

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 2341

Short Title: Surcharge/Local Health Programs.

(Public)

Sponsors: Representative Green.

Referred to: Human Resources.

June 6, 1990

A BILL TO BE ENTITLED

AN ACT TO SUPPORT LOCAL HEALTH PROGRAMS THROUGH AN INCREASE IN THE LICENSE TAX ON FOOD AND LODGING FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-61 reads as rewritten:

"§ 105-61. (Effective July 1, 1990) Hotels, motels, tourist courts and tourist homes.

(a) Every person, firm, or corporation engaged in the business of operating any hotel or motel, tourist court, tourist home, or similar place advertising in any manner for transient patronage, or soliciting such business, shall apply for and procure from the Secretary of Revenue a State license for the privilege of transacting or engaging in such business, and shall pay for such license a tax of ~~two dollars (\$2.00)~~ five dollars (\$5.00) per room. The minimum tax shall be fifty dollars (\$50.00).

For the purpose of this section, the lobby, clubroom, office, dining room, kitchen and rooms occupied by the owner or lessee of the premises, or members of his family, for his or their personal or private use, shall not be counted in determining the number of rooms for the basis of the tax. The tax herein levied shall be in addition to any tax levied in G.S. 105-62 for the sale of prepared food.

(b) Hotel as referred to in this section shall be given its general or customary meaning; that is, a building or group of buildings providing lodging and usually (but not necessarily) meals, entertainment, and various personal services for the public.

Motel as referred to in this section shall be given its general or customary meaning; that is, a building or group of buildings in which the rooms usually are directly accessible from an outdoor parking area and which are used primarily as lodgings for the public.

1 In addition to hotels and motels, there is included within the meaning of this section
2 tourist courts, tourist homes and similar places – including, but not limited to, tourist
3 camps, semidetached apartments, resort lodgings and detached structures whenever the
4 operator advertises in any manner for transient patronage, or solicits such business. The
5 principal test of liability is the use of such places for temporary abode by transient
6 patrons. Such patrons are defined as staying for a short time, stopping for a brief period
7 only, not permanent.

8 (c) It is immaterial for the purposes of this section whether the rental to patrons is
9 on a daily, weekly, biweekly or monthly basis, and it is also immaterial, as to any
10 particular room, whether such room is occupied by a 'permanent' guest.

11 (d) 'Advertising in any manner' within the meaning of this section shall be
12 broadly construed to cover any media of advertising whereby the availability of the
13 accommodations may be made known and includes, but is not limited to, signs,
14 placards, folders, newspaper ads, classified ads, listings in commercial or tourist
15 circulars and any other form or means whereby the accommodations may be publicized.
16 Soliciting such business includes every form of solicitation, or listings with boards of
17 trade or chambers of commerce, by a hotel, motel, or any other place referred to herein
18 accommodating transient patrons.

19 (e) A single private residence or cottage designed for single family occupancy,
20 located in a resort area, and occupied during a part of the season by the owner or owners
21 thereof but rented the remainder of the season to others for single family occupancy,
22 shall be exempt from the tax imposed in this section. All such private residences or
23 cottages, in excess of one, so located, owned, occupied and rented shall be subject to the
24 tax imposed in this section.

25 (f) Counties shall not levy any license tax on the business taxed under this
26 section, but cities and towns may levy a license tax not in excess of ~~one-half~~ one-fifth of
27 the base tax levied by the State."

28 Sec. 2. G.S. 105-62 reads as rewritten:

29 **"§ 105-62. (Effective July 1, 1990) Restaurants.**

30 (a) Every person, firm, or corporation engaged in the business of operating a
31 restaurant, cafe, cafeteria, hotel, with dining service on the European plan, drugstore, or
32 other place where prepared food is sold, shall apply for and procure from the Secretary
33 of Revenue a State license for the privilege of transacting such business. The tax for
34 such license shall be based on the number of persons provided with chairs, stools, or
35 benches, and shall be ~~one dollar (\$1.00)~~ three dollars and twenty-five cents (\$3.25) per
36 person, with a minimum tax of fifty dollars (\$50.00): Provided, that the tax levied in this
37 subsection shall not apply to industrial plants maintaining a nonprofit restaurant, cafe or
38 cafeteria solely for the convenience of its employees. Provided further, a person, firm,
39 or corporation required to be licensed under this section is not required to procure the
40 license under G.S. 105-102.5 for the same location.

41 (b) Repealed by Session Laws 1979, c. 150, s. 2.

42 (c) Counties, cities and towns shall not levy any license tax on the business taxed
43 or any business exempted under this section, except that cities and towns may levy a
44 license tax not in excess of ~~one-half~~ two-thirteenths of the base tax levied by the State.

1 (d) No tax shall be levied under this section, for the privilege of operating
2 vending machines or the sale of any commodity through such machines, against any
3 vending machine operator, licensed under G.S. 105-65.1 and required thereby to pay a
4 gross receipts tax."

5 Sec. 3. This act shall become effective July 1, 1990.