of limitation on business
37 interest allowed under section 2306 of the CARES Act."

38 **SECTION 4.2.(b)** G.S. 105-130.5(b) is amended by adding a new subdivision to
39 read:

40 "(b) The following deductions from federal taxable income shall be made in determining
41 State net income:

42 ...

43 (33) A taxpayer who made an addition under subdivision (a)(31) of this section
44 may deduct twenty percent (20%) of the addition in each of the taxable years
45 2021 through 2025."

46 **SECTION 4.3.** G.S. 105-130.5A reads as rewritten:

47 **"§ 105-130.5A. Secretary's authority to adjust net income or require a combined return.**

48 ...

49 (b) Adjust Net Income. – If upon review of the information provided, the Secretary finds
50 as a fact that the corporation's intercompany transactions lack economic substance or are not at
51 fair market value, the Secretary may redetermine the State net income of the corporation properly

1 attributable to its business carried on in the State under this section by (i) adding back,
 2 eliminating, or otherwise adjusting intercompany transactions to accurately compute the
 3 corporation's State net income properly attributable to its business carried on in the State, or, if
 4 such adjustments are not adequate under the circumstances to redetermine State net income, (ii)
 5 requiring the corporation to file a return that reflects the net income on a combined basis of all
 6 members of its affiliated group with intercompany transactions that are conducting a unitary
 7 business. The Secretary shall consider and be authorized to use any reasonable method proposed
 8 by the corporation for redetermining its State net income attributable to its business carried on in
 9 the State. In determining whether the corporation's intercompany transactions lack economic
 10 substance or are not at fair market value, the Secretary shall consider each taxable year separately.

11 (c) Voluntary Redetermination. – In addition to the authority granted under subsection
 12 (b) of this section, if the Secretary has reason to believe that any corporation's State net income
 13 properly attributable to its business carried on in this State is not accurately reported on a separate
 14 return required by this Part because of intercompany transactions, without making a finding that
 15 those transactions lack economic substance or are not at fair market value, the Secretary and the
 16 corporation may jointly determine and agree to ~~an alternative filing a combined return~~
 17 methodology that accurately reports State net income. ~~The Subject to the provisions of this~~
 18 section and G.S. 105-130.7A, the Secretary is authorized to allow any reasonable method for
 19 redetermining the corporation's State net income attributable to its business carried on in this
 20 State. A combined return is not allowed to achieve tax benefits when the Secretary finds that
 21 intercompany transactions do not distort income properly attributable to this State or could
 22 otherwise be corrected by this section without a combined return.

23 (d) Combined Return. – If the Secretary finds as a fact that a combined return is required,
 24 the Secretary may, upon written notice to the corporation, require the corporation to submit the
 25 combined return, and the corporation shall submit the combined return within 90 days of the date
 26 of the notice. The submission by the corporation of the combined return required by the Secretary
 27 shall not be deemed to be a return or construed as an agreement by the corporation that an
 28 assessment based on the combined return is correct or that additional tax is due by the Secretary's
 29 deadline for submitting the combined return. The Secretary or the corporation may propose a
 30 combination of fewer than all members of the unitary ~~group, group that have intercompany~~
 31 transactions, and the Secretary shall be authorized to consider whether such proposed
 32 combination is a reasonable means of redetermining State net income; provided, however, the
 33 Secretary shall not require a combination of fewer than all members of the unitary group that
 34 have intercompany transactions without the consent of the corporation.

35 ...

36 (l) Penalties. – If a combined return required by this section is not timely submitted by a
 37 corporation, then the corporation is subject to the penalties provided in G.S. 105-236(a)(3).
 38 Penalties shall not be imposed on an assessment under this section except as expressly authorized
 39 in this section and in ~~G.S. 105-236(a)(5)~~ G.S. 105-236(a)(5).

40"

41 **SECTION 4.4.(a)** G.S. 105-130.7B(b)(4) reads as rewritten:

42 "(4) Qualified interest expense. – The amount of net interest expense paid or
 43 accrued to a related member in a taxable year with the amount limited to the
 44 taxpayer's proportionate share of interest paid or accrued to a person who is
 45 not a related member during the same taxable year. This limitation does not
 46 apply to interest paid or accrued to a related member if one or more of the
 47 following applies:

48 ...

49 e. The proportionate amount of interest paid or accrued to a related
 50 member that has already been disallowed by the application of section
 51 163(j) of the Code."

1 **SECTION 4.4.(b)** This section is effective when it becomes law and applies
2 retroactively for taxable years beginning on or after January 1, 2018.

3 **SECTION 4.5.** G.S. 105-130.8A(c) reads as rewritten:

4 "(c) Mergers and Acquisitions. – The Secretary must apply the standards contained in
5 regulations adopted under sections 381 and 382 of the Code in determining the extent to which
6 a loss survives a merger or an acquisition. For mergers and acquisitions occurring prior to January
7 1, 2015, the Secretary must apply the standards under G.S. 105-130.8 for taxable years beginning
8 before January 1, 2015, and the standards of this section for taxable years beginning on or after
9 January 1, 2015."

10 **SECTION 4.6.** G.S. 105-251(a) reads as rewritten:

11 "(a) Scope of Information. – A taxpayer must give information to the Secretary when the
12 Secretary requests the information. The Secretary may request a taxpayer to provide only the
13 following kinds of information on a return, a report, or otherwise:

- 14 (1) Information that identifies the taxpayer.
15 (2) Information needed to determine the liability of the taxpayer for a tax.
16 (3) Information needed to determine whether an item is subject to a tax.
17 (4) Information that enables the Secretary to collect a tax.
18 (5) Financial or tax documentation required to determine the appropriate
19 adjustment under G.S. 105-130.5A. If such information is not timely provided
20 as required under G.S. 105-130.5A(a), the Secretary may propose any
21 adjustment allowable under Part 1 of Article 4 of this Chapter.
22 ~~(5)~~(6) Other information the law requires a taxpayer to provide or the Secretary
23 needs to perform a duty a law requires the Secretary to perform."
24

25 **PART V. SALES AND USE TAX CHANGES**

26 **SECTION 5.1.(a)** G.S. 105-164.13E(a)(7) reads as rewritten:

- 27 "(7) Any of the following animals:
28 a. ~~Baby chicks and poult.~~Fowl.
29 b. Livestock."

30 **SECTION 5.1.(b)** This section is effective retroactively to July 1, 2020, and applies
31 to purchases made on or after that date.

32 **SECTION 5.2.** G.S. 105-259(b) reads as rewritten:

33 "(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has
34 access to tax information in the course of service to or employment by the State may not disclose
35 the information to any other person except as provided in this subsection. Standards used or to
36 be used for the selection of returns for examination and data used or to be used for determining
37 the standards may not be disclosed for any purpose. All other tax information may be disclosed
38 only if the disclosure is made for one of the following purposes:

- 39 ...
40 ~~(5b) To furnish to the finance officials of a city a list of the utility taxable gross~~
41 ~~receipts and piped natural gas tax revenues attributable to the city under~~
42 ~~G.S. 105-116.1 and G.S. 105-187.44 or under former G.S. 105-116 and~~
43 ~~G.S. 105-120.~~
44 "

46 **PART VI. EXCISE TAX HEARINGS CHANGES**

47 **SECTION 6.1.** G.S. 105-113.4B reads as rewritten:

48 "**§ 105-113.4B. Cancellation or revocation of license.**

49 ...
50 (a1) ~~Revocation.~~Summary Revocation and Procedure. – The Secretary may summarily
51 revoke a license issued under this Article when the Secretary ~~finds~~determines that the licensee

1 is incurring liability for the tax imposed under this Article after failing to pay a tax when due
2 under this Article. The Secretary must send a revoked licensee a notice of the revocation and a
3 notice of hearing. The hearing must be held within 10 days after the date of the notice of
4 revocation unless the revoked licensee requests, before the day of the hearing, that the hearing
5 be rescheduled. Upon receipt of a timely request, the Secretary must reschedule the hearing and
6 provide at least 10 days' notice of the rescheduled hearing. The revocation is not stayed pending
7 the hearing decision. A notice of hearing under this subsection must be in writing and indicate
8 the date, time, and place of the hearing. A hearing must be conducted as prescribed by the
9 Secretary. The Secretary must issue a final decision and notify the revoked licensee in writing
10 within 10 days of the hearing. The final decision must state the basis for the decision. The
11 statement of the basis of a revocation does not limit the Department from changing the basis.

12 (a2) ~~In addition, the Non-Summary Revocation.~~ – The Secretary may revoke the license
13 of a licensee that commits one or more of the following acts after ~~holding a hearing on whether~~
14 ~~the license should be revoked;~~affording the licensee an opportunity to have a hearing as provided
15 in subsections (a3) through (b2) of this section:

- 16 (1) Fails to obtain a license in a timely manner or for all places of business as
17 required by this Article.
- 18 (2) Willfully fails to file a return required by this Article.
- 19 (3) Willfully fails to pay a tax when due under this Article.
- 20 (4) Makes a false statement in an application or return required under this Article.
- 21 (5) Fails to keep records as required by this Article.
- 22 (6) Refuses to allow the Secretary or a representative of the Secretary to examine
23 the person's books, accounts, and records concerning tobacco product.
- 24 (7) Fails to disclose the correct amount of tobacco product taxable in this State.
- 25 (8) Fails to file a replacement bond or an additional bond if required by the
26 Secretary under this Article.
- 27 (9) Violates G.S. 14-401.18.
- 28 (10) Fails to meet or maintain the requirements set out in G.S. 105-113.4A(b).

29 (a3) Notice of Proposed Revocation. – The Secretary must provide a licensee with a notice
30 of proposed revocation that includes all of the following information:

- 31 (1) The basis for the proposed revocation. The statement of the basis for the
32 proposed revocation does not limit the Department from changing the basis.
- 33 (2) The effective date of the revocation, which must be one of the following:
 - 34 a. Forty-five days from the date of the notice of proposed revocation if
35 the licensee does not file a timely request for hearing.
 - 36 b. The tenth day after the date an adverse final decision is issued if the
37 adverse final decision is mailed.
 - 38 c. The date an adverse final decision is delivered if the adverse final
39 decision is delivered in person.
- 40 (3) The circumstances, if any, under which the Secretary will not revoke the
41 license.
- 42 (4) An explanation of how the licensee may contest the proposed revocation.

43 (a4) Request for Hearing and Decision. – A licensee may contest a proposed revocation
44 by filing a written hearing request within 45 days of the date the notice of proposed revocation
45 was mailed, if the notice was delivered by mail, or delivered to the licensee, if the notice was
46 delivered in person. A hearing request is considered filed as provided under G.S. 105-241.11(b).
47 If the licensee does not file a timely hearing request, the license is revoked as provided in the
48 notice of proposed revocation, and the revocation is final and not subject to further administrative
49 or judicial review.

50 (b) Hearing Procedure. – The Secretary must send a person whose license is summarily
51 revoked a notice of the revocation and must give the person an opportunity to have a hearing on

1 ~~the revocation within 10 days after the revocation. The Secretary must give a person whose~~
2 ~~license may be revoked after a hearing at least 10 days' written notice~~ licensee who filed a timely
3 hearing request in accordance with subsection (a4) of this section at least 20 days' written notice
4 of the date, time, and place of the hearing. A notice of a summary license revocation and a notice
5 of hearing must be sent by certified mail to the last known address of the licensee. If the person
6 ~~whose license may be revoked fails to attend the noticed hearing, the license revocation is~~
7 ~~effective 15 days after the noticed hearing hearing, unless the Department and the licensee agree~~
8 to a shorter period. A hearing must be conducted as prescribed by the Secretary. The Secretary
9 must issue a final decision and notify the licensee in writing within 60 days of the hearing. The
10 Department and the licensee may extend this time by mutual agreement. Failure to issue a final
11 decision within the required time does not affect the validity of the decision. The final decision
12 must state the basis for the decision and, if the final decision includes revocation of the license,
13 the effective date of the revocation in accordance with subdivision (2) of subsection (a3) of this
14 section. The statement of the basis of a revocation does not limit the Department from changing
15 the basis.

16 (b1) Delivery of Notice. – The Secretary must deliver a notice in accordance with
17 G.S. 105-241.20(b). In lieu of providing notice by United States mail, the Secretary may give
18 notice by email or other electronic means if the licensee has consented to receiving notices via
19 electronic means.

20 (b2) Return of Credentials. – If a license is revoked, the revoked licensee must return to
21 the Secretary, within 10 days of the issuance of the final decision, all licenses previously issued.
22 If a license is unable to be returned, the revoked licensee must include a written statement of the
23 reasons, satisfactory to the Secretary, why the license cannot be returned.

24 (c) Release of Bond. – When the Secretary cancels or revokes a license and the licensee
25 has paid all taxes and penalties due under this Article, the Secretary must take one of the
26 following actions concerning a bond or an irrevocable letter of credit filed by the licensee:

- 27 (1) Return an irrevocable letter of credit to the licensee.
- 28 (2) Return a bond to the licensee or notify the person liable on the bond and the
29 licensee that the person is released from liability on the bond."

30 **SECTION 6.2.** Article 36B of Chapter 105 of the General Statutes is amended by
31 adding the following new section:

32 **"§ 105-449.47B. Revocation of license.**

33 (a) Revocation. – The Secretary may revoke a license or a decal when a motor carrier
34 fails to comply with this Article or Article 36C or 36D of this Subchapter after affording the
35 motor carrier an opportunity to have a hearing as provided in this section.

36 (b) Notice of Proposed Revocation. – The Secretary must provide a licensee with a notice
37 of proposed revocation that includes all of the following information:

- 38 (1) The basis for the proposed revocation. The statement of the basis for the
39 proposed revocation does not limit the Department from changing the basis.
- 40 (2) The effective date of the revocation, which must be one of the following:
 - 41 a. Forty-five days from the date of the notice of proposed revocation if
42 the licensee does not file a timely request for hearing.
 - 43 b. The tenth day after the date an adverse final decision is issued if the
44 adverse final decision is mailed.
 - 45 c. The date an adverse final decision is delivered if the adverse final
46 decision is delivered in person.
- 47 (3) The circumstances, if any, under which the Secretary will not revoke the
48 license.
- 49 (4) An explanation of how the licensee may contest the proposed revocation.

50 (c) Request for Hearing and Decision. – A licensee may contest a proposed revocation
51 by filing a written hearing request within 45 days of the date the notice of proposed revocation

1 was mailed, if the notice was delivered by mail, or delivered to the licensee, if the notice was
2 delivered in person. A hearing request is considered filed as provided under G.S. 105-241.11(b).
3 If the licensee does not file a timely hearing request, the license is revoked as provided in the
4 notice of proposed revocation, and the revocation is final and not subject to further administrative
5 or judicial review.

6 (d) Hearing Procedure. – The Secretary must give a licensee who filed a timely hearing
7 request in accordance with subsection (c) of this section at least 20 days' written notice of the
8 date, time, and place of the hearing, unless the Department and the licensee agree to a shorter
9 period. A hearing must be conducted as prescribed by the Secretary. The Secretary must issue a
10 final decision and notify the licensee in writing within 60 days of the hearing. The Department
11 and the licensee may extend this time limit by mutual agreement. Failure to issue a final decision
12 within the required time does not affect the validity of the decision. The final decision must state
13 the basis for the decision and, if the final decision includes revocation of a license or a decal, the
14 effective date of the revocation in accordance with subdivision (b)(2) of this section. The
15 statement of the basis of the revocation does not limit the Department from changing the basis.

16 (e) Delivery of Notice. – The Secretary must deliver a notice in accordance with
17 G.S. 105-241.20(b). In lieu of providing notice by United States mail, the Secretary may give
18 notice by email or other electronic means if the licensee has consented to receiving notices via
19 electronic means.

20 (f) Return of Credentials. – If the license is revoked, the former licensee shall return to
21 the Secretary, within 10 days of the issuance of the final decision, all licenses and decals
22 previously issued. If the licenses or decals are not returned, the credentials are subject to seizure
23 or removal from the motor vehicle or defacement. If a license or decal is unable to be returned,
24 the licensee must include a written statement of the reasons, satisfactory to the Secretary, why
25 the license or decal cannot be returned."

26 **SECTION 6.3.** G.S. 105-449.76 reads as rewritten:

27 **"§ 105-449.76. Cancellation or revocation of license.**

28 (a) Cancellation. – The Secretary may cancel a license issued under this Article upon the
29 written request of the licensee. The licensee's request must include a proposed effective date of
30 cancellation and must return the license to the Secretary on or before the proposed effective date.
31 If the licensee's request does not include a proposed effective date of cancellation, the license is
32 cancelled 15 days after the Department receives the written request. If the license is unable to be
33 returned, the licensee must include a written statement of the reasons, satisfactory to the
34 Secretary, why the license cannot be returned. The Secretary shall notify the licensee when the
35 license is cancelled.

36 ~~(a1) Revocation.~~ Summary Revocation and Procedure. – The Secretary may summarily
37 revoke a license issued under this Article when the Secretary finds-determines that the licensee
38 is incurring liability for the tax imposed under this Article after failing to pay a tax when due
39 under this Article. The Secretary must send a revoked licensee a notice of the revocation and a
40 notice of hearing. The hearing must be held within 10 days after the date of the notice of
41 revocation unless the revoked licensee requests, before the day of the hearing, that the hearing
42 be rescheduled. Upon receipt of a timely request, the Secretary must reschedule the hearing and
43 provide at least 10 days' notice of the rescheduled hearing. The revocation is not stayed pending
44 the hearing decision. A notice of hearing under this subsection must be in writing and indicate
45 the date, time, and place of the hearing. A hearing must be conducted as prescribed by the
46 Secretary. The Secretary must issue a final decision and notify the revoked licensee in writing
47 within 10 days of the hearing. The final decision must state the basis for the decision. The
48 statement of the basis of a revocation does not limit the Department from changing the basis.

49 ~~(a2) In addition, the Non-Summary Revocation.~~ – The Secretary may revoke the license
50 of a licensee that commits one or more of the acts listed in G.S. 105-449.120 after holding a

1 ~~hearing on whether the license should be revoked, affording the licensee an opportunity to have~~
2 ~~a hearing as provided in subsections (a3) through (b2) of this section.~~

3 (a3) Notice of Proposed Revocation. – The Secretary must provide a licensee with a notice
4 of proposed revocation that includes all of the following information:

5 (1) The basis for the proposed revocation. The statement of the basis for the
6 proposed revocation does not limit the Department from changing the basis.

7 (2) The effective date of the revocation, which must be one of the following:

8 a. Forty-five days from the date of the notice of proposed revocation if
9 the licensee does not file a timely request for hearing.

10 b. The tenth day after the date an adverse final decision is issued if the
11 adverse final decision is mailed.

12 c. The date an adverse final decision is delivered if the adverse final
13 decision is delivered in person.

14 (3) The circumstances, if any, under which the Secretary will not revoke the
15 license.

16 (4) An explanation of how the licensee may contest the proposed revocation.

17 (a4) Request for Hearing and Decision. – A licensee may contest a proposed revocation
18 by filing a written hearing request within 45 days of the date the notice of proposed revocation
19 was mailed, if the notice was delivered by mail, or delivered to the licensee, if the notice was
20 delivered in person. A hearing request is considered filed as provided under G.S. 105-241.11(b).
21 If the licensee does not file a timely hearing request, the license is revoked as provided in the
22 notice of proposed revocation, and the revocation is final and not subject to further administrative
23 or judicial review.

24 ~~(b) Hearing Procedure. – The Secretary must send a person whose license is summarily~~
25 ~~revoked a notice of the revocation and must give the person an opportunity to have a hearing on~~
26 ~~the revocation within 10 days after the revocation. The Secretary must give a person whose~~
27 ~~license may be revoked after a hearing at least 10 give a licensee who filed a timely hearing~~
28 ~~request in accordance with subsection (a4) of this section at least 20 days' written notice of the~~
29 ~~date, time, and place of the hearing. A notice of a summary license revocation and a notice of~~
30 ~~hearing must be sent by certified mail to the last known address of the licensee. If the person~~
31 ~~whose license may be revoked fails to attend the noticed hearing, the license revocation is~~
32 ~~effective 15 days after the noticed hearing, unless the Department and the licensee agree~~
33 ~~to a shorter period. A hearing must be conducted as prescribed by the Secretary. The Secretary~~
34 ~~must issue a final decision and notify the licensee in writing within 60 days of the hearing. The~~
35 ~~Department and the licensee may extend this time by mutual agreement. Failure to issue a final~~
36 ~~decision within the required time does not affect the validity of the decision. The final decision~~
37 ~~must state the basis for the decision and, if the final decision includes revocation of the license,~~
38 ~~the effective date of the revocation in accordance with subdivision (2) of subsection (a3) of this~~
39 ~~section. The statement of the basis of a revocation does not limit the Department from changing~~
40 ~~the basis.~~

41 (b1) Delivery of Notice. – The Secretary must deliver a notice in accordance with
42 G.S. 105-241.20(b). In lieu of providing notice by United States mail, the Secretary may give
43 notice by email or other electronic means if the licensee has consented to receiving notices via
44 electronic means.

45 (b2) Return of Credentials. – If the license is revoked, the former licensee shall return to
46 the Secretary, within 10 days of the issuance of the final decision, all licenses and decals
47 previously issued. If a license or decal is unable to be returned, the licensee must include a written
48 statement of the reasons, satisfactory to the Secretary, why the license or decal cannot be
49 returned.

1 (c) Release of Bond. – When the Secretary cancels or revokes a license and the licensee
2 has paid all taxes and penalties due under this Article, the Secretary must take one of the
3 following actions concerning a bond or an irrevocable letter of credit filed by the licensee:

4 (1) Return an irrevocable letter of credit to the licensee.

5 (2) Return a bond to the licensee or notify the person liable on the bond and the
6 licensee that the person is released from liability on the bond."

7 **SECTION 6.4.** G.S. 119-19 reads as rewritten:

8 "**§ 119-19. Authority of Secretary to cancel or revoke a license.**

9 (a) ~~Reasons. Cancellation.~~ – The Secretary of Revenue may cancel a license issued under
10 this Article upon the written request of the licensee. The licensee's request must include a
11 proposed effective date of the cancellation and must return the license to the Secretary on or
12 before the proposed effective date. If the licensee's request does not include a proposed effective
13 date of cancellation, the license is cancelled 15 days after the Department receives the written
14 request. If the license is unable to be returned, the licensee must include a written statement of
15 the reason, satisfactory to the Secretary, why the license cannot be returned. The Secretary must
16 notify the licensee when the license is cancelled.

17 (a1) Summary Revocation and Procedure. – The Secretary may summarily revoke a
18 license issued under this Article or under Article 36C or 36D of ~~Chapter 105 of the General~~
19 ~~Statutes this Chapter~~ when the Secretary ~~finds~~ determines that the licensee is incurring liability
20 for the tax imposed by this Article after failing to pay a tax when due under this Article. The
21 Secretary must send a revoked licensee a notice of the revocation and a notice of hearing. The
22 hearing must be held within 10 days after the date of the notice of revocation unless the revoked
23 licensee requests, before the day of the hearing, that the hearing be rescheduled. Upon receipt of
24 a timely request, the Secretary must reschedule the hearing and provide at least 10 days' notice
25 of the rescheduled hearing. The revocation is not stayed pending the hearing decision. A notice
26 of hearing under this subsection must be in writing and indicate the date, time, and place of the
27 hearing. A hearing must be conducted as prescribed by the Secretary. The Secretary must issue
28 a final decision and notify the revoked licensee in writing within 10 days of the hearing. The final
29 decision must state the basis for the decision. The statement of the basis of a revocation does not
30 limit the Department from changing the basis.

31 (a2) Non-Summary Revocation. – The Secretary may revoke the license of a licensee who
32 files a false report under this Article or fails to file a report required under this Article ~~after~~
33 ~~holding a hearing on whether the license should be revoked.~~ Article after affording the licensee
34 an opportunity to have a hearing as provided in subsections (a3) through (b2) of this section.

35 (a3) Notice of Proposed Revocation. – The Secretary must provide a licensee with a notice
36 of proposed revocation that includes all of the following information:

37 (1) The basis for the proposed revocation. The statement of the basis for the
38 proposed revocation does not limit the Department from changing the basis.

39 (2) The effective date of the revocation, which must be one of the following:

40 a. Forty-five days from the date of the notice of proposed revocation if
41 the licensee does not file a timely request for hearing.

42 b. The tenth day after the date an adverse final decision is issued if the
43 adverse final decision is mailed.

44 c. The date an adverse final decision is delivered if the adverse final
45 decision is delivered in person.

46 (3) The circumstances, if any, under which the Secretary will not revoke the
47 license.

48 (4) An explanation of how the licensee may contest the proposed revocation.

49 (a4) Request for Hearing and Decision. – A licensee may contest a proposed revocation
50 by filing a written hearing request within 45 days of the date the notice of proposed revocation
51 was mailed, if the notice was delivered by mail, or delivered to the licensee, if the notice was

1 delivered in person. A hearing request is considered filed as provided under G.S. 105-241.11(b).
2 If the licensee does not file a timely hearing request, the license is revoked as provided in the
3 notice of proposed revocation, and the revocation is final and not subject to further administrative
4 or judicial review.

5 (b) Hearing Procedure. – The Secretary must send a person whose license is summarily
6 revoked a notice of the revocation and must give the person an opportunity to have a hearing on
7 the revocation within 10 days after the revocation. The Secretary must give a person whose
8 license may be revoked after a hearing give a licensee who filed a timely hearing request in
9 accordance with subsection (a4) of this section at least 10-20 days' written notice of the date,
10 time, and place of the hearing. A notice of a summary license revocation and a notice of hearing
11 must be sent by certified mail to the last known address of the licensee hearing, unless the
12 Department and the licensee agree to a shorter period. A hearing must be conducted as prescribed
13 by the Secretary. The Secretary must issue a final decision and notify the licensee in writing
14 within 60 days of the hearing. The Department and the licensee may extend this time by mutual
15 agreement. Failure to issue a final decision within the required time does not affect the validity
16 of the decision. The final decision must state the basis for the decision and, if the final decision
17 includes revocation of the license, the effective date of the revocation in accordance with
18 subdivision (2) of subsection (a3) of this section. The statement of the basis of a revocation does
19 not limit the Department from changing the basis.

20 (b1) Delivery of Notice. – The Secretary must deliver a notice in accordance with
21 G.S. 105-241.20(b). In lieu of providing notice by United States mail, the Secretary may give
22 notice by email or other electronic means if the licensee has consented to receiving notices via
23 electronic means.

24 (b2) Return of Credentials. – If the license is revoked, the former licensee shall return to
25 the Secretary, within 10 days of the issuance of the final decision, all licenses previously issued.
26 If a license is unable to be returned, the licensee must include a written statement of the reasons,
27 satisfactory to the Secretary, why the license cannot be returned.

28 (c) Release of Bond. – When the Secretary cancels or revokes a license and the licensee
29 has paid all taxes and penalties due under this Article, the Secretary must either return to the
30 licensee the bond filed by the licensee or notify the person liable on the bond and the licensee
31 that the person is released from liability on the bond."

32 **SECTION 6.5.** This Part becomes effective January 1, 2022, and applies to summary
33 revocations and non-summary revocations initiated by the Department on or after that date.
34

35 **PART VII. OTHER EXCISE TAX CHANGES**

36 **SECTION 7.1.** G.S. 105-113.8 is recodified as G.S. 105-113.4H.

37 **SECTION 7.2.(a)** G.S. 105-113.11 is recodified as G.S. 105-113.4I.

38 **SECTION 7.2.(b)** G.S. 105-113.4I, as recodified by subsection (a) of this section,
39 reads as rewritten:

40 **"§ 105-113.4I. Licenses required.**

41 After the effective date of this Article, no A person shall may not engage in business as a
42 distributor distributor, wholesale dealer, or retail dealer in this State, without having first obtained
43 from the Secretary the appropriate license for that purpose as prescribed herein. Any in this
44 Article. A license required by this Article shall be is in addition to any and all other licenses
45 which that may be required by law."

46 **SECTION 7.3.(a)** G.S. 105-113.29 is recodified as G.S. 105-113.4J.

47 **SECTION 7.3.(b)** G.S. 105-113.4J, as recodified by subsection (a) of this section,
48 reads as rewritten:

49 **"§ 105-113.4J. Unlicensed place of business.**

50 It is unlawful for a person to maintain a place of business within this State required by this
51 Article to be licensed to engage in the business of selling, offering for sale, or possessing with

1 the intent to sell ~~cigarettes or other tobacco~~ products without first obtaining ~~the licenses.~~all
2 licenses required by this Article."

3 **SECTION 7.4.** G.S. 105-113.33 is recodified as G.S. 105-113.4K.

4 **SECTION 7.5.** G.S. 105-113.18(2) reads as rewritten:

5 "(2) Use Tax Report. – ~~Every other~~ A person who is not a licensed distributor and
6 has acquired non-tax-paid cigarettes for sale, use, or consumption
7 consumption, subject to the tax imposed by this Part ~~shall,~~ must, within 96
8 hours after receipt of the cigarettes, file a report in the form prescribed by the
9 Secretary showing the amount of cigarettes so received and any other
10 information required by the Secretary. The report ~~shall~~ must be accompanied
11 by payment of the full amount of the tax."

12 **SECTION 7.6.** G.S. 105-113.35(d) reads as rewritten:

13 "(d) Manufacturer's Option. – A manufacturer who is not a retail dealer and who ships
14 tobacco products other than cigarettes to either a wholesale dealer or retail dealer licensed under
15 this Part may apply to the Secretary to be relieved of paying the tax imposed by this section on
16 the tobacco products. ~~A manufacturer who is not a retail dealer and who ships vapor products to~~
17 ~~either a wholesale dealer or retail dealer licensed under this Part may apply to the Secretary to be~~
18 ~~relieved of paying the tax imposed by this section on the vapor products shipped to either a~~
19 ~~wholesale dealer or retail dealer.~~ Once granted permission, a manufacturer may choose not to
20 pay the tax until otherwise notified by the Secretary but is not relieved from filing a report as
21 required by this Part. To be relieved of payment of the tax imposed by this section, a manufacturer
22 must comply with the requirements set by the Secretary.

23 Permission granted under this subsection to a manufacturer to be relieved of paying the tax
24 imposed by this section applies to an integrated wholesale dealer with whom the manufacturer is
25 an affiliate. A manufacturer must notify the Secretary of any integrated wholesale dealer with
26 whom it is an affiliate when the manufacturer applies to the Secretary for permission to be
27 relieved of paying the tax and when an integrated wholesale dealer becomes an affiliate of the
28 manufacturer after the Secretary has given the manufacturer permission to be relieved of paying
29 the tax.

30 If a person is both a manufacturer of cigarettes and a wholesale dealer of tobacco products
31 other than cigarettes and the person is granted permission under G.S. 105-113.10 to be relieved
32 of paying the cigarette excise tax, the permission applies to the tax imposed by this section on
33 tobacco products other than cigarettes. A cigarette manufacturer who becomes a wholesale dealer
34 after receiving permission to be relieved of the cigarette excise tax must notify the Secretary of
35 the permission received under G.S. 105-113.10 when applying for a license as a wholesale
36 dealer."

37 **SECTION 7.7.** G.S. 105-113.37 reads as rewritten:

38 "**§ 105-113.37. Payment of tax.**

39 (a) Monthly Report. – Taxes levied by this ~~Article~~ Part are payable by a licensed
40 wholesale dealer or licensed retail dealer when a report is required to be filed. A report is due on
41 a monthly basis. A monthly report covers ~~tobacco products~~ products, other than cigarettes, sold,
42 shipped, delivered, or otherwise disposed of in this State occurring in a calendar month and is
43 due within 20 days after the end of the month covered by the report. A report ~~shall~~ must be filed
44 on a form provided by the Secretary and ~~shall~~ must contain the information required by the
45 Secretary.

46 (a1) Use Tax Report. – A person who is not a licensed wholesale dealer or licensed retail
47 dealer and has acquired non-tax-paid tobacco products, other than cigarettes, for sale, use, or
48 consumption, subject to the tax imposed by this Part must, within 96 hours after receipt of the
49 tobacco products, file a report in the form prescribed by the Secretary showing the amount of
50 tobacco products received and any other information required by the Secretary. The report must
51 be accompanied by payment of the full amount of the tax.

1"

2 SECTION 7.8. G.S. 105-113.83 reads as rewritten:

3 "§ 105-113.83. Payment of excise taxes.

4 ...

5 (b) Malt Beverage and Wine. – The excise taxes on malt beverages and wine levied under
6 G.S. 105-113.80(a) and (b), respectively, are payable to the Secretary by the resident wholesaler
7 or importer who first handles the beverages in this State. ~~The excise taxes levied under~~
8 ~~G.S. 105-113.80(b) on wine shipped directly to consumers in this State pursuant to~~
9 ~~G.S. 18B-1001.1 must be paid by the wine shipper permittee.~~ The taxes on malt beverages and
10 wine are payable only once on the same beverages. Unless otherwise provided, the tax is due on
11 or before the 15th day of the month following the month in which the beverage is first sold or
12 otherwise disposed of in this State by the wholesaler or importer. When excise taxes are paid on
13 wine or malt beverages, the wholesaler or importer must submit to the Secretary verified reports
14 on forms provided by the Secretary detailing sales records for the month for which the taxes are
15 paid. The report must indicate the amount of excise tax due, contain the information required by
16 the Secretary, and indicate separately any transactions to which the excise tax does not apply. ~~A~~
17 ~~wine shipper permittee shall submit verified reports once a year on forms provided by the~~
18 ~~Secretary detailing sales records for the year the taxes are paid. The verified report is due on or~~
19 ~~before the fifteenth day of the first month of the following calendar year.~~

20 (b1) Brewery and Winery Option. – A brewery or winery may be relieved of paying the
21 tax levied under G.S. 105-113.80(a) and (b) if all of the following apply:

- 22 (1) The brewery or winery holds a permit issued under G.S. 18B-1101, 18B-1102,
23 or 18B-1104.
24 (2) The brewery or winery transfers malt beverages or wine to a wholesaler
25 permitted under G.S. 18B-1107 or G.S. 18B-1109.
26 (3) The wholesaler agrees in writing to be responsible for the tax due on the
27 transferred malt beverages or wine.
28 (4) The brewery or winery files a report when the tax would otherwise be due
29 reporting the transfer of malt beverages or wine to the wholesaler.

30 (b2) Backup Tax Liability. – If a brewery or winery is relieved of paying the excise tax as
31 provided under subsection (b1) of this section, the wholesaler receiving the malt beverages or
32 wine is liable for any tax due under this section.

33 (b3) Wine Shipper Permittee. – A wine shipper permittee must pay the excise tax levied
34 under G.S. 105-113.80(b) on wine shipped directly to consumers in this State pursuant to
35 G.S. 18B-1001.1. A wine shipper permittee must submit verified reports once a year on forms
36 provided by the Secretary detailing sales records for the year taxes are paid. The verified report
37 is due on or before the fifteenth day of the first month of the following calendar year.

38"

39 SECTION 7.9. G.S. 105-113.86 reads as rewritten:

40 "§ 105-113.86. Bond or irrevocable letter of credit.

41 (a) Wholesalers and Importers. – ~~A~~ The Secretary may require a wholesaler or importer
42 must file with the Secretary to furnish a bond in an amount of that adequately protects the State
43 from a wholesaler's or importer's failure to pay taxes due under this Article. The amount of the
44 bond shall not be less than five thousand dollars (\$5,000). ~~The amount of the bond must be~~
45 ~~proportionate to the anticipated tax liability of the wholesaler or importer.~~

46 (a1) Distilleries. – The Secretary may require a distillery to furnish a bond in an amount
47 that adequately protects the State from a distillery's failure to pay taxes under this Article. The
48 amount of the bond shall not be less than two thousand dollars (\$2,000).

49 (a2) Periodic Review. – The Secretary should periodically review the sufficiency of the
50 bonds required under this section. The Secretary may increase the proportionate amount required,
51 not to exceed fifty thousand dollars (\$50,000), if the bond furnished no longer covers the

1 taxpayer's anticipated tax liability. The Secretary may decrease the ~~proportionate~~ amount
2 required when the Secretary determines that a smaller bond amount will adequately protect the
3 State from loss. The bond must be conditioned on compliance with this Article, payable to the
4 State, in a form acceptable to the Secretary, and secured by a corporate surety.

5 (b) Nonresident Vendors. – The Secretary may require the holder of a nonresident vendor
6 ABC permit to furnish a bond in an amount not to exceed two thousand dollars (\$2,000). The
7 bond must be conditioned on compliance with this Article, payable to the State in a form
8 acceptable to the Secretary, and secured by a corporate surety.

9 (c) Letter of Credit. – For purposes of this section, a wholesaler or ~~importer or importer,~~
10 a nonresident ~~vendor~~ vendor, or a distillery may substitute an irrevocable letter of credit for the
11 secured bond required by this section. The letter of credit must be issued by a commercial bank
12 acceptable to the Secretary and available to the State as a beneficiary. The letter of credit must
13 be in a form acceptable to the Secretary, conditioned upon compliance with this Article, and in
14 the amounts stipulated in this section."

15 **SECTION 7.10.(a)** G.S. 105-236(a)(2) reads as rewritten:

16 "(2) Failure to Obtain a License. – For failure to obtain a license before engaging
17 in a business, trade or profession for which a license is required, the Secretary
18 shall assess a penalty equal to five percent (5%) of the amount prescribed for
19 the license per month or fraction thereof until paid, not to exceed twenty-five
20 percent (25%) of the amount so prescribed, but in any event shall not be less
21 than five dollars (\$5.00). In cases in which the taxpayer, after written
22 notification by the Department, fails to obtain a license as required under
23 ~~G.S. 105-449.65~~ G.S. 105-113.4I, G.S. 105-449.65, or G.S. 105-449.131, the
24 Secretary may assess a penalty of one thousand dollars (\$1,000)."

25 **SECTION 7.10.(b)** This section becomes effective January 1, 2022, and applies to
26 penalties assessed on or after that date.

27 **SECTION 7.11.** G.S. 105-449.45 reads as rewritten:

28 "**§ 105-449.45. Returns of carriers.**

29 ...

30 (d) ~~Penalties-Failure to File Penalty.~~ – A motor carrier that fails to file a return under this
31 section by the required date is subject to a penalty of fifty dollars (\$50.00).

32 (d1) Failure to Pay Penalty. – A motor carrier that fails to pay a tax when due is subject to
33 a penalty of fifty dollars (\$50.00), or ten percent (10%) of the tax due, whichever is greater. The
34 Secretary shall not assess this penalty if the motor carrier files or pays in accordance with
35 G.S. 105-236(a)(4)a. or b.

36 (d2) Penalty Waiver. – The Secretary may reduce or waive a penalty as provided under
37 G.S. 105-449.119.

38"

39 **SECTION 7.12.(a)** G.S. 105-449.60 reads as rewritten:

40 "**§ 105-449.60. Definitions.**

41 The following definitions apply in this Article:

42 ...

43 (20a) Fuel grade ethanol. – Ethanol meeting the standard for the American Society
44 Testing Materials Specification D 4806, "Standard Specification for
45 Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive
46 Spark-Ignition Engine Fuel," or ethanol, regardless of how it was produced,
47 denatured in accordance with 27 C.F.R. § 19.746 as of January 1, 2021.

48 (21) Gasohol. – A blended fuel composed of gasoline and fuel grade
49 ethanol-alcohol or gasoline and ethanol.

50"

51 **SECTION 7.12.(b)** This section becomes effective January 1, 2022.

1 **SECTION 7.13.(a)** G.S. 105-449.115 reads as rewritten:
2 "**§ 105-449.115. Shipping document required to transport motor fuel by railroad tank car**
3 **or transport truck.**

4 ...

5 (d) Duties of Transporter. – A person to whom a shipping document was issued must do
6 all of the following:

- 7 (1) Carry the shipping document in the conveyance for which it was issued when
8 transporting the motor fuel described in it.
- 9 (2) Show the shipping document to a law enforcement officer upon request when
10 transporting the motor fuel described in it.
- 11 (2a) Maintain a copy of the shipping at a centralized place of business for at least
12 three years from the date of delivery.
- 13 (3) Deliver motor fuel described in the shipping document to the destination state
14 ~~printed designated~~ on it unless the ~~person person, in a manner prescribed by~~
15 the Secretary, does all of the following:
- 16 a. ~~Notifies the Secretary, in a manner designated by the Secretary,~~
17 Secretary before transporting the motor fuel into a state other than the
18 ~~printed destination state that the person has received instructions since~~
19 ~~the shipping document was issued to deliver the motor fuel to a~~
20 ~~different destination state designated on the shipping document.~~
- 21 b. ~~Receives from the Secretary, in a manner designated by the~~
22 Secretary, Secretary a confirmation number authorizing the
23 ~~diversion shipment of motor fuel to a state other than the state~~
24 designated on the shipping document.
- 25 c. ~~Writes Contemporaneously notes~~ on the shipping document the
26 change in destination state and the confirmation number ~~for the~~
27 diversion received from the Secretary.
- 28 (4) ~~Give~~ Upon delivery, provide a copy of the shipping document to the
29 ~~distributor or other person to whom the motor fuel is delivered.~~

30 (e) Duties of Person Receiving Shipment. – A person to whom motor fuel is delivered by
31 railroad tank car or transport truck may not accept delivery of the motor fuel if the destination
32 state shown on the shipping document for the motor fuel is a state other than North Carolina. ~~To~~
33 ~~determine if the shipping document shows North Carolina as the destination state, the person to~~
34 ~~whom the fuel is delivered must examine the shipping document and must keep a copy of the~~
35 ~~shipping document.~~ The person must keep maintain a copy of the shipping document for at least
36 three years from the date of delivery and must maintain a copy of the shipping document at the
37 place of business where the motor fuel was delivered for 90 days from the date of ~~delivery and~~
38 ~~must keep it at that place or another place for at least three years from the date of delivery.~~ A
39 person who accepts delivery of motor fuel in violation of this subsection is jointly and severally
40 liable for any tax due on the fuel.

41 "

42 **SECTION 7.13.(b)** G.S. 105-449.115A reads as rewritten:
43 "**§ 105-449.115A. Shipping document required to transport fuel by tank wagon.**

44 ...

45 (b) Duties of Transporter. – A person to whom an invoice, bill of sale, or shipping
46 document was issued must do all of the following:

- 47 (1) Carry the invoice, bill of sale, or shipping document in the conveyance for
48 which it is issued when transporting the motor fuel described in it.
- 49 (2) Show the invoice, bill of sale, or shipping document upon request when
50 transporting the motor fuel described in it.

- 1 (3) ~~Keep~~ Maintain a copy of the invoice, bill of sale, or shipping document at a
2 centralized place of business for at least three years from the date of delivery.
3 (4) Deliver motor fuel described in the shipping document to the state designated
4 on it unless the person, in a manner prescribed by the Secretary, does all of
5 the following:
6 a. Notifies the Secretary before transporting the motor fuel into a state
7 other than the state designated on the shipping document.
8 b. Receives from the Secretary a confirmation number authorizing the
9 shipment of motor fuel to a state other than the state designated on the
10 shipping document.
11 c. Contemporaneously notes on the shipping document the change in
12 destination state and the confirmation number received from the
13 Secretary.
14 (5) Upon delivery, provide a copy of the shipping document to the person to
15 whom the motor fuel is delivered.

16 **(b1) Duties of Person Receiving Shipment.** – A person to whom motor fuel is delivered by
17 tank wagon may not accept delivery of the motor fuel if the destination state shown on the
18 shipping document for the motor fuel is a state other than North Carolina. The person must
19 maintain a copy of the shipping document for at least three years from the date of delivery and
20 must maintain a copy of the shipping document at the place of business where the motor fuel was
21 delivered for 90 days from the date of delivery.

22 "

23 **SECTION 7.13.(c)** This section becomes effective January 1, 2022.

24 **SECTION 7.14.(a)** G.S. 105-449.123 reads as rewritten:

25 "**§ 105-449.123. Marking requirements for dyed fuel storage facilities.**

26 (a) Requirements. – A person who is a retailer of dyed motor fuel or who stores both
27 dyed and undyed motor fuel for use by that person or another person must mark the storage
28 facility for the dyed motor fuel as ~~follows provided in this subsection and~~ in a manner that clearly
29 indicates the fuel is not to be used to operate a highway vehicle. The storage facility must be
30 marked "Dyed Diesel, Nontaxable Use Only, Penalty For Taxable Use" or "Dyed Kerosene,
31 Nontaxable Use Only, Penalty for Taxable Use" or a similar phrase that clearly indicates the fuel
32 is not to be used to operate a highway vehicle. ~~A person who intentionally fails to mark the~~
33 ~~storage facility as required by this section is subject to a civil penalty equal to the excise tax at~~
34 ~~the motor fuel rate on the inventory held in the storage tank at the time of the violation. If the~~
35 ~~inventory cannot be determined, then the penalty is calculated on the capacity of the storage~~
36 ~~tank.~~ The marking requirements are:

- 37 (1) The storage tank of the storage facility must be marked if the storage tank is
38 visible.
39 (2) The fillcap or spill containment box of the storage facility must be marked.
40 (3) The dispensing device that serves the storage facility must be marked.
41 (4) The retail pump or dispensing device at any level of the distribution system
42 must comply with the marking requirements.

43 **(a1) Penalty.** – A person who fails to mark the storage facility as required by subsection
44 (a) of this section is subject to a civil penalty of two hundred fifty dollars (\$250.00). Each
45 inspection that results in a finding of noncompliance constitutes a separate and distinct offense.

46 (b) Exception. – The marking requirements of this section do not apply to a storage
47 facility that contains fuel used only for one of the purposes listed in G.S. 105-449.105A(a)(1)
48 and is installed in a manner that makes use of the fuel for any other purpose improbable."

49 **SECTION 7.14.(b)** This section becomes effective January 1, 2022, and applies to
50 penalties assessed on or after that date.
51

1 **PART VIII. LOCAL GOVERNMENT TAX CHANGES**

2 **SECTION 8.1.(a)** G.S. 105-278(a) reads as rewritten:

3 "(a) Real property designated as a historic property by a local ordinance adopted pursuant
4 to former G.S. 160A-399.4 or designated as a historic landmark by a local ordinance adopted
5 pursuant to G.S. 160D-945 or former G.S. 160A-400.5 is designated a special class of property
6 under authority of Article V, Sec. 2(2) of the North Carolina Constitution. Property so classified
7 shall be taxed uniformly as a class in each local taxing unit on the basis of fifty percent (50%) of
8 the true value of the property as determined pursuant to G.S. 105-285 and 105-286, or 105-287."

9 **SECTION 8.1.(b)** This section is effective January 1, 2021.

10
11 **PART IX. EFFECTIVE DATE**

12 **SECTION 9.1.** Except as otherwise provided, this act is effective when it becomes
13 law.