

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1588

Short Title: Avery Room/Recreation Tax.

(Local)

Sponsors: Representative Buchanan.

Referred to: Finance.

June 4, 1992

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE AVERY COUNTY TO LEVY A ROOM OCCUPANCY
TAX AND A RECREATION TAX.

The General Assembly of North Carolina enacts:

Section 1. Occupancy and Recreation Taxes. (a) Authorization and scope. The Avery County Board of Commissioners may by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto, levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). The Avery County Board of Commissioners may by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto, levy a recreation admission tax of three percent (3%) of the gross receipts derived from the sale of admission, as a spectator or participant, to any entertainment, amusement, recreation, or athletic event in the county. These taxes are in addition to any State or local sales tax. These taxes do not apply to accommodations furnished or admissions sold by nonprofit charitable, educational, or religious organizations.

(b) Collection. Every operator of a business subject to a tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall be collected as part of the charge for furnishing a taxable accommodation or for admission to a taxable event. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the

1 business. The county shall design, print, and furnish to all appropriate businesses and
2 persons in the county the necessary forms for filing returns and instructions to ensure
3 the full collection of the tax.

4 (c) Administration. The county shall administer a tax levied under this section.
5 A tax levied under this section is due and payable to the county finance officer in
6 monthly installments on or before the fifteenth day of the month following the month in
7 which the tax accrues. Every person, firm, corporation, or association liable for the tax
8 shall, on or before the fifteenth day of each month, prepare and render a return on a
9 form prescribed by the county. The return shall state the total gross receipts derived in
10 the preceding month from rentals or admissions upon which the tax is levied.

11 A return filed with the county finance officer under this section is not a public
12 record as defined by G.S. 132-1 and may not be disclosed except as required by law.

13 (d) Penalties. A person, firm, corporation, or association who fails or refuses to
14 file the return required by this section shall pay a penalty of ten dollars (\$10.00) for
15 each day's omission. In case of failure or refusal to file the return or pay the tax for a
16 period of 30 days after the time required for filing the return or for paying the tax, there
17 shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to
18 any other penalty, with an additional tax of five percent (5%) for each additional month
19 or fraction thereof until the tax is paid. The board of commissioners may, for good
20 cause shown, compromise or forgive the additional tax penalties imposed by this
21 subsection.

22 Any person who willfully attempts in any manner to evade a tax imposed
23 under this section or who willfully fails to pay the tax or make and file a return shall, in
24 addition to all other penalties provided by law, be guilty of a misdemeanor and shall be
25 punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to
26 exceed six months, or both.

27 (e) Use of tax revenue. Avery County may use the proceeds of a tax levied
28 under this section for any public purpose.

29 (f) Effective date of levy. A tax levied under this section shall become
30 effective on the date specified in the resolution levying the tax. That date must be the
31 first day of a calendar month, however, and may not be earlier than the first day of the
32 second month after the date the resolution is adopted.

33 (g) Repeal. A tax levied under this section may be repealed by a resolution
34 adopted by the Avery County Board of Commissioners. Repeal of a tax levied under
35 this section shall become effective on the first day of a month and may not become
36 effective until the end of the fiscal year in which the repeal resolution was adopted.
37 Repeal of a tax levied under this section does not affect a liability for a tax that was
38 attached before the effective date of the repeal, nor does it affect a right to a refund of a
39 tax that accrued before the effective date of the repeal.

40 Sec. 2. This act is effective upon ratification.