

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

S

1

SENATE BILL 1559*

Short Title: Video Service Competition Act. (Public)

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

Referred to: Commerce.

May 18, 2006

1 A BILL TO BE ENTITLED
2 AN ACT TO PROMOTE CONSUMER CHOICE IN VIDEO SERVICE PROVIDERS
3 AND TO ESTABLISH UNIFORM TAXES FOR VIDEO PROGRAMMING
4 SERVICES.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Chapter 66 of the General Statutes is amended by adding a
7 new Article to read:

8 "Article 42.

9 "State Franchise for Cable Television Service.

10 "**§ 66-350. Definitions.**

11 The following definitions apply in this Article:

12 (1) Cable service. – Defined in G.S. 105-164.3.

13 (2) Cable system. – Defined in 47 U.S.C. § 522.

14 (3) Channel. – A portion of the electromagnetic frequency spectrum that is
15 used in a cable system and is capable of delivering a television
16 channel.

17 (4) Commission. – The North Carolina Utilities Commission.

18 (5) Existing agreement. – A local franchise agreement that was awarded
19 under G.S. 153A-137 or G.S. 160A-319 and is in effect on January 1,
20 2007.

21 (6) Pass a household. – Make service available to a household, regardless
22 of whether the household subscribes to the service.

23 (7) PEG channel. – A public, educational, or governmental access channel
24 provided to a county or city.

25 "**§ 66-351. State franchising authority.**

26 (a) Authority. – The North Carolina Utilities Commission is designated the
27 exclusive franchising authority in this State for cable service provided over a cable
28 system. This designation replaces the authorization to counties and cities in former
29 G.S. 153A-137 and G.S. 160A-319 to award a franchise for cable service. This

1 designation is effective January 1, 2007. After this date, a county or city may not award
2 or renew a franchise for cable service.

3 (b) Award and Scope. – The Commission is considered to have awarded a
4 franchise to a person who files a notice of service under G.S. 66-352. A franchise for
5 cable service authorizes the holder of the franchise to construct and operate a cable
6 system over public rights-of-way within the area to be served. Chapter 160A of the
7 General Statutes governs the regulation of public rights-of-way by a city.

8 **"§ 66-352. Notice and commencement of service.**

9 (a) Notice of Service. – A person who intends to provide cable service over a
10 cable system in an area must file a notice of service with the Commission before
11 providing the service. The notice is effective when it is filed with the Commission. The
12 notice of service must include all of the following:

13 (1) The applicant's name and principal place of business.

14 (2) A description and map of the area to be served.

15 (3) A list of each county and city in which the described service area is
16 located, in whole or in part.

17 (4) A schedule indicating when service is expected to be offered in part or
18 all of the service area.

19 (b) Initial Service. – A person who files a notice of service under subsection (a)
20 of this section must begin providing cable service in the service area described in the
21 notice within 120 days after the notice is filed. If cable service does not begin within
22 this period, the notice of service terminates 130 days after it was filed. If cable service
23 begins within this period, the holder of the State-issued franchise must file a report of
24 initial service with the Commission within 10 days after the cable service begins. Cable
25 service begins when it passes one or more households in the described service area. This
26 subsection does not apply to a cable service provider who terminates an existing
27 agreement whose franchise area includes all of the service area described in a notice of
28 service filed by the provider under subsection (a) of this section.

29 A report of initial service for a service area must include all of the following:

30 (1) The effective date of a notice of service for that area.

31 (2) A description and map of the service area.

32 (3) A statement that cable service has begun in the service area.

33 (c) Extension. – A person who intends to provide cable service over a cable
34 system in an area that is contiguous with but outside the service area described in a
35 notice of service on file with the Commission must file a notice of service under
36 subsection (a) of this section that includes the proposed area. The initial service
37 requirements in subsection (b) of this section apply to the proposed area. If the map of
38 the area to be served includes any area that is part of the service area of another
39 State-issued franchise, the termination of a notice of service for the proposed area for
40 failure to begin service within the required time does not affect the status of the other
41 State-issued franchise.

42 (d) Withdrawal. – A person may withdraw a notice of service by filing a notice
43 of withdrawal with the Commission. The notice of withdrawal must be filed at least 90
44 days before the service is withdrawn.

1 **"§ 66-353. Annual service report.**

2 A holder of a State-issued franchise must file an annual service report with the
3 Commission. The report must be filed on or before July 15 of each year. The report
4 must include all of the following:

- 5 (1) The effective date of a notice of service for that area.
6 (2) A description and map of the service area.
7 (3) The approximate number of households in the service area.
8 (4) A description and a map of the households passed in the service area
9 as of July 1.
10 (5) The percentage of households passed in the service area as of July 1.
11 (6) The percentage of households passed in the service area as of July 1 of
12 any preceding year for which a report was required under this
13 subsection.
14 (7) A schedule indicating when service is expected to be offered in part or
15 all of the service area, to the extent the schedule differs from one
16 included in the notice of service or in a report previously submitted
17 under this subsection, and an explanation of the reason for the new
18 schedule.

19 **"§ 66-354. General filing and report requirements.**

20 A document filed with the Commission under this section must be signed by an
21 officer or general partner of the person submitting the document. Within five days after
22 a person files a document with the Commission under this section, the person must send
23 a copy of the document to any county or city included in the service area described in
24 the document. A document filed under this section is a public record as defined in
25 G.S. 132-1.

26 A successor in interest to a person who has filed a notice of service is not required to
27 file another notice of service. When a change in ownership occurs, the owner must file a
28 notice of change in ownership with the Commission within 14 days after the change
29 becomes effective.

30 **"§ 66-355. Effect on existing local franchise agreement.**

31 (a) Existing Agreement. – This Article does not affect an existing agreement
32 except as follows:

- 33 (1) Effective January 1, 2007, gross revenue used to calculate the payment
34 of the franchise tax imposed by G.S. 153A-154 or G.S. 160A-214 does
35 not include gross receipts from cable service subject to sales tax under
36 G.S. 105-164.4. This exclusion does not otherwise affect the
37 calculation of gross revenue and the payment to counties and cities of
38 franchise tax revenue under existing agreements that have not been
39 terminated under subsection (b) of this section.
40 (2) A cable service provider under an existing agreement may terminate
41 the agreement in accordance with subsection (b) of this section when a
42 report of initial service filed under G.S. 66-352 indicates that one or
43 more households in the franchise area of the existing agreement are

1 passed by both the cable service provider under the existing agreement
2 and the holder of a State-issued franchise.

3 (b) Termination. – To terminate an existing agreement, a cable service provider
4 must file a notice of termination with the affected county or city and file a notice of
5 service with the Commission. A termination of an existing agreement becomes effective
6 at the end of a calendar quarter that is at least 30 days after the notice of termination is
7 filed with the affected county or city. A termination of an existing agreement ends the
8 obligations under the agreement as of the effective date of the termination but does not
9 affect the rights or liabilities of the county or city, a taxpayer, or another person arising
10 under the existing agreement before the effective date of the termination.

11 **"§ 66-356. Service standards and requirements.**

12 (a) Discrimination Prohibited. – A person who provides cable service over a
13 cable system may not deny access to the service to any group of potential residential
14 subscribers within the filed service area because of the race or income of the residents.
15 A violation of this subsection is considered an unfair or deceptive act or practice under
16 G.S. 75-1.1.

17 In determining whether a cable service provider has violated this subsection with
18 respect to a group of potential residential subscribers in a service area, the following
19 factors must be considered:

20 (1) The length of time since the provider filed the notice of service for the
21 area. If less than a year has elapsed since the notice of service was
22 filed, it is conclusively presumed that a violation has not occurred.

23 (2) The cost of providing service to the affected group due to distance
24 from facilities, density, or other factors.

25 (3) Technological impediments to providing service to the affected group.

26 (4) Inability to obtain access to property required to provide service to the
27 affected group.

28 (b) FCC Standards. – A person who provides cable service over a cable system
29 must comply with the customer service requirements in 47 C.F.R. § 76.309 and
30 emergency alert requirements established by the Federal Communications Commission.
31 The Consumer Protection Division of the Attorney General's office is designated as the
32 State agency to receive and respond to customer complaints concerning cable service.
33 The number for the Division must be printed on the customer's bill.

34 (c) No Build-Out. – No build-out requirements apply to a person who provides
35 cable service under a State-issued franchise.

36 **"§ 66-357. Availability and use of PEG channels.**

37 (a) Application. – This section applies to a person who provides cable service
38 under a State-issued franchise. It does not apply to a person who provides cable service
39 under an existing agreement.

40 (b) Local Request. – A county or city must make a written request to a cable
41 service provider for PEG channel capacity. The request must include a statement
42 describing the county's or city's plan to operate and program each channel requested.
43 The cable service provider must provide the requested PEG channel capacity within 120
44 days after it receives the written request.

1 (c) Initial PEG Channels. – If an area is included in both the franchise area of an
2 existing agreement and the service area of a State-issued franchise, the terms of the
3 existing agreement, as of the filing date on the notice of service for the State-issued
4 franchise, determine the required number, service tier placement, and transmission
5 quality of initial PEG channels. The cable service provider must provide the number of
6 PEG channels activated under those terms, giving equivalent service tier placement and
7 transmission quality to those channels. The cable service provider must maintain the
8 same channel designation for a PEG channel unless the service area of the State-issued
9 franchise includes PEG channels that are operated by different counties or cities and
10 those PEG channels have the same channel designation. The expiration of an existing
11 agreement after January 1, 2007, does not affect the requirements in this subsection.

12 If no existing agreement includes any part of the service area of a State-issued
13 franchise, then the number, service tier placement, and transmission quality of the initial
14 PEG channels a cable service provider must provide depends upon the population of the
15 city in which part or all of the service area is located. If the city's population is at least
16 50,000, the cable service provider must provide up to three PEG channels on a basic
17 service tier. If the city's population is less than 50,000, a cable service provider must
18 provide up to two PEG channels on a basic service tier. The transmission quality of
19 these PEG channels must be equivalent to those of the closest city covered by an
20 existing agreement.

21 (d) Additional PEG Channels. – A county or city that does not have seven PEG
22 channels, including the initial PEG channels, is eligible for an additional PEG channel if
23 it meets the programming requirements in this subsection. A county or city that has
24 seven PEG channels is not eligible for an additional channel.

25 A county or city that meets the programming requirements in this subsection may
26 make a written request under subsection (b) of this section for an additional channel.
27 The additional channel may be provided on any service tier. The transmission quality of
28 the additional channel must be at least equivalent to the transmission quality of the other
29 channels provided.

30 The PEG channels operated by a county or city must meet the following
31 programming requirements in order for the county or city to obtain an additional
32 channel:

- 33 (1) All of the PEG channels must have scheduled programming for at least
34 eighty percent (80%) of the time for at least eight hours a day.
- 35 (2) The programming content of each of the PEG channels must not repeat
36 more than fifteen percent (15%) of the programming content on any of
37 the other PEG channels.
- 38 (3) No more than fifteen percent (15%) of the programming content on
39 any of the PEG channels may be character-generated programming.

40 (e) Use of Channels. – If a county or city no longer provides any programming
41 for transmission over a PEG channel it has activated, the channel may be reprogrammed
42 at the cable service provider's discretion. A cable service provider must give at least 60
43 days notice to a county or city before it reprograms a PEG channel that is not used. The
44 cable service provider must restore a previously lost PEG channel within 120 days of

1 the date a county or city certifies to the provider a schedule that demonstrates the
2 channel will be used.

3 (f) Operation of Channels. – A cable service provider is responsible only for the
4 transmission of a PEG channel. The county or city to which the PEG channel is
5 provided is responsible for the operation and content of the channel. A county or city
6 that provides content to a cable service provider for transmission on a PEG channel is
7 considered to have authorized the provider to transmit the content throughout the
8 provider's service area, regardless of whether part of the service area is outside the
9 boundaries of the county or city.

10 All programming on a PEG channel must be noncommercial. A cable service
11 provider is not required to transmit content on a PEG channel that is branded with the
12 logo, name, or other identifying marks of another cable service provider.

13 **"§ 66-358. Transmission of PEG channels.**

14 (a) Service. – When a cable service provider operating under a State-issued
15 franchise begins providing cable service in an area, the service must include the
16 transmission of PEG channels by one of the following methods:

17 (1) Interconnection of its cable system on reasonable and competitively
18 neutral terms with any other cable system operated in its franchise or
19 service area. Interconnection may be accomplished by direct cable,
20 microwave link, satellite, or other method of connection.

21 (2) Transmission of the signal from each PEG channel programmer's
22 origination site.

23 (b) Signal. – All PEG channel programming must meet the minimum recognized
24 technical standards for the format used. If a PEG channel programmer transmits its
25 signal in a format a cable service provider cannot transmit without altering the
26 transmission signal, then the cable service provider must do one of the following:

27 (1) Alter the transmission signal to make it compatible with the
28 technology or protocol the cable service provider uses to deliver its
29 cable service.

30 (2) Provide to the county or city equipment needed to alter the
31 transmission signal to make it compatible with the technology or
32 protocol the cable service provider uses to deliver its cable service.

33 **"§ 66-359. Service to public building.**

34 At the written request of a county or city, a cable service provider operating under a
35 State-issued franchise must provide cable service without charge to a public building
36 located within 125 feet of the provider's cable system. The required service is the basic,
37 or lowest-priced, service the provider offers to customers. The terms and conditions that
38 apply to service provided to a retail customer apply to the service provided to the public
39 building. Only one service outlet is required for a building. The cable service provider is
40 not required to provide concealed inside wiring. A public building is a building used as
41 a public school, a charter school, a county or city library, or a function of the county or
42 city."

43 **SECTION 2.** G.S. 105-164.3 is amended by adding a new subdivision to
44 read:

1 **"§ 105-164.3. Definitions.**

2 The following definitions apply in this Article:

3 ...

4 (50c) Video programming. – Programming provided by, or generally
5 considered comparable to programming provided by, a television
6 broadcast station, regardless of the method of delivery."

7 **SECTION 3.** G.S. 105-164.4(a)(6) reads as rewritten:

8 "(6) The combined general rate applies to the gross receipts derived from
9 providing ~~any of the following broadcast services~~ video programming
10 to a subscriber in this State. A cable service provider, a direct-to-home
11 satellite service provider, and any other person engaged in the business
12 of providing any of these services video programming is considered a
13 retailer under this ~~Article~~:Article.

14 a. ~~Direct to home satellite service.~~

15 b. ~~Cable service."~~

16 **SECTION 4.** G.S. 105-164.4C(d) is recodified as G.S. 105-164.4D with the
17 catchline "Bundled services."

18 **SECTION 5.** G.S. 105-164.4D, as recodified by Section 4 of this act, reads
19 as rewritten:

20 **"§ 105-164.4D. Bundled services.**

21 ~~Bundled Services.~~—When a taxable ~~telecommunications~~ service is bundled with a
22 service that is not taxable, the tax applies to the gross receipts from the taxable service
23 in the bundle as follows:

24 (1) If the service provider offers all the services in the bundle on an
25 unbundled basis, tax is due on the unbundled price of the taxable
26 service, less the discount resulting from the bundling. The discount for
27 a service as the result of bundling is the proportionate price decrease of
28 the service, determined on the basis of the total unbundled price of all
29 the services in the bundle compared to the bundled price of the
30 services.

31 (2) If the service provider does not offer one or more of the services in the
32 bundle on an unbundled basis, tax is due on the taxable service based
33 on a reasonable allocation of revenue to that service. If the service
34 provider maintains an account for revenue from a taxable service, the
35 service provider's allocation of revenue to that service for the purpose
36 of determining the tax due on the service must reflect its accounting
37 allocation of revenue to that service."

38 **SECTION 6.** The catchline to G.S. 105-164.12B reads as rewritten:

39 **"§ 105-164.12B. ~~Bundled transactions.~~Tangible personal property bundled with**
40 **service contract."**

41 **SECTION 7.** G.S. 105-164.44F(a) reads as rewritten:

42 "(a) Amount. – The Secretary must distribute ~~to the cities~~ part of the taxes
43 imposed by G.S. 105-164.4(a)(4c) on telecommunications service. The Secretary must
44 make the distribution within 75 days after the end of each calendar quarter. The amount

1 the Secretary must distribute is ~~eighteen and three one hundredths percent (18.03%)~~ the
2 following percentages of the net proceeds of the taxes collected during the ~~quarter,~~
3 quarter:

4 (1) Eighteen and three one-hundredths percent (18.03%), minus two
5 million six hundred twenty thousand nine hundred forty-eight dollars
6 (\$2,620,948).(\$2,620,948), must be distributed to cities in accordance
7 with this section. ~~This~~ The deduction is one-fourth of the annual
8 amount by which the distribution to cities of the gross receipts
9 franchise tax on telephone companies, imposed by former G.S. 105-20,
10 was required to be reduced beginning in fiscal year 1995-96 as a result
11 of the "freeze deduction." ~~The Secretary must distribute the specified~~
12 ~~percentage of the proceeds, less the "freeze deduction" among the~~
13 ~~cities in accordance with this section.~~

14 (2) Seven and twenty-three one-hundredths percent (7.23%) must be
15 distributed to counties and cities as provided in G.S. 105-164.44I."

16 **SECTION 8.** Article 5 of Chapter 105 of the General Statutes is amended by
17 adding a new section to read:

18 **"§ 105-164.44I. Distribution of part of sales tax on video programming service and**
19 **telecommunications service to counties and cities.**

20 (a) Distribution. – The Secretary must distribute to the counties and cities part of
21 the taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service and
22 G.S. 105-164.4(a)(6) on video programming service. The Secretary must make the
23 distribution within 75 days after the end of each calendar quarter. The amount the
24 Secretary must distribute is the sum of the following:

25 (1) The amount specified in G.S. 105-164.44F(a)(2).

26 (2) Twenty-two and sixty-one one-hundredths percent (22.61%) of the net
27 proceeds of the taxes collected during the quarter on video
28 programming, other than on direct-to-home satellite service.

29 (3) Thirty-seven percent (37%) of the net proceeds of the taxes collected
30 during the quarter on direct-to-home satellite service.

31 (b) Supplemental PEG Support. – The Secretary must include the applicable
32 amount of supplemental PEG channel support in each quarterly distribution to a county
33 or city. The amount to include is one-fourth of sixteen thousand dollars (\$16,000) for
34 each qualifying PEG channel operated by the county or city. The amount of money
35 distributed under this subsection may not exceed two million dollars (\$2,000,000) in a
36 calendar year. If the amount to be distributed for qualifying PEG channels in a calendar
37 year would otherwise exceed this maximum amount, the Secretary must proportionately
38 reduce the applicable amount distributable for each PEG channel. The amount included
39 under this subsection in a distribution to a county or city is intended to supplement the
40 PEG channel support available in the amount distributed under this section.

41 A county or city must certify to the Secretary by January 15 of each year the number
42 of qualifying PEG channels it operates. A qualifying PEG channel is one that meets the
43 programming requirements under G.S. 66-357(d). A county or city may not receive
44 PEG channel support for more than three qualifying PEG channels.

1 The money distributed to a county or city under this subsection must be used by it
2 for the operation and support of PEG channels. For purposes of this subsection, the term
3 "PEG channel" has the same meaning as in G.S. 66-350.

4 (c) Counties and Cities Without Local Cable Revenue. – The share of a county
5 that did not impose a cable franchise tax under G.S. 153A-154 before January 1, 2007,
6 is one dollar (\$1.00) times the most recent annual population estimate for that county.
7 The share of a city that did not impose a cable franchise tax under G.S. 160A-214
8 before January 1, 2007, is two dollars (\$2.00) times the most recent annual population
9 estimate for that city.

10 (d) Counties and Cities With Local Cable Revenue. – The share of a county or
11 city that imposed a cable franchise tax under either G.S. 153A-154 or G.S. 160A-214
12 before January 1, 2007, is its proportionate share of the amount to be distributed to all
13 counties and to all cities eligible to receive a distribution under this subsection. The
14 amount to be distributed under this subsection is the amount determined under
15 subsection (a) of this section, minus the amount distributed under subsections (b) and
16 (c) of this section. A county's and city's proportionate share is the amount of cable
17 franchise tax it received under G.S. 153A-154 or G.S. 160A-214 during the 2005-2006
18 fiscal year plus the amount of a subscriber fee imposed during the 2005-2006 fiscal year
19 compared to the amount of cable franchise tax revenue and subscriber fee revenue all
20 counties and cities received in that fiscal year. Each county or city that imposed a
21 franchise tax under G.S. 153A-154 or G.S. 160A-214 must certify to the Secretary by
22 January 15, 2007, the amount of cable franchise tax revenue and subscriber fee revenue
23 it received in the 2005-2006 fiscal year.

24 For subsequent fiscal years, the Secretary must multiply the amount of a county's or
25 city's share under this subsection for the preceding year by the percentage change in its
26 population for that fiscal year and add the result to the county's or city's share for the
27 preceding fiscal year to obtain the county's or city's adjusted amount. Each county's or
28 city's proportionate share for that year is its adjusted amount compared to the sum of the
29 adjusted amounts for all counties and cities.

30 (e) Population Determination. – In making population determinations under this
31 section, the Secretary must use the most recent annual population estimates certified to
32 the Secretary by the State Budget Officer. For purposes of the distributions made under
33 this section, the population of a county is the population of its unincorporated areas plus
34 the population of an ineligible city in the county, as determined under subsection (g) of
35 this section.

36 (f) Change in City Structure. – The following changes apply when a city alters
37 its corporate structure:

- 38 (1) If a city dissolves and is no longer incorporated, the proportional
39 shares of the remaining counties and cities must be recalculated to
40 adjust for the dissolution of that city.
- 41 (2) If two or more cities merge or otherwise consolidate, their proportional
42 shares are combined.
- 43 (3) If a city divides into two or more cities, the proportional share of the
44 city that divides is allocated among the new cities on a per capita basis.

1 (g) Ineligible Cities. – An ineligible city is disregarded for all purposes under this
2 section. A city incorporated on or after January 1, 2000, is not eligible for a distribution
3 under this section unless it meets both of the following requirements:

4 (1) It is eligible to receive funds under G.S. 136-41.2.

5 (2) A majority of the mileage of its streets is open to the public.

6 (h) Nature. – The General Assembly finds that the revenue distributed under this
7 section is local revenue, not a State expenditure, for the purpose of Section 5(3) of
8 Article III of the North Carolina Constitution. Therefore, the Governor may not reduce
9 or withhold the distribution."

10 **SECTION 9.** G.S. 105-164.21B is repealed.

11 **SECTION 10.** G.S. 153A-137 is repealed.

12 **SECTION 11.** G.S. 153A-154 is repealed.

13 **SECTION 12.** G.S. 160A-211 reads as rewritten:

14 **"§ 160A-211. Privilege license taxes.**

15 (a) Authority. – Except as otherwise provided by law, a city shall have power to
16 levy privilege license taxes on all trades, occupations, professions, businesses, and
17 franchises carried on within the city. A city may levy privilege license taxes on the
18 businesses that were formerly taxed by the State under the following sections of Article
19 2 of Chapter 105 of the General Statutes only to the extent the sections authorized cities
20 to tax the businesses before the sections were repealed:

21		
22	G.S. 105-36	Amusements – Manufacturing, selling, leasing, or
23		distributing moving picture films.
24	G.S. 105-36.1	Amusements – Outdoor theatres.
25	G.S. 105-37	Amusements – Moving pictures – Admission.
26	G.S. 105-42	Private detectives and investigators.
27	G.S. 105-45	Collecting agencies.
28	G.S. 105-46	Undertakers and retail dealers in coffins.
29	G.S. 105-50	Pawnbrokers.
30	G.S. 105-51.1	Alarm systems.
31	G.S. 105-53	Peddlers, itinerant merchants, and specialty market
32		operators.
33	G.S. 105-54	Contractors and construction companies.
34	G.S. 105-55	Installing elevators and automatic sprinkler systems.
35	G.S. 105-61	Hotels, motels, tourist courts and tourist homes.
36	G.S. 105-62	Restaurants.
37	G.S. 105-65	Music machines.
38	G.S. 105-65.1	Merchandising dispensers and weighing machines.
39	G.S. 105-66.1	Electronic video games.
40	G.S. 105-74	Pressing clubs, dry cleaning plants, and hat blockers.
41	G.S. 105-77	Tobacco warehouses.
42	G.S. 105-80	Firearms dealers and dealers in other weapons.
43	G.S. 105-85	Laundries.
44	G.S. 105-86	Outdoor advertising.

1	G.S. 105-89	Automobiles, wholesale supply dealers, and service
2		stations.
3	G.S. 105-89.1	Motorcycle dealers.
4	G.S. 105-90	Emigrant and employment agents.
5	G.S. 105-91	Plumbers, heating contractors, and electricians.
6	G.S. 105-97	Manufacturers of ice cream.
7	G.S. 105-98	Branch or chain stores.
8	G.S. 105-99	Wholesale distributors of motor fuels.
9	G.S. 105-102.1	Certain cooperative associations.
10	G.S. 105-102.5	General business license.

11

12 (b) Barbershop and Salon Restriction. – A privilege license tax levied by a city
 13 on a barbershop or a beauty salon may not exceed two dollars and fifty cents (\$2.50) for
 14 each barber, manicurist, cosmetologist, beautician, or other operator employed in the
 15 barbershop or beauty salon.

16 (c) ~~Piped Gas Restriction. Prohibition.~~ – A city may not levy a privilege license
 17 ~~tax on a person who is engaged in the business of supplying piped natural gas and is~~
 18 ~~subject to tax under Article 5E of Chapter 105 of the General Statutes.~~ impose a license,
 19 franchise, or privilege tax on a person engaged in any of the businesses listed in this
 20 subsection. These businesses are subject to a State tax for which the city receives a
 21 share of the tax revenue.

22 (1) Supplying piped natural gas taxed under Article 5E of Chapter 105 of
 23 the General Statutes.

24 (2) Providing telecommunications service taxed under
 25 G.S. 105-164.4(a)(4c).

26 (3) Providing video programming taxed under G.S. 105-164.4(a)(6).

27 (d) ~~Telecommunications Restriction.~~ – A city may not impose a license,
 28 ~~franchise, or privilege tax on a company taxed under G.S. 105-164.4(a)(4c)."~~

29 **SECTION 13.** G.S. 160A-214 is repealed.

30 **SECTION 14.** G.S. 160A-319(a) reads as rewritten:

31 "(a) A city shall have authority to grant upon reasonable terms franchises for ~~the~~
 32 ~~operation within the city of a telephone system and~~ any of the enterprises listed in
 33 ~~G.S. 160A-311 and for the operation of telephone systems.~~ G.S. 160A-311, except a
 34 cable television system. A franchise granted by a city authorizes the operation of the
 35 franchised activity within the city. No franchise shall be granted for a period of more
 36 than 60 years, except that a franchise for solid waste collection or disposal systems and
 37 facilities shall not be granted for a period of more than 30 years and cable television
 38 franchises shall not be granted for a period of more than 20 years. Except as otherwise
 39 provided by law, when a city operates an enterprise, or upon granting a franchise, a city
 40 may by ordinance make it unlawful to operate an enterprise without a franchise."

41 **SECTION 15.** An award of a State-issued franchise under Article 42 of
 42 Chapter 66 of the General Statutes, as enacted by this act, does not affect a
 43 determination of whether video programming provided by the holder of the franchise is
 44 considered cable service provided over a cable system under federal law or under a state

1 law that applies substantially the same definitions of "cable service" and "cable system"
2 as federal law.

3 **SECTION 16.** If any provision of this act or its application is held invalid,
4 the invalidity does not affect other provisions or applications of this act that can be
5 given effect without the invalid provisions or application, and to this end the provisions
6 of this act are severable.

7 **SECTION 17.** The Revenue Laws Study Committee must review the effect
8 Article 42 of Chapter 66, as enacted by this act, has on the following to determine if any
9 changes to the law are needed and must report its findings to the 2009 Session of the
10 North Carolina General Assembly:

- 11 (1) Competition in video programming services.
- 12 (2) The number of cable service subscribers, the price of cable service by
13 service tier, and the technology used to deliver the service.
- 14 (3) The deployment of broadband in the State.

15 **SECTION 18.** This act becomes effective January 1, 2007. Sections 7 and 8
16 of this act apply to the distribution made within 75 days after March 31, 2007, for the
17 quarter starting January 1, 2007.