

NORTH CAROLINA GENERAL ASSEMBLY  
1961 SESSION

CHAPTER 826  
SENATE BILL 78

1 AN ACT TO AMEND AND SUPPLEMENT "THE REVENUE ACT", BEING  
2 SUBCHAPTER I OF CHAPTER 105 OF THE GENERAL STATUTES AND ARTICLE 4  
3 OF CHAPTER 18 OF THE GENERAL STATUTES, BY REMOVING CERTAIN  
4 EXEMPTIONS FROM THE RETAIL SALES AND USE TAX, BY ADJUSTING THE  
5 RATE AT WHICH THE SALE OR USE OF CERTAIN PROPERTY SHALL BE TAXED  
6 AND BY ADDING AN ADDITIONAL TAX OF TWO PER CENT UPON THE SALE  
7 OF SPIRITUOUS LIQUORS.

8  
9 The General Assembly of North Carolina do enact:

10  
11 **Section 1.** G.S. 18-85 is hereby amended by designating unnumbered paragraphs 1,  
12 2 and 3 thereof as Subsections (a), (c) and (d), respectively, and adding thereto a new  
13 subsection to be designated Subsection (b) and to read as follows:

14 "(b) In addition to the tax provided for in Subsection (a) of this Section, there is hereby  
15 levied an additional tax or surtax of two per cent (2%) on the retail price of spirituous distilled  
16 liquors of every kind that is sold in this State, including liquors sold in county or municipal  
17 liquor stores. The proviso contained in Subsection (a) of this Section shall not apply to the  
18 taxes levied under this subsection."

19 **Sec. 2.** The Sales and Use Tax Article, being Article 5 of Chapter 105 of the  
20 General Statutes, is hereby amended as follows:

21 (1) Subdivision (1) of G.S. 105-164.4, as the same appears in the 1959  
22 Cumulative Supplement to Volume 2C of the General Statutes, is hereby amended by rewriting  
23 the proviso at the end of the first paragraph thereof to read as follows:

24 "Provided, however, that in the case of the sale of any airplane, or the sale of any motor  
25 vehicle, the tax shall be only at the rate of one per cent (1%) of the sales price, and on all such  
26 sales on and after July 1, 1962, the tax shall be at the rate of one and one-half per cent (1 1/2%)  
27 of the sales price, but at no time shall the maximum tax with respect to any one such airplane or  
28 motor vehicle, including all accessories attached thereto at the time of delivery thereof to the  
29 purchaser, be in excess of one hundred twenty dollars (\$120.00)";

30 "Provided further, in addition to all other taxes, there is hereby levied and imposed upon  
31 every person for the privilege of using the streets and highways of this State, a tax at the rate of  
32 one per cent (1%) of the sales or purchase price of any motor vehicle, new chassis and/or new  
33 body as defined, described and limited in this Section, including all accessories attached thereto  
34 at the time of delivery thereof to the purchaser, purchased or acquired for use on the streets and  
35 highways of this State, and on and after July 1, 1962, at the rate of one and one-half per cent (1  
36 1/2%) of the sales or purchase price, but at no time shall said tax exceed one hundred twenty  
37 dollars (\$120.00) with respect to any one motor vehicle, and the same shall be paid to the  
38 Commissioner of Revenue at the time of applying for certificate of title or registration of such  
39 motor vehicle."

40 And by adding at the end of said subdivision the following language:

41 "Provided further, the tax shall be only at the rate of one per cent (1%) of the sales price on  
42 the following items:

43 a. Horses or mules by whomsoever sold.

- 1           b.     Semen to be used in the artificial insemination of animals.  
2           c.     Sales of fuels to farmers to be used by them for any farm purposes other than  
3           preparing food, heating dwellings and other household purposes. The  
4           quantity of fuel purchased or used at any one time shall not in any manner be  
5           a determinative factor as to whether any sale or use of fuel is or is not  
6           subject to the one per cent (1%) rate of tax imposed herein.  
7           d.     Sales of fuel to manufacturing industries and manufacturing plants for use in  
8           connection with the operation of such industries and plants other than sales  
9           of fuels to be used for residential heating purposes. The quantity of fuel  
10          purchased or used at any one time shall not in any manner be a determinative  
11          factor as to whether any sale or use of fuel is or is not subject to the one per  
12          cent (1%) rate of tax imposed herein.  
13          e.     Sales of fuel to commercial laundries or to pressing and dry cleaning  
14          establishments for use in machinery used in the direct performance of the  
15          laundering or the pressing and cleaning service.  
16          f.     Sales to freezer locker plants of wrapping paper, cartons and supplies  
17          consumed directly in the operation of such plant.

18          "Provided further, the tax shall be only at the rate of one per cent (1%) of the sales price,  
19          subject to a maximum tax of eighty dollars (\$80.00) per article, on the following items:

- 20          g.     Sales of machines and machinery, whether animal or motor drawn or  
21          operated, and parts and accessories for such machines and machinery to  
22          farmers for use by them in the planting, cultivating, harvesting or curing of  
23          farm crops, and sales of machines and machinery and parts and accessories  
24          for such machines and machinery to dairy operators, poultry farmers, egg  
25          producers, and livestock farmers for use by them in the production of dairy  
26          products, poultry, eggs or livestock.

27                 The term 'machines and machinery' as used in this subdivision is defined  
28                 as follows:

29                 The term shall include all vehicular implements, designed and sold for  
30                 any use defined in this subdivision, which are operated, drawn or propelled  
31                 by motor or animal power, but shall not include vehicular implements which  
32                 are operated wholly by hand, and shall not include any motor vehicles  
33                 required to be registered under Chapter 20 of the General Statutes.

34                 The term shall include all non-vehicular implements and mechanical  
35                 devices designed and sold for any use defined in this subdivision, which  
36                 have moving parts, or which require the use of any motor or animal power,  
37                 fuel, or electricity in their operation but shall not include non-vehicular  
38                 implements which have no moving parts and are operated wholly by hand.

39                 The term shall also include metal flues sold for use in curing tobacco,  
40                 whether such flues are attached to hand-fired furnaces or used in connection  
41                 with mechanical burners.

- 42          h.     Sales of mill machinery or mill machinery parts and accessories to  
43          manufacturing industries and plants.  
44          i.     Sales of central office equipment and switchboard and private branch  
45          exchange equipment to telephone and telegraph companies which are under  
46          the regulation and supervision of the North Carolina Utilities Commission.  
47          j.     Sales to commercial laundries or to pressing and dry cleaning establishments  
48          of machinery used in the direct performance of the laundering or the  
49          pressing and cleaning service and of parts and accessories thereto.  
50          k.     Sales to freezer locker plants of machinery used in the direct operation of  
51          said freezer locker plant and of parts and accessories thereto.

1           1.       Sales of broadcasting equipment and parts and accessories thereto and  
2                   towers to commercial radio and television companies which are under the  
3                   regulation and supervision of the Federal Communications Commission."

4           (2)       Subdivision (1) of G.S. 105-164.5, as the same appears in the 1959  
5 Cumulative Supplement to Volume 2C of the General Statutes, is hereby amended by deleting  
6 from lines 13 through 16 of said subdivision the words "sales of mill machinery or mill  
7 machinery parts and accessories to manufacturing industries and plants, sales of machines and  
8 machinery and parts and accessories for such machines and machinery to farmers", and by  
9 deleting from lines 22 through 25 of said subdivision the words "and sales of central office  
10 equipment and switchboard and private branch exchange equipment to telephone and telegraph  
11 companies which are under the regulation and supervision of the North Carolina Utilities  
12 Commission".

13           (3)       G.S. 105-164.5a is hereby amended by deleting from line 2 of subdivision  
14 (13) thereof the words "newsprint paper".

15           (4)       G.S. 105-164.6 is hereby amended by changing the period at the end of  
16 subdivision (1) thereof to a semicolon and by adding at the end of subdivision (1) thereof the  
17 following:

18       "except that, whenever a rate of less than three per cent (3%) is applicable under the sales  
19 tax schedule set out in G.S. 105-164.4 to the sale at retail of an item or article of tangible  
20 personal property, the same rate shall be used in computing any use tax under this subdivision."

21           G.S. 105-164.6 is further amended by changing the period at the end of subdivision  
22 (2) thereof to a semicolon and by adding at the end of subdivision (2) the following:

23       "except that, whenever a rate of less than three per cent (3%) is applicable under the sales  
24 tax schedule set out in G.S. 105-164.4 to the sale at retail of an item or article of tangible  
25 personal property, then the same rate shall be used in computing any use tax due under this  
26 subdivision."

27           (5)       G.S. 105-164.10 is hereby amended by inserting in line 2 thereof between  
28 the words "collecting the tax" and the words "and to facilitate" the words and figures "due at  
29 the rate of three per cent (3%)" and by inserting in the last line of said Section between the  
30 words "taxable retail sales" and the words "during the taxable period" the words and figures  
31 "subject to the three per cent (3%) rate" and by adding a new paragraph at the end of said  
32 Section to read as follows:

33       "Whenever a sales or use tax is due at a rate of less than three per cent (3%), the tax shall be  
34 computed by multiplying the sales or purchase price by the applicable rate and by rounding the  
35 result off to the nearest whole cent. The use of this method in computing the sales or use tax  
36 shall not relieve a taxpayer from the duty and liability of remitting to the Commissioner an  
37 amount equal to the applicable rates times gross receipts subject to taxation at the lesser rates."

38           (6)       G.S. 105-164.11, as the same appears in the 1959 Cumulative Supplement to  
39 Volume 2C of the General Statutes, is hereby amended by striking out the caption appearing  
40 thereon and inserting in lieu thereof the words "Excessive and erroneous collections" and by  
41 rewriting the first sentence thereof to read:

42       "When the tax collected for any period is in excess of the total amount which should have  
43 been collected, the total amount collected must be paid over to the Commissioner less the  
44 compensation to be allowed the retailer as hereinafter set forth."

45           And said Section is further amended by rewriting the last sentence thereof to read:

46       "This provision shall be construed with other provisions of this Article and given effect so  
47 as to result in the payment to the Commissioner of the total amount collected as tax if it is in  
48 excess of the amount which should have been collected."

49           (7)       G.S. 105-164.13 is hereby amended by rewriting subdivision (17) thereof to  
50 read as follows:

1           "(17) Sales to commercial laundries or to pressing and dry cleaning establishments  
2           of articles or materials used for the identification of garments being  
3           laundered or dry cleaned, wrapping paper, bags, hangers, starch, soaps,  
4           detergents, cleaning fluids and other compounds or chemicals applied  
5           directly to the garments in the direct performance of the laundering or the  
6           pressing and cleaning service.";

7           G.S. 105-164.13 is further amended by rewriting subdivision (21) of said Section to  
8 read as follows:

9           "(21) Medicines sold on prescription of physicians and dentists.";

10          G.S. 105-164.13 is further amended by rewriting subdivision (25) of said Section to  
11 read as follows:

12          "(25) Holy Bibles; public school books on the adopted list, the selling price of  
13          which is fixed by State contract.";

14          G.S. 105-164.13 is further amended by deleting subdivisions (5), (6), (7), (8), (11),  
15 (12), (15), (18), (22), (23), (24), (26), (30), (31) and (38), and by renumbering all of the  
16 remaining subdivisions as subdivisions (1) through (25), consecutively, and by adding at the  
17 end of G.S. 105-164.13 the following new subdivisions:

18          "(26) Lunches to school children when such sales are made within school  
19          buildings and are not for profit.

20          "(27) Meals and food products served to students in dining rooms regularly  
21          operated by State or private educational institutions or student organizations  
22          thereof."

23          (8) G.S. 105-164.27 is hereby repealed.

24          (9) G.S. 105-164.14 is hereby amended by deleting from the caption thereof the  
25 words "with respect to interstate commerce" and by designating the present language in  
26 G.S. 105-164.14 as Subsection (1) and by adding at the end of G.S. 105-164.14 two new  
27 subsections to be designated as Subsections (2) and (3), and to read as follows:

28          "(2) The Commissioner of Revenue shall make refunds annually to hospitals not  
29          operated for profit, educational institutions not operated for profit, churches,  
30          orphanages and other charitable or religious institutions and organizations  
31          not operated for profit of sales and use taxes paid under this Article by such  
32          institutions and organizations on direct purchases of tangible personal  
33          property for use in carrying on the work of such institutions or organizations.  
34          Sales and use tax liability indirectly incurred by such institutions and  
35          organizations on building materials, supplies, fixtures and equipment which  
36          shall become a part of or annexed to any building or structure being erected,  
37          altered or repaired for such institutions and organizations for carrying on  
38          their nonprofit activities shall be construed as sales or use tax liability  
39          incurred on direct purchases by such institutions and organizations, and such  
40          institutions and organizations may obtain refunds of such taxes indirectly  
41          paid. The refund provisions contained in this subsection shall not apply to  
42          organizations, corporations and institutions which are governmental  
43          agencies, owned and controlled by the Federal, State or local governments.  
44          In order to receive the refund herein provided for, such institutions and  
45          organizations shall file a written request for said refund within sixty days of  
46          the close of each calendar year, and such request for refund shall be  
47          substantiated by such proof as the Commissioner of Revenue may require,  
48          and no refunds shall be made on applications not filed within the time  
49          allowed by this Section and in such manner as the Commissioner may  
50          otherwise require.

1           "(3) The Commissioner of Revenue shall make refunds annually to all counties  
2 and incorporated cities and towns in this State of sales and use taxes paid  
3 under this Article by said counties and incorporated cities and towns on  
4 direct purchases of tangible personal property. Sales and use tax liability  
5 indirectly incurred by such counties, incorporated cities and towns in this  
6 State on building materials, supplies, fixtures and equipment which shall  
7 become a part of or annexed to any building or structure being erected,  
8 altered or repaired for such counties and incorporated cities and towns in this  
9 State shall be construed as sales or use tax liability incurred on direct  
10 purchases by such counties and incorporated cities and towns, and such  
11 counties and incorporated cities and towns may obtain refunds of such taxes  
12 indirectly paid. The refund provisions contained in this subsection shall not  
13 apply to any bodies, agencies or political subdivisions of the State not  
14 specifically named herein. In order to receive the refund herein provided for,  
15 counties and incorporated cities and towns in this State shall file a written  
16 request for said refund within six months of the close of the fiscal year of the  
17 counties and incorporated cities and towns seeking said refund, and such  
18 request for refund shall be substantiated by such records, receipts and  
19 information as the Commissioner may require. No refunds shall be made on  
20 applications not filed within the time allowed by this Section and in such  
21 manner as the Commissioner may otherwise require."

22           (10) G.S. 105-164.4 is hereby amended by renumbering subdivisions (4), (5) and  
23 (6) as subdivisions (5), (6) and (7), respectively, and by inserting in said Section a new  
24 subdivision (4) to read:

25           "(4) Every person, firm or corporation engaged in the business of operating a  
26 pressing club, cleaning plant, hat blocking establishment, dry cleaning plant,  
27 laundry (including wet or damp wash laundries and businesses known as  
28 launderettes and launderalls) , or any similar type business, or engaged in the  
29 business of renting clean linen or towels or wearing apparel, or any similar  
30 type business, or engaged in the business of soliciting cleaning, pressing, hat  
31 blocking, laundering or rental business for any of the aforementioned businesses,  
32 shall be considered 'retailers' for the purposes of this Article. There is hereby  
33 levied upon every such person, firm or corporation a tax of three per cent  
34 (3%) of the gross receipts derived from services rendered in engaging in any  
35 of the occupations or businesses named in this subdivision, and every  
36 person, firm or corporation subject to the provisions of this subdivision shall  
37 register and secure a license in the manner hereinafter provided in this  
38 Section, and, insofar as practicable, all other provisions of this Article shall  
39 be applicable with respect to the tax herein provided for. The taxes levied in  
40 this subdivision are additional privilege or license taxes for the privilege of  
41 engaging in the occupations or businesses named herein. Any person, firm or  
42 corporation engaged in cleaning, pressing, hat blocking, laundering for, or  
43 supplying clean linen or towels or wearing apparel to, another person, firm  
44 or corporation engaged in soliciting shall not be required to pay the three per  
45 cent (3%) tax on its gross receipts derived through such solicitor, if the  
46 soliciting person, firm or corporation has registered with the Department,  
47 secured the license hereinafter required and has paid the tax at the rate of  
48 three per cent (3%) of the total gross receipts derived from business  
49 solicited. Persons, firms and corporations required to be licensed under this  
50 Article and to pay the taxes imposed by this subdivision shall not hereafter  
51 be subject to the one per cent (1%) of gross receipts taxes levied under

1 G.S. 105-74 and G.S. 105-85, with respect to gross receipts collected on and  
2 after July 1, 1961."

3 **Sec. 3.** Notwithstanding any express repeal contained in this Act or any repeal  
4 implied from its terms and provisions, the existing revenue laws of the State shall be and  
5 continue in full force and effect with respect to all acts and transactions done or occurring prior  
6 to July 1, 1961, affected or which ought to be affected by their terms and provisions, and with  
7 respect to all liabilities, criminal as well as civil, incurred or which ought to have been incurred  
8 with respect to said acts and transactions done or occurring prior to July 1, 1961.

9 The provisions of Section 2 of this Act shall not be applicable with respect to any  
10 building materials purchased for the purpose of fulfilling any lump sum or unit price contract  
11 entered into or awarded before July 1, 1961, or entered into or awarded pursuant to any bid  
12 made before July 1, 1961, and with respect to any such building materials purchased, the  
13 provisions affected by Section 2 of this Act shall remain in full force and effect.

14 **Sec. 4.** If any provision of this Act or the application thereof to any person or  
15 circumstances is held invalid, such invalidity shall not affect other provisions or applications of  
16 the Act which can be given effect without the invalid provision or application, and to this end  
17 the provisions of this Act are declared to be severable.

18 **Sec. 5.** All laws and clauses of laws in conflict with the provisions of this Act are  
19 hereby repealed.

20 **Sec. 6.** This Act shall be effective on and after July 1, 1961.

21 In the General Assembly read three times and ratified, this the 15th day of June,  
22 1961.