

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1242  
Committee Substitute Favorable 6/13/96

Short Title: Clarify Free Item Sales Tax.

(Public)

Sponsors:

Referred to:

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. If a retailer gives an item of inventory to a customer free  
8 of charge on the condition that the customer purchase similar or related  
9 property, the item given away is considered sold along with the item  
10 sold. In all other cases, property given away or used by any retailer or  
11 wholesale merchant is not considered sold, whether or not the retailer or  
12 wholesale merchant recovers its cost of the property from sales of other  
13 property."

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