

GENERAL ASSEMBLY OF NORTH CAROLINA  
1987 SESSION

CHAPTER 832  
SENATE BILL 944

AN ACT TO INCREASE THE EXCISE TAX ON SPIRITUOUS LIQUOR AND TO PROVIDE THAT LOCAL SALES TAXES SHALL BE LEVIED BY THE COUNTY IN WHICH THE RETAILER IS LOCATED WHEN THE PROPERTY SOLD IS DELIVERED TO THE PURCHASER IN ANOTHER COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18B-208(b) reads as rewritten:

"(b) Special Fund. A special fund in the office of the State Treasurer, the ABC Commission Fund, is created. On and after November 1, 1982, all moneys derived from the collection of bailment charges and bailment surcharges shall be deposited in the ABC Commission Fund for the purpose of carrying out the provisions of this Chapter. The ABC Commission Fund shall be subject to the provisions of the Executive Budget Act except that no unexpended surplus of this fund shall revert to the General Fund. The Commission shall fix the level of the bailment surcharges at an amount calculated to cover operating expenses of the Commission ~~and the ALE Division~~ and the retirement of bonds issued for construction of a Commission warehouse and offices. The Commission may impose a bailment surcharge only when revenue bonds issued under this section are outstanding.

All moneys credited to the ABC Commission Fund shall be used to carry out the intent and purposes of the ABC law in accordance with plans approved by the North Carolina ABC Commission and the Director of the Budget, and all these funds are appropriated, reserved, set aside, and made available until expended for the administration of the ABC law."

Sec. 2. G.S. 105-113.80(c) is rewritten to read:

"(c) Liquor. An excise tax of twenty-eight percent (28%) is levied on liquor sold in ABC stores. Pursuant to G.S. 18B-804(b), the price of liquor on which this tax is computed is the distiller's price plus (i) the State ABC warehouse freight and bailment charges, and (ii) a markup for local ABC boards. This tax is in lieu of sales and use taxes; accordingly, liquor is exempt from those taxes as provided in G.S. 105-164.13(37)."

Sec. 3. Operating expenses for the ALE Division shall be paid from the budget of the Department of Crime Control and Public Safety.

Sec. 4. The last paragraph of G.S. 105-467 reads as rewritten:

"The local sales tax authorized to be imposed and levied under the provisions of this Article shall be applicable to such retail sales, leases, rentals, rendering of services, furnishing of rooms, lodgings or accommodations and other taxable transactions which

are made, furnished or rendered by retailers whose place of business is located within the taxing county. The tax imposed shall apply to the furnishing of rooms, lodging or other accommodations within the county which are rented to transients. ~~However no tax shall be imposed where the tangible personal property sold is delivered to the purchaser at a point outside the taxing county by the retailer or his agent, or by a common carrier.~~ For the purpose of this Article, the situs of a transaction is the location of the retailer's place of business."

Sec. 5. Section 4 of Chapter 1096 of the 1967 Session Laws, as amended, is further amended by deleting the sentence at the end of that section that begins "No tax shall" and substituting the following:

"For the purpose of this act, the situs of a transaction is the location of the retailer's place of business."

Sec. 6. G.S. 105-486 reads as rewritten:

**"§ 105-486. Distribution of additional taxes.** (a) County Allocation. The Secretary shall, on a quarterly basis, ~~distribute~~ allocate the net proceeds of the additional one-half percent (1/2%) sales and use taxes levied under this Article to the taxing counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer.

(b) Adjustment. The Secretary shall then adjust the amount allocated to each county under subsection (a) by multiplying the amount by the appropriate adjustment factor set out in the table below:

<u>County</u>	<u>Adjustment Factor</u>
<u>Dare</u>	<u>1.49</u>
<u>Brunswick</u>	<u>1.17</u>
<u>Orange</u>	<u>1.15</u>
<u>Carteret and Durham</u>	<u>1.14</u>
<u>Avery</u>	<u>1.12</u>
<u>Moore</u>	<u>1.11</u>
<u>Transylvania</u>	<u>1.10</u>
<u>Chowan, McDowell, and Richmond</u>	<u>1.09</u>
<u>Pitt and New Hanover</u>	<u>1.07</u>
<u>Beaufort, Perquimans, Buncombe, and Watauga</u>	<u>1.06</u>
<u>Cabarrus, Jackson, and Surry</u>	<u>1.05</u>
<u>Alleghany, Bladen, Robeson,</u> <u>Washington, Craven, Henderson,</u> <u>Onslow, and Vance</u>	<u>1.04</u>
<u>Gaston, Granville, and Martin</u>	<u>1.03</u>
<u>Alamance, Burke, Caldwell, Chatham,</u> <u>Duplin, Edgecombe, Haywood,</u> <u>Swain, and Wilkes</u>	<u>1.02</u>
<u>Hertford, Union, Stokes, Yancey,</u> <u>Halifax, Rockingham, and Cleveland</u>	<u>1.01</u>
<u>Alexander, Anson, Johnston,</u> <u>Northampton, Pasquotank,</u>	

<u>Person, Polk, and Yadkin</u>	<u>1.00</u>
<u>Catawba, Harnett, Iredell, Pamlico, Pender, Randolph, Stanly, and Tyrrell</u>	<u>0.99</u>
<u>Cherokee, Cumberland, Davidson, Graham, Hyde, Macon, Rutherford, Scotland, and Wilson</u>	<u>0.98</u>
<u>Ashe, Bertie, Franklin, Hoke, Lincoln, Montgomery, and Warren</u>	<u>0.97</u>
<u>Wayne, Clay, Madison, Sampson, Wake, Lee, and Forsyth</u>	<u>0.96</u>
<u>Caswell, Gates, Mitchell, and Greene</u>	<u>0.95</u>
<u>Currituck and Guilford</u>	<u>0.94</u>
<u>Davie and Nash</u>	<u>0.93</u>
<u>Rowan and Camden</u>	<u>0.92</u>
<u>Jones</u>	<u>0.90</u>
<u>Mecklenburg</u>	<u>0.89</u>
<u>Lenoir</u>	<u>0.88</u>
<u>Columbus</u>	<u>0.81</u>

(c) Distribution Between Counties and Cities. The amount ~~distributed to a~~ allocated to each taxing county shall then be divided among the county and its municipalities in accordance with the method by which the one percent (1%) sales and use taxes levied in that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed. If any taxes levied under this Article by a county have not been collected in that county for a full quarter because of the levy or repeal of the taxes, the Secretary shall distribute a pro rata share to that county for that quarter based on the number of months the taxes were collected in that county during the quarter."

Sec. 7. G.S. 105-493 reads as rewritten:

"§ **105-493. Distribution of taxes.** The Secretary shall, on a quarterly basis, ~~distribute-allocate~~ the net proceeds of any one-half percent (1/2%) sales and use taxes levied under this Article in accordance with G.S. 105-486. For purposes of the ~~distribution-allocation~~ under G.S. 105-486, a county that levies one-half percent (1/2%) sales and use taxes under this Article is considered a taxing county under that section. To make the ~~distribution-allocation~~ required by G.S. 105-486 and this section, the Secretary shall add the net proceeds of local sales and use taxes levied under Article 40 of this Chapter and under this Article, and shall then ~~distribute-allocate~~ this amount to the taxing counties on a per capita basis as provided in G.S. 105-486. The amount ~~distributed-allocated~~ to a county that levies one-half percent (1/2%) sales and use taxes under this Article shall be adjusted by multiplying it by the appropriate adjustment factor set out in the table in G.S. 105-486(b) and then divided among the county and its municipalities on either a per capita or an ad valorem tax basis, as designated by the board of county commissioners in a resolution adopted pursuant to G.S. 105-472. If any taxes levied under this Article by a county have not been collected in that county for a full quarter because of the levy or repeal of the taxes, the Secretary shall distribute a pro

rata share to that county for that quarter based on the number of months the taxes were collected in that county during the quarter."

Sec. 8. G.S. 105-501 reads as rewritten:

**"§ 105-501. Distribution of additional taxes.** The Secretary shall, on a quarterly basis, ~~distribute~~ allocate the net proceeds of the additional one-half percent (1/2%) sales and use taxes levied under this Article to the taxing counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer. The Secretary shall then adjust the amount allocated to each county by multiplying the amount by the appropriate adjustment factor set out in the table in G.S. 105-486(b). The amount ~~distributed to a~~ allocated to each taxing county shall then be divided among the county and the municipalities located in the county in accordance with the method by which the one percent (1%) sales and use taxes levied in that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed.

If any taxes levied under this Article by a county have not been collected in that county for a full quarter because of the levy or repeal of the taxes, the Secretary shall distribute a pro rata share to that county for that quarter based on the number of months the taxes were collected in that county during the quarter."

Sec. 9. The board of commissioners of any county may, by resolution, after 10 days' public notice and a public hearing held pursuant thereto, adopt the expansion of the local sales tax levy provided in this act. Upon adoption of such a resolution, the board of commissioners shall forward a copy of the resolution to the Secretary of Revenue. Pursuant to the provisions of G.S. 105-483, 105-490, and 105-498, adoption of the expansion of the Local Government Sales and Use Act provided in Section 4 of this act constitutes adoption of an equivalent expansion of the local sales taxes levied under Articles 40, 41, and 42 of Chapter 105 of the General Statutes.

Sec. 10. If a county fails to adopt the expansion of the Local Government Sales and Use Tax Act provided in Section 4 of this act on or before February 1, 1988, the sales and use taxes levied by the county pursuant to Articles 39, 40, 41, and 42 are repealed effective March 1, 1988, because they will be inconsistent with the scope of the levies authorized by those Articles as amended effective March 1, 1988. If Mecklenburg County fails to adopt the expansion of Section 4 of Chapter 1096 of the 1967 Session Laws provided in Section 5 of this act on or before February 1, 1988, the sales and use tax levied by Mecklenburg County pursuant to Chapter 1096 of the 1967 Session Laws is repealed effective March 1, 1988, because it will be inconsistent with the scope of the levy authorized by that Chapter as amended effective March 1, 1988, and the sales and use taxes levied by Mecklenburg County pursuant to Articles 40, 41, and 42 are repealed effective March 1, 1988, because those Articles will no longer apply to Mecklenburg County, as provided in G.S. 105-482, 105-489, and 105-497. If the sales and use taxes levied by a county are repealed as provided in this section because the county failed to adopt the expansion of the local sales tax levy, the county may, on or after March 1, 1988, levy local sales and use taxes in accordance with the provisions of Articles 39, 40, 41, and 42 of Chapter 105 of the General Statutes and Chapter 1096 of the 1967 Session Laws, as applicable.

Sec. 11. This act does not affect the rights or liabilities of the State, a taxpayer, or other person arising under a statute amended or repealed by this act before its amendment or repeal; nor does it affect the right to any refund or credit of a tax that would otherwise have been available under the amended or repealed statute before its amendment or repeal.

Sec. 12. It is the intent of the General Assembly that a Select Committee composed of members of the General Assembly shall be appointed to study the impact on local sales and use tax revenue and the administrative cost savings to the State of consolidating the local sales and use taxes levied under Articles 39, 40, 41, and 42 of Chapter 105 of the General Statutes and under Chapter 1096 of the 1967 Session Laws, as amended, with the State sales and use tax levied under Article 5 of Chapter 105 of the General Statutes. It is further intended that the Select Committee shall report to the 1987 General Assembly on the first day of the 1988 Regular Session.

Sec. 13. It is the intent of the General Assembly that if the local sales and use taxes levied under Articles 39, 40, 41, and 42 of Chapter 105 of the General Statutes and under Chapter 1096 of the 1967 Session Laws, as amended, are at a later date consolidated with the State sales and use taxes levied under Article 5 of Chapter 105 of the General Statutes, then the legislation enacting the consolidation shall also change the method of distributing the proceeds of the excise tax on liquor levied under G.S. 105-113.80(c) from the current formulation to a new method that would distribute one-eighth (1/8) of the total proceeds of that excise tax to local governments in the same manner as the State sales and use tax proceeds that are distributed to local governments under the legislation that consolidates the local sales taxes with the State sales tax.

Sec. 14. Sections 1 through 3 of this act shall become effective October 1, 1987. Sections 4 through 8 of this act shall become effective March 1, 1988, and apply to sales made on or after that date. The remainder of this act is effective upon ratification.

In the General Assembly read three times and ratified this the 14th day of August, 1987.