

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 112

Short Title: Repeal State Food Tax.

(Public)

Sponsors: Representatives Richardson; Alexander, Beall, Fitch, Hensley, Hunt, H. Hunter, Luebke, Redwine, and Yongue.

Referred to: Finance.

February 7, 1995

1 A BILL TO BE ENTITLED
2 AN ACT TO REPEAL THE STATE SALES TAX ON FOOD.

3 The General Assembly of North Carolina enacts:

4 Section 1. Article 5 of Chapter 105 of the General Statutes is amended by
5 adding a new section to read:

6 "**§ 105-164.13B. Food exempt from State tax only.**

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

10 Sec. 2. G.S. 105-465 reads as rewritten:

11 "**§ 105-465. County election as to adoption of local sales and use tax.**

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

18 The special election shall be held under the same rules and regulations applicable to
19 the election of members of the General Assembly. No new registration of voters shall be

1 required. All qualified voters in the county who are properly registered not later than 21
2 days (excluding Saturdays and Sundays) prior to the election shall be entitled to vote at
3 said election. The county board of elections shall give at least 20 days' public notice prior
4 to the closing of the registration books for the special election.

5 The county board of election shall prepare ballots for the special election ~~which shall~~
6 ~~contain the words, 'election. The question presented on the ballot shall be 'FOR the one~~
7 ~~percent (1%) local sales and use tax only on those items presently covered by the four percent~~
8 ~~(4%) sales and use tax,' and the words, 'on items subject to State sales and use tax at the~~
9 ~~general State rate and on food' or 'AGAINST the one percent (1%) local sales and use tax~~
10 ~~only on those items presently covered by the four percent (4%) sales and use tax,' with~~
11 ~~appropriate squares so that each voter may designate his vote by his cross (X) mark. on items~~
12 ~~subject to State sales and use tax at the general State rate and on food'.~~

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

17 Sec. 3. G.S. 105-467 reads as rewritten:

18 **"§ 105-467. Scope of sales tax.**

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

- 21 (1) The sales price of ~~those articles of~~ tangible personal property ~~now~~ subject
22 to the general rate of sales tax imposed by the State under G.S. 105-
23 164.4(a)(1) and ~~(4b); (a)(4b).~~
- 24 (2) The gross receipts derived from the lease or rental of tangible personal
25 property when the lease or rental of the property is subject to the general
26 rate of sales tax imposed by the State under G.S. ~~105-164.4(a)(2); 105-~~
27 164.4(a)(2).
- 28 (3) The gross receipts derived from the rental of any room or ~~lodging~~
29 ~~furnished by any hotel, motel, inn, tourist camp or other similar~~
30 accommodations ~~now~~ subject to the general rate of sales tax imposed by
31 the State under G.S. ~~105-164.4(a)(3); and 105-164.4(a)(3).~~
- 32 (4) The gross receipts derived from services rendered by laundries, dry
33 cleaners, and other businesses ~~now~~ subject to the general rate of sales
34 tax imposed by the State under G.S. 105-164.4(a)(4).
- 35 (5) The sales price of food that is exempt from tax imposed by the State
36 pursuant to G.S. 105-164.13B but is not otherwise exempt from tax
37 pursuant to G.S. 105-164.13.

38 The sales tax authorized by this Article does not apply to sales that are taxable by the
39 State under G.S. 105-164.4 but are not specifically included in subdivisions (1) through
40 ~~(4)~~ (5) of this section.

41 The State exemptions and exclusions contained in G.S. 105-164.13 and the State
42 refund provisions contained in G.S. 105-164.14 ~~shall apply with equal force and in like~~
43 ~~manner~~ to the local sales and use tax authorized to be levied and imposed under this

1 Article. A taxing county shall have no authority, with respect to the local sales and use tax
2 imposed under this Article to change, alter, add to or delete any refund provisions contained in
3 G.S. 105-164.14, or any exemptions or exclusions contained in G.S. 105-164.13 or which are
4 elsewhere provided for. may not allow an exemption, exclusion, or refund that is not
5 allowed under the State sales and use tax.

6 The local sales tax authorized to be imposed and levied under the provisions of this
7 Article shall apply to such retail sales, leases, rentals, the rendering of services,
8 furnishing of rooms, lodgings or accommodations and other applies to taxable
9 transactions which are made, furnished or rendered by retailers whose place of business is
10 located within the taxing county. The tax imposed shall apply to the furnishing of rooms,
11 lodging or other accommodations within the county which are rented to transients. For
12 the purpose of this Article, the situs of a transaction is the location of the retailer's place
13 of business."

14 Sec. 4. G.S. 105-468 reads as rewritten:

15 "**§ 105-468. Scope of use tax.**

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

23 Every retailer who is engaged in business in this State and in the taxing county and is
24 required to collect the use tax levied by G.S. 105-164.6 shall also collect the one percent
25 (1%) use tax when such the property is to be used, consumed-consumed, or stored in the
26 taxing county, one percent (1%) use tax to be collected concurrently with the State's use tax; but
27 no retailer not required to collect the use tax levied by G.S. 105-164.6 shall be required to collect
28 the one percent (1%) use tax. county. The use tax contemplated by this section shall be
29 levied against the purchaser, and the purchaser's liability for the use tax shall be
30 extinguished only upon payment of the use tax to the retailer, where the retailer is
31 required to collect the tax, or to the Secretary of Revenue, or to the taxing county, as
32 appropriate, where the retailer is not required to collect the tax.

33 Where a local sales or use tax has been paid with respect to tangible personal property
34 by the purchaser, either in another taxing county within the State, or in a taxing
35 jurisdiction outside the State where the purpose of the tax is similar in purpose and intent
36 to the tax which may be imposed pursuant to this Article, the tax paid may be credited
37 against the tax imposed under this section by a taxing county upon the same property. If
38 the amount of sales or use tax so paid is less than the amount of the use tax due the taxing
39 county under this section, the purchaser shall pay to the Secretary of Revenue or to the
40 taxing county, as appropriate, an amount equal to the difference between the amount so
41 paid in the other taxing county or jurisdiction and the amount due in the taxing county.
42 The Secretary of Revenue or the taxing county, as appropriate, may require such proof of
43 payment in another taxing county or jurisdiction as is deemed to be necessary. The use

1 tax levied under this Article is not subject to credit for payment of any State sales or use
2 tax not imposed for the benefit and use of counties and municipalities. No credit shall be
3 given under this section for sales or use taxes paid in a taxing jurisdiction outside this
4 State if that taxing jurisdiction does not grant similar credit for sales taxes paid under this
5 Article."

6 Sec. 5. The first paragraph of Section 4 of Chapter 1096 of the 1967 Session
7 Laws, as amended, is amended as follows:

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

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

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

12 "(5) The sales price of food that is exempt from tax imposed by the State
13 pursuant to G.S. 105-164.13B but is not otherwise exempt from tax
14 pursuant to G.S. 105-164.13."

15 Sec. 6. The first sentence of Section 5 of Chapter 1096 of the 1967 Session
16 Laws is amended by deleting the first sentence of that section and substituting the
17 following sentences to read:

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

23 Sec. 7. Approval under Article 39, 40, or 42 of Chapter 105 of the General
24 Statutes, or under the Mecklenburg County Sales and Use Tax Act, Chapter 1096 of the
25 1967 Session Laws, as amended, of local sales and use taxes on items subject to State
26 sales and use tax at the general State rate constitutes approval of local sales and use taxes
27 on food.

28 Sec. 8. This act becomes effective July 1, 1996, and applies to sales made on
29 or after that date.