

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

S

1

SENATE BILL 1706

Short Title: Phase Out State Food Tax.

(Public)

Sponsors: Senators Walker; Allran, Ballance, Ballantine, Cochrane, Conder, Edwards, Forrester, Gulley, Gunter, Hartsell, Hoyle, Hyde, Jordan, Kaplan, Kerr, Lee, Lucas, Martin of Guilford, Odom, Plexico, Richardson, Sands, Seymour, Shaw, Sherron, Simpson, Smith, Soles, Speed, Tally, Ward, and Winner of Mecklenburg.

Referred to: Finance.

June 13, 1994

A BILL TO BE ENTITLED

AN ACT TO PHASE OUT THE STATE SALES TAX ON FOOD.

The General Assembly of North Carolina enacts:

Section 1. (a) Effective July 1, 1994, G.S. 105-164.4(a) is amended by adding a new subdivision to read:

"(1e) The following rates apply to the sales price of food that would be exempt from the tax imposed by this Article if it were purchased with coupons issued under the Food Stamp Program, 7 U.S.C. § 51:

<u>Effective Dates</u>	<u>Rate</u>
------------------------	-------------

July 1, 1994, through June 30, 1995 – three percent (3%)

July 1, 1995, through June 30, 1996 – two percent (2%)

July 1, 1996, through June 30, 1997 – one percent (1%)."

(b) Effective July 1, 1997, G.S. 105-164.4(a)(1e), as enacted by this section, is repealed.

Sec. 2. Effective July 1, 1997, Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-164.13B. Food exempt from State tax only.

The taxes imposed by this Article do not apply to food and other items that are not otherwise exempt pursuant to G.S. 105-164.13 but would be exempt pursuant to G.S. 105-164.13 if purchased with coupons issued under the Food Stamp Program, 7 U.S.C. § 51."

1 Sec. 3. Effective July 1, 1994, G.S. 105-465 reads as rewritten:

2 **"§ 105-465. County election as to adoption of local sales and use tax.**

3 The board of elections of any county, upon the written request of the board of county
4 commissioners thereof, or upon receipt of a petition signed by qualified voters of the
5 county equal in number to at least fifteen percent (15%) of the total number of votes
6 cast in the county, at the last preceding election for the office of Governor, shall call a
7 special election for the purpose of submitting to the voters of the county the question of
8 whether a one percent (1%) sales and use tax as hereinafter provided will be levied.

9 The special election shall be held under the same rules and regulations applicable to
10 the election of members of the General Assembly. No new registration of voters shall be
11 required. All qualified voters in the county who are properly registered not later than 21
12 days (excluding Saturdays and Sundays) prior to the election shall be entitled to vote at
13 said election. The county board of elections shall give at least 20 days' public notice
14 prior to the closing of the registration books for the special election.

15 The county board of election shall prepare ballots for the special election ~~which shall~~
16 ~~contain the words, 'election. The question presented on the ballot shall be 'FOR the one~~
17 ~~percent (1%) local sales and use tax only on those items presently covered by the four~~
18 ~~percent (4%) sales and use tax,' and the words, 'on items subject to State sales and use tax at~~
19 ~~the general State rate and on food' or 'AGAINST the one percent (1%) local sales and~~
20 ~~use tax only on those items presently covered by the four percent (4%) sales and use tax,' with~~
21 ~~appropriate squares so that each voter may designate his vote by his cross (X) mark. on items~~
22 ~~subject to State sales and use tax at the general State rate and on food'.~~

23 The county board of elections shall fix the date of the special election; provided,
24 however, that the special election shall not be held on the date of any biennial election
25 for county officers, nor within 60 days thereof, nor within one year from the date of the
26 last preceding special election under this section."

27 Sec. 4. Effective July 1, 1994, G.S. 105-467 reads as rewritten:

28 **"§ 105-467. Scope of sales tax.**

29 The sales tax ~~which that~~ may be imposed under this Article is limited to a tax at the
30 rate of one percent (1%) ~~of~~ of the following:

- 31 (1) The sales price of ~~those articles of~~ tangible personal property ~~now~~
32 subject to the general rate of sales tax imposed by the State under G.S.
33 105-164.4(a)(1) and ~~(4b); (a)(4b).~~
- 34 (2) The gross receipts derived from the lease or rental of tangible personal
35 property when the lease or rental of the property is subject to the
36 general rate of sales tax imposed by the State under G.S. ~~105-~~
37 ~~164.4(a)(2); 105-164.4(a)(2).~~
- 38 (3) The gross receipts derived from the rental of any room or ~~lodging~~
39 ~~furnished by any hotel, motel, inn, tourist camp or other similar~~
40 accommodations ~~now~~ subject to the general rate of sales tax imposed
41 by the State under G.S. ~~105-164.4(a)(3); and 105-164.4(a)(3).~~
- 42 (4) The gross receipts derived from services rendered by laundries, dry
43 cleaners, and other businesses ~~now~~ subject to the general rate of sales
44 tax imposed by the State under G.S. 105-164.4(a)(4).

1 (5) The sales price of food and other items that are not otherwise exempt
2 from tax pursuant to G.S. 105-164.13 but would be exempt from the
3 State sales and use tax pursuant to G.S. 105-164.13 if purchased with
4 coupons issued under the Food Stamp Program, 7 U.S.C. § 51.

5 The sales tax authorized by this Article does not apply to sales that are taxable by the
6 State under G.S. 105-164.4 but are not specifically included in subdivisions (1) through
7 ~~(4)-(5)~~ of this section.

8 The State exemptions and exclusions contained in G.S. 105-164.13 and the State
9 refund provisions contained in G.S. 105-164.14 ~~shall apply with equal force and in like~~
10 ~~manner to the local sales and use tax authorized to be levied and imposed under this~~
11 ~~Article. A taxing county shall have no authority, with respect to the local sales and use tax~~
12 ~~imposed under this Article to change, alter, add to or delete any refund provisions contained in~~
13 ~~G.S. 105-164.14, or any exemptions or exclusions contained in G.S. 105-164.13 or which are~~
14 ~~elsewhere provided for. may not allow an exemption, exclusion, or refund that is not~~
15 allowed under the State sales and use tax.

16 The local sales tax authorized to be imposed and levied under ~~the provisions of this~~
17 ~~Article shall apply to such retail sales, leases, rentals, the rendering of services,~~
18 ~~furnishing of rooms, lodgings or accommodations and other applies to taxable~~
19 ~~transactions which are made, furnished or rendered by retailers whose place of business~~
20 ~~is located within the taxing county. The tax imposed shall apply to the furnishing of~~
21 ~~rooms, lodging or other accommodations within the county which are rented to~~
22 ~~transients. For the purpose of this Article, the situs of a transaction is the location of the~~
23 ~~retailer's place of business."~~

24 Sec. 5. Effective July 1, 1994, G.S. 105-468 reads as rewritten:

25 **"§ 105-468. Scope of use tax.**

26 The use tax ~~which may be imposed under authorized by this Article shall be~~ is a tax at
27 the rate of one percent (1%) of the cost price of each item or article of tangible personal
28 property when it ~~that~~ is not sold in the taxing county but is used, consumed consumed, or
29 stored for use or consumption in the taxing county, except that no tax shall be imposed
30 upon tangible personal property when the property would be taxed by the State at a rate other
31 than the general rate of tax set in G.S. 105-164.4 if it were taxable under G.S. 105-164.6.
32 county. The tax applies to the same items that are subject to tax under G.S. 105-467.

33 Every retailer who is engaged in business in this State and in the taxing county and
34 is required to collect the use tax levied by G.S. 105-164.6 shall ~~also~~ collect the one
35 percent (1%) use tax when ~~such~~ the property is to be used, ~~consumed~~ consumed, or
36 stored in the taxing county, ~~one percent (1%) use tax to be collected concurrently with the~~
37 ~~State's use tax; but no retailer not required to collect the use tax levied by G.S. 105-164.6 shall~~
38 ~~be required to collect the one percent (1%) use tax.~~ county. The use tax contemplated by
39 this section shall be levied against the purchaser, and the purchaser's liability for the use
40 tax shall be extinguished only upon payment of the use tax to the retailer, where the
41 retailer is required to collect the tax, or to the Secretary of Revenue, or to the taxing
42 county, as appropriate, where the retailer is not required to collect the tax.

43 Where a local sales or use tax has been paid with respect to tangible personal
44 property by the purchaser, either in another taxing county within the State, or in a taxing

1 jurisdiction outside the State where the purpose of the tax is similar in purpose and
2 intent to the tax which may be imposed pursuant to this Article, the tax paid may be
3 credited against the tax imposed under this section by a taxing county upon the same
4 property. If the amount of sales or use tax so paid is less than the amount of the use tax
5 due the taxing county under this section, the purchaser shall pay to the Secretary of
6 Revenue or to the taxing county, as appropriate, an amount equal to the difference
7 between the amount so paid in the other taxing county or jurisdiction and the amount
8 due in the taxing county. The Secretary of Revenue or the taxing county, as
9 appropriate, may require such proof of payment in another taxing county or jurisdiction
10 as is deemed to be necessary. The use tax levied under this Article is not subject to
11 credit for payment of any State sales or use tax not imposed for the benefit and use of
12 counties and municipalities. No credit shall be given under this section for sales or use
13 taxes paid in a taxing jurisdiction outside this State if that taxing jurisdiction does not
14 grant similar credit for sales taxes paid under this Article."

15 Sec. 6. Effective July 1, 1994, the first paragraph of Section 4 of Chapter
16 1096 of the 1967 Session Laws, as amended, is amended as follows:

17 (1) By deleting the word "and" before subdivision (4).

18 (2) By changing the period at the end of subdivision (4) to a semicolon
19 and adding the word "and".

20 (3) By adding a new subdivision to read:

21 "(5) The sales price of food and other items that are not otherwise exempt
22 from tax pursuant to G.S. 105-164.13 but would be exempt from the
23 State sales and use tax pursuant to G.S. 105-164.13 if purchased
24 with coupons issued under the Food Stamp Program, 7 U.S.C. § 51."

25 Sec. 7. Effective July 1, 1994, the first sentence of Section 5 of Chapter 1096
26 of the 1967 Session Laws is amended by deleting the first sentence of that section and
27 substituting the following sentences to read:

28 "The use tax that Mecklenburg County may impose under this division is a tax at the
29 rate of one percent (1%) of the cost price of each item or article of tangible personal
30 property that is not sold but is used, consumed, or stored for use or consumption in
31 Mecklenburg County. The tax applies to the same items that are subject to tax under
32 Section 4 of this act."

33 Sec. 8. Approval under Article 39, 40, or 42 of Chapter 105 of the General
34 Statutes, or under the Mecklenburg County Sales and Use Tax Act, Chapter 1096 of the
35 1967 Session Laws, as amended, of local sales and use taxes on items subject to State
36 sales and use tax at the general State rate constitutes approval of local sales and use
37 taxes on food.

38 Sec. 9. This act becomes effective July 1, 1994, and applies to sales made on
39 or after that date.