

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 815
SENATE BILL 1402

AN ACT TO CREATE AN EXCISE TAX ON EGGS FOR PROMOTIONAL
PURPOSES AND TO APPROPRIATE FUNDS FOR THE COLLECTION
THEREOF.

The General Assembly of North Carolina enacts:

Section 1. Chapter 106 of the General Statutes is amended by adding the following new Article 25B:

"Article 25B.

"Egg Promotion Tax.

"§ 106-245.30 Legislative findings; purpose of Article.—The General Assembly finds and declares that eggs are important to the prosperity of this State and are a major source of income to a large segment of the State's population. Additional research, education, publicity, advertising and other means of promoting the sale and use of eggs are required to enhance the economical production and marketing of eggs and will be beneficial to the State as a whole.

"§ 106-245.31. Definitions.—As used in this Article:

- (1) 'Board' means the North Carolina Board of Agriculture.
- (2) 'Commissioner' means the Commissioner of Agriculture.
- (3) 'Department' means the North Carolina Department of Agriculture.

"§ 106-245.32. Levy of tax; rules and regulations.—There is hereby levied on each 30-dozen case of eggs sold for use in North Carolina an excise tax of five cents (5¢) per case; provided, however, such tax shall be levied only once. 'Use' means consumption by the consumer. The Board may promulgate rules and regulations as are necessary for the interpretation, administration and enforcement of this tax.

"§ 106-245.33. Handler to remit tax to Department of Agriculture; report and payment of tax by handler; definition and functions of handler.—(a) For the purpose of carrying out the provisions of this Article, the handler of eggs on which a tax has been levied in accordance with the provisions of this Article shall remit such tax or assessment to the Department in the manner and at the time hereinafter provided. Reports to the Department shall be on forms prescribed and furnished by the Commissioner and shall be a statement of gross volume of eggs subject to the tax which have been packed, processed or handled by the handler in the previous month and shall be filed with the Department by the 20th day of each month. The tax levied on eggs shall be due and payable by the handler on the same day that the report is due. Such tax shall be paid to the Department and shall be deposited with the State Treasurer to the credit of the North Carolina Egg Fund.

(b) The term 'handler' means any person who operates a grading station in North Carolina, a packer, huckster or distributor who handles eggs in North Carolina or a farmer who packs, processes or otherwise performs the functions of a handler in North Carolina. The term 'handler' includes any person in North Carolina who purchases eggs for sale or distribution or any farmer in North Carolina who sells or distributes eggs to anyone other than a registered handler.

For purposes of this Article, the functions of a handler of eggs include the sale, distribution or other disposition of eggs in North Carolina regardless of where the eggs were produced or purchased.

The term 'registered handler' means any person who has registered with the Department to receive monthly return forms for reporting the tax levied herein.

Every person, whether inside or outside the State, who engages in business in North Carolina as a handler is required to register and to collect and pay the tax on all eggs sold or delivered for storage, use or consumption in this State. Such handlers shall maintain a certificate of registration, file returns and perform all other duties required of handlers.

"§ 106-245.34. Exemptions.—The eggs of any person selling less than 500 cases per year shall be exempt from the tax levied by this Article. The Board shall establish a procedure for returning taxes paid by exempt persons.

"§ 106-245.35. Records to be kept by handler.—The handler shall keep a complete record of the eggs subject to the provisions of this Article which have been packed, processed or handled by him and shall preserve such records for a period of not less than two years from the time such eggs were packed, processed or handled. Such records shall be open for inspection by the Commissioner or his duly authorized agents and shall be established and maintained as required by the Commissioner.

"§ 106-245.36. Interest on tax; collection of delinquent tax.—The tax imposed under the provisions of this Article and unpaid on the date on which the tax was due and payable shall bear interest at the rate determined in accordance with G.S. 105-241.1(i) from and after such due date until paid. If any person defaults in any payment of the tax or interest thereon, the amount shall be collected by a civil action in the name of the State and the person adjudged in default shall pay the cost of such action. The Attorney General, at the request of the Commissioner, shall institute such action in the proper court for the collection of the amount of any tax past due under this Article including interest thereon.

"§ 106-245.37. North Carolina Egg Fund.—All moneys levied and collected under the provisions of this Article shall be deposited with the State Treasurer to a fund to be known as the 'North Carolina Egg Fund'. Moneys in the North Carolina Egg fund are held in trust for the benefit of producers of eggs sold in North Carolina and such moneys shall not be or become part of the General Fund.

"§ 106-245.38. Violations—(a) It shall be a misdemeanor for any handler knowingly to report falsely to the Department the quantity of eggs handled by him during any period or to falsify the records of the eggs handled by him, or to fail to keep a complete record of the eggs handled

by him, or to fail to preserve such records for a period of not less than two years from the time such eggs are handled.

(b) It shall be a violation of the North Carolina Egg Law for a handler to fail to register as required herein, and any eggs transported, sold or offered for sale by such handler shall be subject to the stop-sale and penalty provisions of the North Carolina Egg Law (G.S. 106-245.13 et seq.)."

Sec. 2. The tax provided for herein shall not be levied upon any eggs which are assessed under the Agricultural Marketing Agreement Act of 1937 (7 USC 601 et seq.).

Sec. 3. After the effective date of this act no egg assessment shall be collected under Article 50 of Chapter 106 of the General Statutes.

Sec. 4. This act shall become effective October 1, 1987.

In the General Assembly read three times and ratified this the 13th day of August, 1987.