

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 1407

Short Title: Contracts to Reimburse Fuel Tax.

(Public)

Sponsors: Senator Kerr.

Referred to: Finance.

June 13, 2002

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH A CONTRACT RIGHT REGARDING THE TIMING OF
3 PAYMENTS UNDER CONTRACTS REQUIRING REIMBURSEMENT OF
4 FEDERAL FUEL EXCISE TAXES.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Chapter 119 of the General Statutes is amended by adding a
7 new Article to read:

8 "Article 6.

9 "Contract Rights Regarding Tax Reimbursement.

10 "**§ 119-65. Timing of reimbursement payments under contract.**

11 (a) Right. – When a contract calls for one party to reimburse a second party for
12 the federal manufacturer's excise taxes levied on petroleum products in Part III of
13 Subchapter A of Chapter 32 of the Internal Revenue Code, whether as a separate item or
14 as part of the price, the party making the reimbursement has the following contractual
15 right relating to the timing of that payment: the party making the reimbursement is not
16 required to tender payment for the taxes more than one business day before the day the
17 second party is required to remit the taxes to the federal Internal Revenue Service. The
18 party making the reimbursement has the option of exercising this right as provided in
19 this section. Exercise of this right does not relieve the party of the obligation to make
20 the reimbursement as provided for in the contract, but affects only the timing of when
21 that reimbursement must be tendered.

22 (b) Procedure. – In order to exercise the contractual right established in
23 subsection (a) of this section, the party making the reimbursement must notify the
24 second party in writing of the intent to exercise the payment option and the effective
25 date of the exercise, which must be no earlier than the beginning of the next federal tax
26 quarter or 30 days after the notice of intent is received, whichever is later.

27 (c) Security – If the party making the reimbursement exercises the contractual
28 right provided in this section, the second party may require security for the payment of
29 the taxes in proportion to the amount the taxes represent compared to the security

1 required on the contract as a whole. The second party may not, however, change the
2 other payment terms of the contract without a valid business reason other than the
3 exercise of the contractual right, except to require the payment of the taxes under the
4 contractual right to be made by electronic funds transfer."

5 **SECTION 2.(a)** This act becomes effective September 1, 2002, and applies
6 to contracts entered into or renewed on or after that date. This act also applies to all
7 contracts in effect on that date that have no expiration date and are continuing contracts.
8 This act does not apply to a contract in effect on September 1, 2002, that, by its terms,
9 will terminate on a later date.

10 **SECTION 2.(b)** This act does not impair the obligation arising under any
11 contract executed before September 1, 2002.