

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 60\*

Local Government and Regional Affairs Committee Substitute Adopted 4/5/93

Short Title: Disposal Tax on New White Goods.

(Public)

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Sponsors:

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Referred to: Finance.

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February 4, 1993

A BILL TO BE ENTITLED

AN ACT TO IMPOSE AN ADVANCE DISPOSAL TAX ON NEW WHITE GOODS,  
TO REQUIRE EACH COUNTY TO PROVIDE FOR THE MANAGEMENT OF  
DISCARDED WHITE GOODS, AND TO PROVIDE FOR THE REMOVAL OF  
CHLOROFLUOROCARBON REFRIGERANTS FROM WHITE GOODS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-290(a) is amended by adding a new subdivision in the appropriate alphabetical order to read:

"(1a) 'Chlorofluorocarbon refrigerant' means any of the following when used as a liquid heat transfer agent in a mechanical refrigeration system: carbon tetrachloride, chlorofluorocarbons, halons, or methyl chloroform."

Sec. 2. G.S. 130A-290(a)(44) reads as rewritten:

"(44) 'White goods' includes ~~inoperative and discarded~~ refrigerators, ranges, water heaters, freezers, unit air conditioners, washing machines, dishwashers, clothes dryers, and other similar domestic and commercial large appliances."

Sec. 3. Chapter 105 of the General Statutes is amended by adding a new Article to read:

**"ARTICLE 5C.**

**"WHITE GOODS DISPOSAL TAX.**

**"§ 105-187.20. Definitions.**

1        The definitions in G.S. 105-164.3 apply to this Article, except that the term 'sale'  
2 does not include lease or rental, and the following definitions apply to this Article:

3            (1)    Chlorofluorocarbon refrigerant. – Defined in G.S. 130A-290(a).

4            (2)    White goods. – Defined in G.S. 130A-290(a).

5 **"§ 105-187.21. Tax imposed.**

6        A privilege tax is imposed on a white goods wholesale merchant at a flat rate for  
7 each new white good sold by the merchant in a wholesale sale. A privilege tax is  
8 imposed on a white goods retailer at a flat rate for each new white good that is sold by  
9 the retailer and has not been the subject of a wholesale sale taxable under this section.

10 An excise tax is imposed on a new white good purchased outside the State for storage,  
11 use, or consumption in this State. The rate of the privilege taxes and the excise tax is  
12 five dollars (\$5.00) if the new white good does not contain chlorofluorocarbon  
13 refrigerants and is ten dollars (\$10.00) if the new white good contains  
14 chlorofluorocarbon refrigerants. These taxes are in addition to all other taxes.

15 **"§ 105-187.22. Administration.**

16        The privilege tax this Article imposes on a white goods wholesale merchant is a tax  
17 on the wholesale sale of the white goods. This tax shall, to the extent practical, be  
18 collected and administered as if it were an additional State sales tax. When the tax is  
19 paid, it is a credit against the privilege tax imposed by this Article on a white goods  
20 retail merchant and against the excise tax imposed by this Article.

21        The privilege tax this Article imposes on a white goods retailer is an additional State  
22 sales tax and the excise tax this Article imposes on the storage, use, or consumption of a  
23 new white good in this State is an additional State use tax. Except as otherwise  
24 provided in this Article, these taxes shall be collected and administered in the same  
25 manner as the State sales and use taxes imposed by Article 5 of this Chapter. As under  
26 Article 5 of this Chapter, the additional State sales tax paid when a new white good is  
27 sold at retail is a credit against the additional State use tax imposed on the storage, use,  
28 or consumption of the same white good.

29 **"§ 105-187.23. Exemptions and refunds.**

30        (a)    Exemptions. – The exemptions in G.S. 105-164.13 do not apply to the taxes  
31 imposed by this Article. The taxes imposed by this Article do not apply to the sale of a  
32 white good by a nonresident manufacturer or another nonresident wholesale merchant to  
33 a resident wholesale merchant or a resident retail merchant.

34        (b)    Refunds. – The refunds allowed in G.S. 105-164.14 do not apply to the taxes  
35 imposed by this Article. A person who buys at least 100 of the same kind of new white  
36 good in the same sale or purchase may obtain a refund for the amount of tax imposed by  
37 this Article on the white goods when all of the white goods purchased are to be placed  
38 in new dwelling units that are located in this State, are in the same building project, and  
39 do not contain the kind of white good purchased. To obtain a refund, a person must file  
40 an application for a refund with the Secretary. The application must contain the  
41 information required by the Secretary, be signed by the purchaser of the white goods,  
42 and be submitted by the date set by the Secretary.

43 **"§ 105-187.24. Use of tax proceeds.**

1       The Secretary shall distribute the taxes collected under this Article, less the  
2 Department of Revenue's allowance for administrative expenses, in accordance with this  
3 section. The Secretary may retain the Department's cost of collection, not to exceed two  
4 hundred twenty-five thousand dollars (\$225,000) a year, as reimbursement to the  
5 Department.

6       Each quarter, the Secretary shall credit five percent (5%) of the net tax proceeds to  
7 the Solid Waste Management Trust Fund and shall credit twenty percent (20%) of the  
8 net tax proceeds to the White Goods Management Account. The Secretary shall  
9 distribute the remaining seventy-five percent (75%) of the net tax proceeds among the  
10 counties on a per capita basis according to the most recent annual population estimates  
11 certified to the Secretary by the State Planning Officer.

12       A county may use funds distributed to it under this section only as provided in G.S.  
13 130A-309.82. A county that receives funds under this section and that has an interlocal  
14 agreement with another unit of local government under which the other unit provides  
15 for the disposal of solid waste for the county must transfer the amount received under  
16 this section to that other unit. A unit to which funds are transferred is subject to the  
17 same restrictions on use of the funds as the county."

18       Sec. 4. Article 9 of Chapter 130A of the General Statutes is amended by  
19 adding a new Part to read:

20       **"PART 2D. MANAGEMENT OF DISCARDED WHITE GOODS.**

21       **"§ 130A-309.80. Findings and purpose.**

22       The General Assembly finds that white goods are difficult to dispose of, that white  
23 goods that contain chlorofluorocarbon refrigerants pose a danger to the environment,  
24 and that it is in the best interest of the State to require that chlorofluorocarbon  
25 refrigerants be removed from discarded white goods. This Part therefore provides for  
26 the management of discarded white goods.

27       **"§ 130A-309.81. Management of discarded white goods; additional fee prohibited.**

28       (a) Duty. – Each county is responsible for providing at least one site for the  
29 collection and disposal of discarded white goods and for the removal of  
30 chlorofluorocarbon refrigerants from white goods. A county may contract with another  
31 unit of local government or a private entity in accordance with Article 15 of Chapter  
32 153A of the General Statutes to provide for the management of discarded white goods  
33 or for the removal of chlorofluorocarbon refrigerants from white goods.

34       (b) Restrictions. – A unit of local government or a contracting party may not  
35 charge a disposal fee for the disposal of white goods that is in addition to the fee  
36 charged for the disposal of any other type of municipal solid waste. A white good may  
37 not be disposed of in a landfill, an incinerator, or a waste-to-energy facility.

38       (c) Plan. – Each county shall establish written procedures for the management  
39 of white goods. The county shall include the procedures in any solid waste  
40 management plan required by the Department under this Article.

41       **"§ 130A-309.82. Use of disposal tax proceeds by counties.**

42       Article 5C of Chapter 105 of the General Statutes imposes a tax on new white goods  
43 to provide funds for the management of discarded white goods. A county may use

1 proceeds of the tax distributed to it under that Article only for the management of  
2 discarded white goods.

3 **"§ 130A-309.83. White Goods Management Account.**

4 The White Goods Management Account is established within the Department. The  
5 Account consists of revenue credited to the Account from the proceeds of the white  
6 goods disposal tax imposed by Article 5C of Chapter 105 of the General Statutes.

7 The Department shall use revenue in the Account to make grants to units of local  
8 government to assist them in managing discarded white goods. To administer the  
9 grants, the Department shall establish procedures for applying for a grant and the  
10 criteria for selecting among grant applicants. The criteria shall include the financial  
11 ability of a unit to manage white goods, the severity of a unit's white goods management  
12 problem, and the effort made by a unit to manage white goods within the resources  
13 available to it.

14 A unit of local government is not eligible for a grant unless its costs of managing  
15 white goods for a six-month period preceding the date the unit files an application for a  
16 grant exceeded the amount the unit received during that period from the proceeds of the  
17 white goods disposal tax under G.S. 105-187.24. The Department shall determine the  
18 six-month period to be used in determining who is eligible for a grant. A grant to a unit  
19 may not exceed the unit's unreimbursed cost for the six-month period.

20 **"§ 130A-309.84. Retailer must post notice of proper disposal.**

21 A person who sells new white goods or offers new white goods for sale at retail in  
22 this State must post a written notice. This notice must be at least 8 1/2 inches by 11  
23 inches in size. The notice must state that State law requires each county to provide a  
24 site for the collection and disposal of discarded white goods and to accept discarded  
25 white goods of the type sold at that retail establishment, the location of the county site,  
26 and that disposal of a discarded white good in a landfill, an incinerator, or a waste-to-  
27 energy facility is against the law.

28 **"§ 130A-309.85. Civil penalties for failure to comply with Part.**

29 (a) General. – The Department may assess civil penalties for violations of this  
30 Part as specified in this section. Civil penalties collected under this section shall be  
31 credited to the General Fund as nontax revenue.

32 (b) Failure to Post Notice. – The Department may assess a civil penalty of not  
33 more than fifty dollars (\$50.00) per violation against any person who knowingly fails to  
34 post the notice required by G.S. 130A-309.83. Each day a person fails to post a  
35 required notice is a separate violation.

36 (c) Prohibited Disposal. – The Department may assess a civil penalty in  
37 accordance with G.S. 130A-309.22 against a person who knowingly places or otherwise  
38 disposes of a discarded white good in a landfill, an incinerator, or a waste-to-energy  
39 facility or who knowingly fails to remove chlorofluorocarbon refrigerants from a white  
40 good.

41 **"§ 130A-309.86. Department to submit annual report on the management of white**  
42 **goods.**

43 The Department shall make an annual report to the Environmental Review  
44 Commission concerning the management of white goods. The report shall be submitted

1 by October 1 of each year, shall cover the fiscal year ending on the preceding June 30,  
2 and shall include the following information:

- 3 (1) The amount of taxes collected and distributed under G.S. 105-187.24  
4 during the period covered by the report.
- 5 (2) The cost to each county of managing white goods during the period  
6 covered by the report.
- 7 (3) The beginning and ending balances of the White Goods Management  
8 Account for the period covered by the report and a list of grants made  
9 from the Account for the period.
- 10 (4) Any other information the Department considers helpful in  
11 understanding the problem of managing white goods.

12 **"§ 130A-309.87. Effect on local ordinances.**

13 This Part preempts any local ordinance regarding the management of white goods  
14 that is inconsistent with this Part or the rules adopted pursuant to this Part. It does not  
15 preempt any local ordinance regarding the management of white goods that is consistent  
16 with this Part or rules adopted pursuant to this Part."

17 Sec. 5. G.S. 130A-309.12(b) reads as rewritten:

18 "(b) The Solid Waste Management Trust Fund shall consist ~~of~~ of the following:

- 19 (1) Funds appropriated by the General Assembly; ~~Assembly.~~
- 20 (2) Contributions and grants from public or private ~~sources; and sources.~~
- 21 (3) Ten percent (10%) of the proceeds of the scrap tire disposal tax  
22 imposed under Article 5B of Chapter 105 of the General Statutes.
- 23 (4) Five percent (5%) of the proceeds of the white goods disposal tax  
24 imposed under Article 5C of Chapter 105 of the General Statutes."

25 Sec. 6. G.S. 130A-309.81(b), as enacted by this act, reads as rewritten:

26 "(b) Restrictions. – A unit of local government or a contracting party may ~~not~~  
27 charge a disposal fee for the disposal of white goods that is in addition to the fee  
28 charged for the disposal of any other type of municipal solid waste. A white good may  
29 not be disposed of in a landfill, an incinerator, or a waste-to-energy facility."

30 Sec. 7. G.S. 130A-309.82 and G.S. 130A-309.83, as enacted by this act, are  
31 repealed.

32 Sec. 8. G.S. 130A-309.12(b)(4), as enacted by this act, is repealed.

33 Sec. 9. G.S. 130A-309.86, as enacted by this act, reads as rewritten:

34 **"§ 130A-309.86. Department to submit annual report on the management of white**  
35 **goods.**

36 The Department shall make an annual report to the Environmental Review  
37 Commission concerning the management of white goods. The report shall be submitted  
38 by October 1 of each year, shall cover the fiscal year ending on the preceding June 30,  
39 and shall include ~~the following information:~~

- 40 (1) ~~The amount of taxes collected and distributed under G.S. 105-187.24~~  
41 ~~during the period covered by the report.~~

42 (2) ~~The the cost to each county of managing white~~  
43 ~~goods during the period covered by the report.~~

1           (3)    ~~The beginning and ending balances of the White Goods Management~~  
2                    ~~Account for the period covered by the report and a list of grants made~~  
3                    ~~from the Account for the period.~~

4           (4)    Any  
5 report, the additional fees on white goods collected by each county during the period  
6 covered by the report, and any other information the Department considers helpful in  
7 understanding the problem of managing white goods."

8            Sec. 10. Sections 1 through 5 of this act and this section become effective  
9 January 1, 1994. Section 3 of this act expires July 1, 1998. Section 6 of this act  
10 becomes effective July 1, 1998. Sections 7, 8, and 9 of this act become effective July 1,  
11 1999.

12            The repeal of the tax imposed by Section 3 of this act does not affect the  
13 rights or liabilities of the State, a taxpayer, or another person that arose during the time  
14 the tax was in effect. The first report submitted by the Department to the Environmental  
15 Review Commission under G.S. 130A-309.86, as enacted by this act, shall cover the  
16 period from January 1, 1994, to June 30, 1994.