

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 734

Short Title: Reduce Tax on Nonprescription Drugs.

(Public)

Sponsors: Representatives Sherrill, Pulley; Allred, Baker, Brawley, J. Brown, Capps, Clary, Cocklereece, Cummings, Davis, Decker, Edwards, Justus, McComas, Miner, Nichols, Robinson, Russell, Sexton, Sharpe, Snowden, Thompson, and G. Wilson.

Referred to: Finance.

April 3, 1995

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE FOUR PERCENT STATE SALES AND USE TAX ON
NONPRESCRIPTION MEDICINES.

The General Assembly of North Carolina enacts:

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

"§ 105-164.13B. Nonprescription drugs exempt from State tax only.

The taxes imposed by this Article do not apply to nonprescription drugs that are not otherwise exempt pursuant to G.S. 105-164.13."

Sec. 2. G.S. 105-164.3 is amended by adding the following new definitions in the appropriate alphabetical order:

"(3a) Cosmetics. – Compounds intended to be introduced into or applied to the body for cleansing or affecting the appearance or texture. The term includes, for example, cold cream, suntan lotion, hair dye, makeup, and skin lotion.

(9a) Nonprescription drug. – A product that can be sold legally without a prescription and is one of the following:

- 1 (1) The sales price of ~~those articles of~~ tangible personal property ~~now~~
2 subject to the general rate of sales tax imposed by the State under
3 G.S. 105-164.4(a)(1) and ~~(4b); (a)(4b)~~.
- 4 (2) The gross receipts derived from the lease or rental of tangible
5 personal property when the lease or rental of the property is subject
6 to the general rate of sales tax imposed by the State under G.S. ~~105-~~
7 ~~164.4(a)(2);~~ 105-164.4(a)(2).
- 8 (3) The gross receipts derived from the rental of any room or ~~lodging~~
9 ~~furnished by any hotel, motel, inn, tourist camp or other similar~~
10 accommodations ~~now~~ subject to the general rate of sales tax imposed
11 by the State under G.S. ~~105-164.4(a)(3); and~~ 105-164.4(a)(3).
- 12 (4) The gross receipts derived from services rendered by laundries, dry
13 cleaners, and other businesses ~~now~~ subject to the general rate of sales
14 tax imposed by the State under G.S. 105-164.4(a)(4).
- 15 (5) The sales price of nonprescription drugs that are exempt from tax
16 imposed by the State pursuant to G.S. 105-164.13B but are not
17 otherwise exempt from tax pursuant to G.S. 105-164.13.

18 The sales tax authorized by this Article does not apply to sales that are taxable by the
19 State under G.S. 105-164.4 but are not specifically included in subdivisions (1) through
20 ~~(4)~~ (5) of this section.

21 The State exemptions and exclusions contained in G.S. 105-164.13 and the State
22 refund provisions contained in G.S. 105-164.14 ~~shall apply with equal force and in like~~
23 ~~manner~~ to the local sales and use tax authorized to be levied and imposed under this
24 Article. A taxing county ~~shall have no authority, with respect to the local sales and use tax~~
25 ~~imposed under this Article to change, alter, add to or delete any refund provisions contained in~~
26 ~~G.S. 105-164.14, or any exemptions or exclusions contained in G.S. 105-164.13 or which are~~
27 ~~elsewhere provided for.~~ may not allow an exemption, exclusion, or refund that is not
28 allowed under the State sales and use tax.

29 The local sales tax authorized to be imposed and levied under ~~the provisions of this~~
30 Article ~~shall apply to such retail sales, leases, rentals, the rendering of services,~~
31 ~~furnishing of rooms, lodgings or accommodations and other~~ applies to taxable
32 transactions ~~which are made, furnished or rendered by retailers whose place of business is~~
33 located within the taxing county. ~~The tax imposed shall apply to the furnishing of rooms,~~
34 ~~lodging or other accommodations within the county which are rented to transients.~~ For
35 the purpose of this Article, the situs of a transaction is the location of the retailer's place
36 of business."

37 Sec. 5. G.S. 105-468 reads as rewritten:

38 "**§ 105-468. Scope of use tax.**

39 The use tax ~~which may be imposed under~~ authorized by this Article shall be is a tax at
40 the rate of one percent (1%) of the cost price of each item or article of tangible personal
41 property ~~when it that is not sold in the taxing county but is used, consumed~~ consumed, or
42 stored for use or consumption in the taxing county, ~~except that no tax shall be imposed upon~~
43 tangible personal property when the property would be taxed by the State at a rate other than the

1 ~~general rate of tax set in G.S. 105-164.4 if it were taxable under G.S. 105-164.6. county. The~~
2 ~~tax applies to the same items that are subject to tax under G.S. 105-467.~~

3 Every retailer who is engaged in business in this State and in the taxing county and is
4 required to collect the use tax levied by G.S. 105-164.6 shall ~~also~~ collect the one percent
5 (1%) use tax when ~~such~~ the property is to be used, ~~consumed~~ consumed, or stored in the
6 taxing county, ~~one percent (1%) use tax to be collected concurrently with the State's use tax; but~~
7 ~~no retailer not required to collect the use tax levied by G.S. 105-164.6 shall be required to collect~~
8 ~~the one percent (1%) use tax. county.~~ The use tax contemplated by this section shall be
9 levied against the purchaser, and the purchaser's liability for the use tax shall be
10 extinguished only upon payment of the use tax to the retailer, where the retailer is
11 required to collect the tax, or to the ~~Secretary of Revenue, or to the taxing county, as~~
12 ~~appropriate, Secretary,~~ where the retailer is not required to collect the tax.

13 Where a local sales or use tax has been paid with respect to tangible personal property
14 by the purchaser, either in another taxing county within the State, or in a taxing
15 jurisdiction outside the State where the purpose of the tax is similar in purpose and intent
16 to the tax which may be imposed pursuant to this Article, the tax paid may be credited
17 against the tax imposed under this section by a taxing county upon the same property. If
18 the amount of sales or use tax so paid is less than the amount of the use tax due the taxing
19 county under this section, the purchaser shall pay to the ~~Secretary of Revenue or to the~~
20 ~~taxing county, as appropriate,~~ an amount equal to the difference between the amount so
21 paid in the other taxing county or jurisdiction and the amount due in the taxing county.
22 The ~~Secretary of Revenue or the taxing county, as appropriate,~~ may require ~~such~~ proof of
23 payment in another taxing county or ~~jurisdiction as is deemed to be necessary. jurisdiction.~~
24 The use tax levied under this Article is not subject to credit for payment of any State sales
25 or use tax not imposed for the benefit and use of counties and municipalities. No credit
26 shall be given under this section for sales or use taxes paid in a taxing jurisdiction outside
27 this State if that taxing jurisdiction does not grant similar credit for sales taxes paid under
28 this Article."

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

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

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

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

35 "(5) The sales price of nonprescription drugs that are exempt from tax
36 imposed by the State pursuant to G.S. 105-164.13B but are not
37 otherwise exempt from tax pursuant to G.S. 105-164.13."

38 Sec. 7. The first sentence of Section 5 of Chapter 1096 of the 1967 Session
39 Laws is amended by deleting the first sentence of that section and substituting the
40 following sentences to read:

41 "The use tax that Mecklenburg County may impose under this division is a tax at the
42 rate of one percent (1%) of the cost price of each item or article of tangible personal
43 property that is not sold but is used, consumed, or stored for use or consumption in

1 Mecklenburg County. The tax applies to the same items that are subject to tax under
2 Section 4 of this act."

3 Sec. 8. Approval under Article 39, 40, or 42 of Chapter 105 of the General
4 Statutes, or under the Mecklenburg County Sales and Use Tax Act, Chapter 1096 of the
5 1967 Session Laws, as amended, of local sales and use taxes on items subject to State
6 sales and use tax at the general State rate constitutes approval of local sales and use taxes
7 on nonprescription drugs.

8 Sec. 9. This act becomes effective July 1, 1995, and applies to sales made on
9 or after that date.