

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 471
SENATE BILL 60

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.

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

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

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

"§ 105-187.21. Tax imposed.

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

"§ 105-187.22. Administration.

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

"§ 105-187.23. Exemptions and refunds.

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

(b) Refunds. – The refunds allowed in G.S. 105-164.14 do not apply to the taxes imposed by this Article. A person who buys at least 50 new white goods of any kind in the same sale or purchase may obtain a refund equal to sixty percent (60%) of the amount of tax imposed by this Article on the white goods when all of the white goods purchased are to be placed in new or remodeled dwelling units that are located in this State and do not contain the kind of white goods purchased. To obtain a refund, a person must file an application for a refund with the Secretary. The application must contain the information required by the Secretary, be signed by the purchaser of the white goods, and be submitted by the date set by the Secretary.

"§ 105-187.24. Use of tax proceeds.

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

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

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

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

"Part 2D. Management of Discarded White Goods.

"§ 130A-309.80. Findings and purpose.

The General Assembly finds that white goods are difficult to dispose of, that white goods that contain chlorofluorocarbon refrigerants pose a danger to the environment,

and that it is in the best interest of the State to require that chlorofluorocarbon refrigerants be removed from discarded white goods. This Part therefore provides for the management of discarded white goods.

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

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

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

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

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

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

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

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

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

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

"§ 130A-309.84. Civil penalties for improper disposal.

The Department may assess a civil penalty of not more than one hundred dollars (\$100.00) against a person who, knowing it is unlawful, places or otherwise disposes of a discarded white good in a landfill, an incinerator, or a waste-to-energy facility. The

Department may assess this penalty for the day the unlawful disposal occurs and each following day until the white good is disposed of properly.

The Department may assess a penalty of up to one hundred dollars (\$100.00) against a person who, knowing it is required, fails to remove chlorofluorocarbon refrigerants from a discarded white good. The Department may assess this penalty for the day the failure occurs and each following day until the chlorofluorocarbon refrigerants are removed.

Civil penalties collected under this section shall be credited to the General Fund as nontax revenue.

"§ 130A-309.85. Department to submit annual report on the management of white goods.

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

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

"§ 130A-309.86. Effect on local ordinances.

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

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

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

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

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

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

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

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

Sec. 9. G.S. 130A-309.85, as enacted by this act, reads as rewritten:

"§ 130A-309.85. Department to submit annual report on the management of white goods.

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

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

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

Sec. 10. G.S. 105-187.24, as enacted by this act, reads as rewritten:

"§ 105-187.24. Use of tax proceeds.

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

~~Each quarter, the Secretary shall credit five Article on a quarterly basis as follows:~~

- (1) ~~Five percent (5%) of the net tax proceeds to the Solid Waste Management Trust Fund and shall credit twenty Fund.~~
- (2) ~~Twenty percent (20%) of the net tax proceeds to the White Goods Management Account. The Secretary shall distribute the remaining seventy-five~~
- (3) ~~Seventy-five percent (75%) of the net tax proceeds among the counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Planning Officer.~~

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

Sec. 11. Sections 1 through 5 of this act and this section become effective January 1, 1994. Section 3 of this act expires July 1, 1998. Section 6 of this act

becomes effective July 1, 1998. Sections 7, 8, and 9 of this act become effective July 1, 1999. Section 10 of this act becomes effective January 1, 1995.

The repeal of the tax imposed by Section 3 of this act does not affect the rights or liabilities of the State, a taxpayer, or another person that arose during the time the tax was in effect. The first report submitted by the Department to the Environmental Review Commission under G.S. 130A-309.85, as enacted by this act, shall cover the period from January 1, 1994, to June 30, 1994.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives