

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1242
Committee Substitute Favorable 6/13/96
Third Edition Engrossed 6/19/96

Short Title: Clarify Free Item Sales Tax.

(Public)

Sponsors:

Referred to:

May 20, 1996

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

4 The General Assembly of North Carolina enacts:

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

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

12 The term includes the fabrication of tangible personal property for
13 consumers by persons engaged in business who furnish either directly or
14 indirectly the materials used in the fabrication ~~work, and work.~~ The
15 term also includes the furnishing, preparing, or serving ~~furnishing or~~
16 ~~preparing~~ for a consideration of any tangible personal property
17 consumed on the premises of the person ~~furnishing, preparing, or~~
18 ~~serving such tangible personal~~ furnishing or preparing the property or

1 consumed at the place at which ~~such~~ the property is prepared, served or
2 ~~sold, furnished or prepared. A transaction whereby~~ The term also
3 includes a transaction in which the possession of the property is
4 transferred but the seller retains title or security for the payment of the
5 price shall be deemed a sale, consideration.

6 If a retailer engaged in the business of selling prepared food and
7 drink for immediate or on-premises consumption also gives prepared
8 food or drink to its patrons or employees free of charge, for the purposes
9 of this Article the property given away is considered sold along with the
10 property sold. If a retailer gives an item of inventory to a customer free
11 of charge on the condition that the customer purchase similar or related
12 property, the item given away is considered sold along with the item
13 sold. In all other cases, property given away or used by any retailer or
14 wholesale merchant is not considered sold, whether or not the retailer or
15 wholesale merchant recovers its cost of the property from sales of other
16 property."

17 Sec. 2. G.S. 105-164.3 is amended by adding a new subdivision to read:

18 "(11a) Prepared food and drink. – Meals, food, and beverages to which a
19 retailer has added value or whose state the retailer has altered (other
20 than solely by cooling) by preparing, combining, dividing, heating, or
21 servicing, in order to make them available for immediate human
22 consumption."

23 Sec. 3. This act becomes effective July 1, 1996.