

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

Finance Committee Substitute Adopted 6/24/93

Short Title: Disposal Tax on New White Goods.

(Public)

Sponsors:

Referred to:

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:

"(1b) '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 retailer at a flat rate for each new white
7 good that is sold by the retailer. An excise tax is imposed on a new white good
8 purchased outside the State for storage, use, or consumption in this State. The rate of
9 the privilege taxes and the excise tax is five dollars (\$5.00) if the new white good does
10 not contain chlorofluorocarbon refrigerants and is ten dollars (\$10.00) if the new white
11 good contains chlorofluorocarbon refrigerants. These taxes are in addition to all other
12 taxes.

13 **"§ 105-187.22. Administration.**

14 The privilege tax this Article imposes on a white goods retailer is an additional State
15 sales tax and the excise tax this Article imposes on the storage, use, or consumption of a
16 new white good in this State is an additional State use tax. Except as otherwise
17 provided in this Article, these taxes shall be collected and administered in the same
18 manner as the State sales and use taxes imposed by Article 5 of this Chapter. As under
19 Article 5 of this Chapter, the additional State sales tax paid when a new white good is
20 sold at retail is a credit against the additional State use tax imposed on the storage, use,
21 or consumption of the same white good.

22 **"§ 105-187.23. Exemptions and refunds.**

23 (a) Exemptions. – Except for the exemption provided in G.S. 105-164.13(17), the
24 exemptions in G.S. 105-164.13 do not apply to the taxes imposed by this Article.

25 (b) Refunds. – The refunds allowed in G.S. 105-164.14 do not apply to the taxes
26 imposed by this Article. A person who buys at least 25 new white goods in the same
27 sale or purchase may obtain a refund equal to sixty percent (60%) of the amount of tax
28 imposed by this Article on the white goods when all of the white goods purchased are to
29 be placed in new or remodeled dwelling units that are located in this State and do not
30 contain the kind of white goods purchased. To obtain a refund, a person must file an
31 application for a refund with the Secretary. The application must contain the
32 information required by the Secretary, be signed by the purchaser of the white goods,
33 and be submitted by the date set by the Secretary.

34 **"§ 105-187.24. Use of tax proceeds.**

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

40 Each quarter, the Secretary shall credit five percent (5%) of the net tax proceeds to
41 the Solid Waste Management Trust Fund and shall credit twenty percent (20%) of the
42 net tax proceeds to the White Goods Management Account. The Secretary shall
43 distribute the remaining seventy-five percent (75%) of the net tax proceeds among the

1 counties on a per capita basis according to the most recent annual population estimates
2 certified to the Secretary by the State Planning Officer.

3 A county may use funds distributed to it under this section only as provided in G.S.
4 130A-309.82. A county that receives funds under this section and that has an interlocal
5 agreement with another unit of local government under which the other unit provides
6 for the disposal of solid waste for the county must transfer the amount received under
7 this section to that other unit. A unit to which funds are transferred is subject to the
8 same restrictions on use of the funds as the county."

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

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

12 **"§ 130A-309.80. Findings and purpose.**

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

18 **"§ 130A-309.81. Management of discarded white goods; additional fee prohibited.**

19 (a) Duty. – Each county is responsible for providing at least one site for the
20 collection of discarded white goods. It must also provide for the disposal of discarded
21 white goods and for the removal of chlorofluorocarbon refrigerants from white goods.
22 A county may contract with another unit of local government or a private entity in
23 accordance with Article 15 of Chapter 153A of the General Statutes to provide for the
24 management of discarded white goods or for the removal of chlorofluorocarbon
25 refrigerants from white goods.

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

33 **"§ 130A-309.82. Use of disposal tax proceeds by counties.**

34 Article 5C of Chapter 105 of the General Statutes imposes a tax on new white goods
35 to provide funds for the management of discarded white goods. A county may use
36 proceeds of the tax distributed to it under that Article only for the management of
37 discarded white goods.

38 **"§ 130A-309.83. White Goods Management Account.**

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

42 The Department shall use revenue in the Account to make grants to units of local
43 government to assist them in managing discarded white goods. To administer the
44 grants, the Department shall establish procedures for applying for a grant and the

1 criteria for selecting among grant applicants. The criteria shall include the financial
2 ability of a unit to manage white goods, the severity of a unit's white goods management
3 problem, and the effort made by a unit to manage white goods within the resources
4 available to it.

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

11 **"§ 130A-309.84. Retailer must post notice of proper disposal.**

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

19 **"§ 130A-309.85. Civil penalties for failure to comply with Part.**

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

23 (b) Failure to Post Notice. – The Department may assess a civil penalty of not
24 more than fifty dollars (\$50.00) per violation against any person who knowingly fails to
25 post the notice required by G.S. 130A-309.84. Each day a person fails to post a
26 required notice is a separate violation.

27 (c) Prohibited Disposal. – The Department may assess a civil penalty in
28 accordance with G.S. 130A-22 against a person who knowingly places or otherwise
29 disposes of a discarded white good in a landfill, an incinerator, or a waste-to-energy
30 facility or who knowingly fails to remove chlorofluorocarbon refrigerants from a white
31 good.

32 **"§ 130A-309.86. Department to submit annual report on the management of white**
33 **goods.**

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

- 38 (1) The amount of taxes collected and distributed under G.S. 105-187.24
39 during the period covered by the report.
- 40 (2) The cost to each county of managing white goods during the period
41 covered by the report.
- 42 (3) The beginning and ending balances of the White Goods Management
43 Account for the period covered by the report and a list of grants made
44 from the Account for the period.

1 (4) Any other information the Department considers helpful in
 2 understanding the problem of managing white goods.

3 **§ 130A-309.87. Effect on local ordinances.**

4 This Part preempts any local ordinance regarding the management of white goods
 5 that is inconsistent with this Part or the rules adopted pursuant to this Part. It does not
 6 preempt any local ordinance regarding the management of white goods that is consistent
 7 with this Part or rules adopted pursuant to this Part."

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

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

10 (1) Funds appropriated by the General Assembly; Assembly.

11 (2) Contributions and grants from public or private ~~sources; and sources.~~

12 (3) Ten percent (10%) of the proceeds of the scrap tire disposal tax
 13 imposed under Article 5B of Chapter 105 of the General Statutes.

14 (4) Five percent (5%) of the proceeds of the white goods disposal tax
 15 imposed under Article 5C of Chapter 105 of the General Statutes."

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

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

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

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

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

25 **§ 130A-309.86. Department to submit annual report on the management of white**
 26 **goods.**

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

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

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

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

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

42 Sec. 10. Sections 1 through 5 of this act and this section become effective
 43 January 1, 1994. Section 3 of this act expires July 1, 1998. Section 6 of this act

1 becomes effective July 1, 1998. Sections 7, 8, and 9 of this act become effective July 1,
2 1999.

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