

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1242

Short Title: Clarify Free Item Sales Tax.

(Public)

Sponsors: Representatives Shubert, Blue, Cansler, Capps, Church, Neely, G. Robinson, and Shaw.

Referred to: Finance.

May 20, 1996

A BILL TO BE ENTITLED
AN ACT TO CLARIFY THE SALES TAX TREATMENT OF ITEMS GIVEN AWAY
BY MERCHANTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.3(15) reads as rewritten:

"(15) 'Sale' or 'selling' shall mean any means the transfer of title or possession,
~~or both, exchange, barter, lease, license to use or consume, or rental~~
possession of tangible personal property, conditional or otherwise, in
any manner or by any means whatsoever, ~~however effected and by~~
~~whatever name called,~~ for a consideration paid or to be paid, ~~and paid.~~

The term includes the fabrication of tangible personal property for
consumers by persons engaged in business who furnish either directly or
indirectly the materials used in the fabrication ~~work, and work.~~ The term
also includes the furnishing, preparing, or serving ~~furnishing or preparing~~
for a consideration of any tangible personal property consumed on the
premises of the person ~~furnishing, preparing, or serving such tangible~~
~~personal~~ furnishing or preparing the property or consumed at the place at
which ~~such the property is prepared, served or sold.~~ furnished or prepared.

~~A transaction whereby~~ The term also includes a transaction in which the

1 possession of the property is transferred but the seller retains title or
2 security for the payment of the ~~price shall be deemed a sale.~~ consideration.

3 If a retailer engaged in the business of selling prepared food and
4 drink for immediate or on-premises consumption also gives prepared
5 food or drink to its patrons or employees free of charge, for the purposes
6 of this Article the property given away is considered sold along with the
7 property sold. In all other cases, property given away or used by any
8 retailer or wholesale merchant is not considered sold, whether or not the
9 retailer or wholesale merchant recovers its cost of the property from
10 sales of other property."

11 Sec. 2. This act becomes effective July 1, 1996.