

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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SENATE BILL 145

Short Title: Streamlined Sales Tax Changes. (Public)

Sponsors: Senators Kerr, Clodfelter, Dalton, Hartsell, Hoyle, and Webster.

Referred to: Finance.

February 16, 2005

A BILL TO BE ENTITLED
AN ACT TO AMEND THE SALES AND USE TAX STATUTES TO CONFORM TO
THE STREAMLINED SALES TAX AGREEMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.3 reads as rewritten:

"§ 105-164.3. Definitions.

The following definitions apply in this Article:

...

(4b) Computer supplies. – Items that are considered to be a 'school computer supply' under the Streamlined Agreement.

...

(10) Food. – Substances that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. The substances may be in liquid, concentrated, solid, frozen, dried, or dehydrated form. The term does not include an alcoholic beverage, as defined in G.S. 105-113.68, or a tobacco products, product, as defined in G.S. 105-113.4.

...

(37a) School supplies. – Items commonly used by students in the course of their studies and that are considered to be a 'school supply', a 'school art supply', or a 'school instructional material' under the Streamlined Agreement.

...

(45a) Streamlined Agreement. – The Streamlined Sales and Use Tax Agreement adopted November 12, 2002, as amended on November 19, 2003, and on November 16, 2004."

SECTION 2.(a) G.S. 105-164.13B(a) reads as rewritten:

1 (a) State Exemption. – Food is exempt from the taxes imposed by this Article
2 unless the food is included in one of the subdivisions in this subsection. The following
3 food items are subject to tax:

4 (1) ~~Alcoholic beverages, as defined in G.S. 105-113.68.~~

5 (2) Dietary supplements.

6 (3) Food sold through a vending machine.

7 (4) Prepared food.

8 (5) Soft drinks.

9 (6) **(Repealed effective January 1, 2004)** Candy, unless the item is
10 purchased for home consumption and would be exempt if purchased
11 under the Federal Food Stamp Program, 7 U.S.C. § 51."

12 **SECTION 2.(b)** Subdivision (b)(5) of Section 5 of Part IV of Chapter 908 of
13 the 1983 Session Laws, as amended by Chapter 821 of the 1989 Session Laws and S.L.
14 2001-347, reads as rewritten:

15 (b) Definitions. The definitions in G.S. 105-164.3 apply to this Part insofar as
16 they are not inconsistent with the provisions of this Part. In addition, the following
17 definitions apply in this Part:

18 ...

19 (5) Prepared Food and Beverages. The term ~~has the same meaning as the~~
20 ~~term "prepared food" in G.S. 105-164.3, includes the following:~~

21 a. Prepared food, as defined in G.S. 105-164.3.

22 b. An alcoholic beverage, as defined in G.S. 18B-101, that meets
23 at least one of the conditions of prepared food under
24 G.S. 105-164.3."

25 **SECTION 2.(c)** Subdivision (a)(2) of Section 2 of Chapter 413 of the 1993
26 Session Laws, as amended by S.L. 2001-347, reads as rewritten:

27 "Sec. 2. Definitions; Sales and Use Tax Statutes. – (a) The definitions in
28 G.S. 105-164.3 apply to this act to the extent they are not inconsistent with the
29 provisions of this act. In addition, the following definitions apply in this act:

30 ...

31 (2) Prepared food and beverages. – The term ~~has the same meaning as the~~
32 ~~term "prepared food" in G.S. 105-164.3, includes the following:~~

33 a. Prepared food, as defined in G.S. 105-164.3.

34 b. An alcoholic beverage, as defined in G.S. 18B-101, that meets
35 at least one of the conditions of prepared food under
36 G.S. 105-164.3."

37 **SECTION 2.(d)** Section 2 of Chapter 449 of the 1985 Session Laws, as
38 amended by Chapter 826 of the 1985 Session Laws, Chapter 177 of the 1991 Session
39 Laws, and S.L. 2001-347, reads as rewritten:

40 "Sec. 2. Definitions. The definitions in G.S. 105-164.3 apply in this act. In addition,
41 the following definitions apply in this act.

42 (1) Net proceeds. Gross proceeds less the cost to the county of
43 administering and collecting the tax.

- 1 (2) Prepared food and beverages. The term ~~has the same meaning as the~~
2 ~~term "prepared food" in G.S. 105-164.3; includes the following:~~
3 a. Prepared food, as defined in G.S. 105-164.3.
4 b. An alcoholic beverage, as defined in G.S. 18B-101, that meets
5 at least one of the conditions of prepared food under
6 G.S. 105-164.3."

7 **SECTION 2.(e)** Subsection (b) of Section 1 of Chapter 449 of the 1993
8 Session Laws, as amended by S.L. 2001-347, reads as rewritten:

9 "(b) Definitions; Sales and Use Tax Statutes. – The definitions in G.S. 105-164.3
10 apply to this section to the extent they are not inconsistent with the provisions of this
11 section. The provisions of Article 5 and Article 9 of Chapter 105 of the General Statutes
12 apply to this section to the extent they are not inconsistent with the provisions of this
13 section.~~In addition, For the purposes of this section, the term "prepared food and~~
14 ~~beverages" has the same meaning as the term "prepared food" in G.S. 105-164.3.~~
15 includes the following:

- 16 (1) Prepared food, as defined in G.S. 105-164.3.
17 (2) An alcoholic beverage, as defined in G.S. 18B-101, that meets at least
18 one of the conditions of prepared food under G.S. 105-164.3.

19 ~~The provisions of Article 5 and Article 9 of Chapter 105 of the General Statutes apply to~~
20 ~~this section to the extent they are not inconsistent with the provisions of this section."~~

21 **SECTION 2.(f)** Subdivision (3) of Section 2 of Chapter 594 of the 1991
22 Session Laws, as amended by S.L. 2001-347, reads as rewritten:

23 "Sec. 2. Definitions. The definitions in G.S. 105-164.3 apply to this act to the extent
24 they are not inconsistent with the provisions of this act. The following definitions also
25 apply in this act:

- 26 ...
27 (3) Prepared food and beverage. The term ~~has the same meaning as the~~
28 ~~term "prepared food" in G.S. 105-164.3; includes the following:~~
29 a. Prepared food, as defined in G.S. 105-164.3.
30 b. An alcoholic beverage, as defined in G.S. 18B-101, that meets
31 at least one of the conditions of prepared food under
32 G.S. 105-164.3."

33 **SECTION 3.** G.S. 105-164.13C(a) reads as rewritten:

34 "(a) The taxes imposed by this Article do not apply to the following items of
35 tangible personal property if sold between 12:01A.M. on the first Friday of August and
36 11:59 P.M. the following Sunday:

- 37 (1) Clothing with a sales price of one hundred dollars (\$100.00) or less per
38 item.
39 (2) School supplies with a sales price of one hundred dollars (\$100.00) or
40 less per item.
41 (3) Computers with a sales price of three thousand five hundred dollars
42 (\$3,500) or less per item.

1 (4) ~~Sport or recreational equipment with a sales price of fifty dollars~~
2 ~~(\$50.00) or less per item. Computer supplies with a sales price of two~~
3 ~~hundred fifty dollars (\$250.00) or less per item.~~

4 (5) Sport or recreational equipment with a sales price of fifty dollars
5 (\$50.00) or less per item."

6 **SECTION 4.** G.S. 105-164.28 reads as rewritten:

7 "**§ 105-164.28. Certificate of resale.**

8 (a) Seller's Responsibility. – A seller who accepts a certificate of resale from a
9 purchaser of tangible personal property has the burden of proving that the sale was not a
10 retail sale unless all of the following conditions are met:

11 (1) For a sale made in person, the certificate is signed by the ~~purchaser,~~
12 purchaser and states the purchaser's name, address, ~~and~~ registration
13 number, and type of business. ~~describes the type of tangible personal~~
14 ~~property generally sold by the purchaser in the regular course of~~
15 ~~business.~~

16 (2) For a sale made in person, the ~~purchaser is engaged in the business of~~
17 ~~selling tangible personal property of the type sold.~~ sold is typically used
18 in the type of business stated on the certificate.

19 (3) For a sale made over the Internet or by other remote means, the sales
20 tax registration number given by the purchaser matches the number on
21 the Department's registry.

22 (b) ~~Liabilities. Purchaser's Liability.~~ – A purchaser who does not resell property
23 purchased under a certificate of resale is liable for any tax subsequently determined to
24 be due on the sale. ~~A seller of property sold under a certificate of resale is jointly liable~~
25 ~~with the purchaser of the property for any tax subsequently determined to be due on the~~
26 ~~sale only if the Secretary proves that the sale was a retail sale."~~

27 **SECTION 5.** G.S. 105-164.42B(1) reads as rewritten:

28 "**§ 105-164.42B. Definitions.**

29 The following definitions apply in this Part:

30 (1) Agreement. — ~~The Streamlined Sales and Use Tax~~
31 ~~Agreement.~~ Agreement, as defined in G.S. 105-164.3.

32 "

33 **SECTION 6.** This act is effective when it becomes law.