



NCDOR

**NORTH
CAROLINA
DEPARTMENT
OF REVENUE**

**North Carolina Department of Revenue
Excise Tax and Examination Divisions**

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**Important Notice:
Laws Governing Retailers' Dispensing and Selling Non-Tax-Paid Motor Fuel**

Equipment and Marking Requirements

North Carolina law (G.S. 105-449.122 and 105.449.123) requires that all motor fuel dispensed at retail be dispensed from metered pumps. The retailer of non-tax-paid motor fuel must also mark the storage facility to clearly indicate that the fuel is not to be used to operate a highway vehicle. This phrase or a similar one must be used: "Dyed Diesel, Nontaxable Use Only, Penalty for Taxable Use". The marking requirements are:

- The storage tank of the storage facility must be marked if the storage tank is visible.
- The fill cap or spill containment box of the storage facility must be marked.
- The dispensing device that serves the storage facility must be marked.
- The retail pump or dispensing device at any level of the distribution system must comply with the marking requirements.

Penalties

North Carolina General Statutes provide for civil penalties for failure to properly mark the storage facilities, for dispensing of non-tax-paid motor fuel into a highway vehicle, and knowingly allowing the dispensing of non-tax-paid motor fuel into a highway vehicle.

G.S. 105.449.123(a1) states that a person who fails to properly mark the storage facility is subject to a civil penalty of two hundred fifty dollars (\$250). Each inspection that results in a finding of non-compliance constitutes a separate and distinct offense.

G.S. 105.449.118 provides that a person who dispenses non-tax-paid motor fuel into the supply tank of a highway vehicle or who allows non-tax-paid motor fuel to be dispensed into the supply tank of a highway vehicle is subject to a civil penalty of two hundred fifty dollars (\$250) per occurrence.

G.S. 105-449.87(b) provides that if a retailer is found to have allowed dyed fuel to be dispensed into a highway vehicle, all fuel delivered to that storage facility is presumed to have been used to operate a highway vehicle. **All motor fuel delivered to that storage facility would be subject to tax at the NC excise rate.** The North Carolina Administrative Code (17NCAC 12B .0502) allows the retailer to overcome this presumption by maintaining withdrawal records. Withdrawal records must include the following information for the each sale of tax-not-paid fuel:

- The location and tank identifier number of the storage tank from which the withdrawal was made.
- The date of the withdrawal.
- The number of gallons withdrawn.
- The type of fuel withdrawn.
- The vehicle number, equipment number, or description of the vehicle or equipment into which the fuel was placed.

For more information you may call the NC DOR Excise Tax Division at 919-707-7500 or toll free at 877-08-9092. Customer assistance is available Monday through Friday between 8:00am and 4:30pm EST, excluding holidays.

Anyone with any information concerning the use of dyed diesel on the highway should contact the NC Excise Tax Division. You may also report this to the closest IRS office.