

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997

SESSION LAW 1998-24
SENATE BILL 124

AN ACT TO REDUCE THE WHITE GOODS DISPOSAL TAX RATE TO ONE RATE FOR ANY WHITE GOOD REGARDLESS OF WHETHER THE WHITE GOOD CONTAINS CHLOROFLUOROCARBONS, TO EXTEND THE WHITE GOODS DISPOSAL TAX SUNSET, TO ALTER THE DISTRIBUTION OF THE TAX PROCEEDS FROM THIS TAX, TO CLARIFY HOW THE COUNTIES MAY USE THE TAX PROCEEDS, AND TO LIMIT THE AMOUNT OF SURPLUS A COUNTY MAY ACCUMULATE BY HOLDING FURTHER TAX DISTRIBUTIONS UNTIL THE SURPLUS IS REDUCED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-187.21 reads as rewritten:

"§ 105-187.21. Tax imposed.

A privilege tax is imposed on a white goods retailer at a flat rate for each new white good that is sold by the retailer. An excise tax is imposed on a new white good purchased outside the State for storage, use, or consumption in this State. The rate of the privilege tax and the excise tax is ~~five dollars (\$5.00) if the new white good does not contain chlorofluorocarbon refrigerants and is ten dollars (\$10.00) if the new white good contains chlorofluorocarbon refrigerants.~~ three dollars (\$3.00). These taxes are in addition to all other taxes."

Section 2. G.S. 105-187.24 reads as rewritten:

"§ 105-187.24. Use of tax proceeds.

The Secretary shall distribute the taxes collected under this Article, less the Department of Revenue's allowance for administrative expenses, in accordance with this section. The Secretary may retain the Department's cost of collection, not to exceed two hundred twenty-five thousand dollars (\$225,000) a year, as reimbursement to the Department.

Each quarter, the Secretary shall credit ~~five percent (5%)~~ eight percent (8%) of the net tax proceeds to the Solid Waste Management Trust Fund and shall credit twenty percent (20%) of the net tax proceeds to the White Goods Management Account. The Secretary shall distribute the remaining ~~seventy-five percent (75%)~~ seventy-two percent (72%) of the net tax proceeds among the counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Planning Officer. The Department shall not distribute the tax proceeds to a county when notified not to do so by the Department of Environment and Natural Resources under G.S.

130A-309.87. If a county is not entitled to a distribution, the proceeds allocated for that county will be credited to the White Goods Management Account.

A county may use funds distributed to it under this section only as provided in G.S. 130A-309.82. A county that receives funds under this section and that has an interlocal agreement with another unit of local government under which the other unit provides for the disposal of solid waste for the county must transfer the amount received under this section to that other unit. A unit to which funds are transferred is subject to the same restrictions on use of the funds as the county."

Section 3. G.S. 130A-309.12 reads as rewritten:

"§ 130A-309.12. Solid Waste Management Trust Fund.

(a) The Solid Waste Management Trust Fund is created and is to be administered by the Department for the purposes of:

- (1) Funding activities of the Department to promote waste reduction and recycling including but not limited to public education programs and technical assistance to units of local government;
- (2) Funding research on the solid waste stream in North Carolina;
- (3) Funding activities related to the development of secondary materials markets;
- (4) Providing funding for demonstration projects as provided by this Part; and
- (5) Providing funding for research by The University of North Carolina and independent nonprofit colleges and universities within the State which are accredited by the Southern Association of Colleges and Schools as provided by this Part.

(b) The Solid Waste Management Trust Fund shall consist of the following:

- (1) Funds appropriated by the General Assembly.
- (2) Contributions and grants from public or private sources.
- (3) Ten percent (10%) of the proceeds of the scrap tire disposal tax imposed under Article 5B of Chapter 105 of the General Statutes.
- (4) ~~Five percent (5%)~~ Eight percent (8%) of the proceeds of the white goods disposal tax imposed under Article 5C of Chapter 105 of the General Statutes.

(c) The Department shall report annually on or before 1 September to the Environmental Review Commission as to the condition of the Solid Waste Management Trust Fund and as to the use of all funds allocated from the Solid Waste Management Trust Fund."

Section 4. G.S. 130A-309.82 reads as rewritten:

"§ 130A-309.82. Use of disposal tax proceeds by counties.

Article 5C of Chapter 105 of the General Statutes imposes a tax on new white goods to provide funds for the management of discarded white goods. A county ~~may~~ must use the proceeds of the tax distributed to it under that Article ~~only~~ for the management of discarded white goods. The purposes for which a county may use the tax proceeds include, but are not limited to, the following:

- (1) Capital improvements for infrastructure to manage discarded white goods, such as concrete pads for loading, equipment essential for moving white goods, storage sheds for equipment essential to white goods disposal management, and freon extraction equipment.
- (2) Operating costs associated with managing discarded white goods, such as labor, transportation, and freon extraction.
- (3) The cleanup of illegal white goods disposal sites, the cleanup of illegal disposal sites consisting of more than fifty percent (50%) discarded white goods, and, as to those illegal disposal sites consisting of fifty percent (50%) or less discarded white goods, the cleanup of the discarded white goods portion of the illegal disposal sites.

Except as provided in subdivision (3) of this section, a county may not use the tax proceeds for a capital improvement or operating expense that does not directly relate to the management of discarded white goods. Except as provided in subdivision (3) of this section, if a capital improvement or operating expense is partially related to the management of discarded white goods, a county may use the tax proceeds to finance a percentage of the costs equal to the percentage of the use of the improvement or expense directly related to the management of discarded white goods."

Section 5. G.S. 130A-309.85 reads as rewritten:

"§ 130A-309.85. Department to submit annual report on the management of white goods.

The Department shall report annually to the Environmental Review Commission and to the Revenue Laws Study Committee concerning the management of white goods. The report shall be submitted by ~~4 October~~ February 1 of each year for the fiscal year ending on the preceding ~~30 June~~. June 30. The report shall include the following information:

- (1) The amount of taxes collected and distributed under G.S. 105-187.24 during the period covered by the report.
- (2) The cost to each county of managing white goods during the period covered by the report.
- (3) The beginning and ending balances of the White Goods Management Account for the period covered by the report and a list of grants made from the Account for the period.
- (4) Any other information the Department considers helpful in understanding the problem of managing white goods.
- (5) A summary of the information concerning the counties' white goods management programs contained in the counties' Annual Financial Information Report."

Section 6. Part 2D of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"§ 130A-309.87. Eligibility for disposal tax proceeds.

(a) Receipt of Funds. – A county may not receive a quarterly distribution of the white goods disposal tax proceeds under G.S. 105-187.24 unless the undesignated balance in the county's white goods account at the end of its fiscal year is less than the

threshold amount. Based upon the information in a county's Annual Financial Information Report, the Department must notify the Department of Revenue by March 1 of each year which counties may not receive a distribution of the white goods disposal tax for the current calendar year. The Department of Revenue will credit the undistributed tax proceeds to the White Goods Management Account.

If the undesignated balance in a county's white goods account subsequently falls below the threshold amount, the county may submit a statement to the Department, certified by the county finance officer, that the undesignated balance in its white goods account is less than the threshold amount. Upon receipt of the statement, the Department will notify the Department of Revenue to distribute to the county its quarterly distribution of the white goods disposal tax proceeds. The Department must notify the Department of Revenue of the county's change of status at least 30 days prior to the next quarterly distribution.

For the purposes of this subsection, the term "threshold amount" means twenty-five percent (25%) of the amount of white goods disposal tax proceeds a county received, or would have received if it had been eligible to receive them under G.S. 130A-309.87, during the preceding fiscal year.

(b) Annual Financial Information Report. – On or before November 1 of each year, a county must submit a copy of its Annual Financial Information Report, prepared in accordance with G.S. 159-33.1, to the Department. The Secretary of the Local Government Commission must require the following information in that report:

- (1) The tonnage of white goods scrap metal collected.
- (2) The amount of revenue credited to its white goods account. This revenue should include all receipts derived from the white goods disposal tax, the sale of white goods scrap metals and freon, and a grant from the White Goods Management Account.
- (3) The expenditures from its white goods account. The expenditures should include operating expenses and capital improvement costs associated with its white goods management program.
- (4) The designated and undesignated balance of its white goods account.
- (5) A comparison of the undesignated balance of its white goods account at the end of the fiscal year and the amount of white goods disposal tax proceeds it received, or would have received if it had been eligible to receive it under G.S. 130A-309.87, during the fiscal year."

Section 7. Section 11 of Chapter 471 of the 1993 Session Laws, as amended by Section 15.1(b) of Chapter 769 of the 1993 Session Laws, reads as rewritten:

"Sec. 11. Sections 1 through 5 of this act and this section become effective January 1, 1994. Section 3 of this act expires July 1, ~~1998-2001~~. Section 6 of this act becomes effective July 1, ~~1998-2001~~. Sections 7, 8, and 9 of this act become effective July 1, ~~1999-2002~~.

The repeal of the tax imposed by Section 3 of this act does not affect the rights or liabilities of the State, a taxpayer, or another person that arose during the time the tax was in effect. The first report submitted by the Department to the Environmental

Review Commission under G.S. 130A-309.85, as enacted by this act, shall cover the period from January 1, 1994, to June 30, 1994."

Section 8. G.S. 130A-309.87(a), as enacted by this act, becomes effective January 1, 1999, and applies to collections made on or after that date. The remainder of this act becomes effective July 1, 1998.

In the General Assembly read three times and ratified this the 1st day of July, 1998.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 5:00 p.m. this 1st day of July, 1998