

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 2051

Short Title: Reduce State Food Tax.

(Public)

Sponsors: Representatives Green; Bowman, Cummings, Easterling, Fitch, Kuczmarski, Lemmond, Luebke, Mosley, and Wainwright.

Referred to: Finance.

June 6, 1994

A BILL TO BE ENTITLED

1 AN ACT TO REDUCE THE STATE SALES TAX ON FOOD FROM FOUR
2 PERCENT TO TWO PERCENT.
3

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 105-164.4(a) is amended by adding a new subdivision to
6 read:

7 "(5) The rate of two percent (2%) applies to the sales price of food that is
8 not otherwise exempt pursuant to G.S. 105-164.13 but would be
9 exempt pursuant to G.S. 105-164.13 if it were purchased with coupons
10 issued under the Food Stamp Program, 7 U.S.C. § 51."

11 Sec. 2. G.S. 105-465 reads as rewritten:

12 "**§ 105-465. County election as to adoption of local sales and use tax.**

13 The board of elections of any county, upon the written request of the board of county
14 commissioners thereof, or upon receipt of a petition signed by qualified voters of the
15 county equal in number to at least fifteen percent (15%) of the total number of votes
16 cast in the county, at the last preceding election for the office of Governor, shall call a
17 special election for the purpose of submitting to the voters of the county the question of
18 whether a one percent (1%) sales and use tax as hereinafter provided will be levied.

19 The special election shall be held under the same rules and regulations applicable to
20 the election of members of the General Assembly. No new registration of voters shall be
21 required. All qualified voters in the county who are properly registered not later than 21
22 days (excluding Saturdays and Sundays) prior to the election shall be entitled to vote at

1 said election. The county board of elections shall give at least 20 days' public notice
2 prior to the closing of the registration books for the special election.

3 The county board of election shall prepare ballots for the special election ~~which shall~~
4 ~~contain the words, 'election. The question presented on the ballot shall be 'FOR the one~~
5 ~~percent (1%) local sales and use tax only on those items presently covered by the four~~
6 ~~percent (4%) sales and use tax,' and the words, 'on items subject to State sales and use tax at~~
7 ~~the general State rate and on food' or 'AGAINST the one percent (1%) local sales and~~
8 ~~use tax only on those items presently covered by the four percent (4%) sales and use tax,' with~~
9 ~~appropriate squares so that each voter may designate his vote by his cross (X) mark. on items~~
10 ~~subject to State sales and use tax at the general State rate and on food'.~~

11 The county board of elections shall fix the date of the special election; provided,
12 however, that the special election shall not be held on the date of any biennial election
13 for county officers, nor within 60 days thereof, nor within one year from the date of the
14 last preceding special election under this section."

15 Sec. 3. G.S. 105-467 reads as rewritten:

16 "**§ 105-467. Scope of sales tax.**

17 The sales tax ~~which that~~ may be imposed under this Article is limited to a tax at the
18 rate of one percent (1%) ~~of the following:~~

- 19 (1) The sales price of ~~those articles of~~ tangible personal property ~~now~~
20 subject to the general rate of sales tax imposed by the State under G.S.
21 105-164.4(a)(1) and ~~(4b); (a)(4b).~~
- 22 (2) The gross receipts derived from the lease or rental of tangible personal
23 property when the lease or rental of the property is subject to the
24 general rate of sales tax imposed by the State under G.S. ~~105-~~
25 ~~164.4(a)(2); 105-164.4(a)(2).~~
- 26 (3) The gross receipts derived from the rental of any room or ~~lodging~~
27 ~~furnished by any hotel, motel, inn, tourist camp or other similar~~
28 accommodations ~~now~~ subject to the general rate of sales tax imposed
29 by the State under G.S. ~~105-164.4(a)(3); and 105-164.4(a)(3).~~
- 30 (4) The gross receipts derived from services rendered by laundries, dry
31 cleaners, and other businesses ~~now~~ subject to the general rate of sales
32 tax imposed by the State under G.S. 105-164.4(a)(4).
- 33 (5) The sales price of food and related items subject to two percent (2%)
34 sales tax imposed by the State under G.S. 105-164.4(a)(5).

35 The sales tax authorized by this Article does not apply to sales that are taxable by the
36 State under G.S. 105-164.4 but are not specifically included in subdivisions (1) through
37 ~~(4)-(5)~~ of this section.

38 The State exemptions and exclusions contained in G.S. 105-164.13 and the State
39 refund provisions contained in G.S. 105-164.14 ~~shall apply with equal force and in like~~
40 ~~manner~~ to the local sales and use tax authorized to be levied and imposed under this
41 Article. A taxing county ~~shall have no authority, with respect to the local sales and use tax~~
42 ~~imposed under this Article to change, alter, add to or delete any refund provisions contained in~~
43 ~~G.S. 105-164.14, or any exemptions or exclusions contained in G.S. 105-164.13 or which are~~

1 ~~elsewhere provided for. may not allow an exemption, exclusion, or refund that is not~~
2 ~~allowed under the State sales and use tax.~~

3 The local sales tax authorized to be imposed and levied under ~~the provisions of this~~
4 ~~Article shall apply to such retail sales, leases, rentals, the rendering of services,~~
5 ~~furnishing of rooms, lodgings or accommodations and other applies to taxable~~
6 ~~transactions which are made, furnished or rendered by retailers whose place of business~~
7 ~~is located within the taxing county. The tax imposed shall apply to the furnishing of~~
8 ~~rooms, lodging or other accommodations within the county which are rented to~~
9 ~~transients. For the purpose of this Article, the situs of a transaction is the location of the~~
10 ~~retailer's place of business."~~

11 Sec. 4. G.S. 105-468 reads as rewritten:

12 **"§ 105-468. Scope of use tax.**

13 The use tax ~~which may be imposed under authorized by this Article shall be is~~ is a tax at
14 the rate of one percent (1%) of the cost price of each item or article of tangible personal
15 property when it that is not sold in the taxing county but is used, consumed consumed, or
16 stored for use or consumption in the taxing county, except that no tax shall be imposed
17 upon tangible personal property when the property would be taxed by the State at a rate other
18 than the general rate of tax set in G.S. 105-164.4 if it were taxable under G.S. 105-164.6.
19 county. The tax applies to the same items that are subject to tax under G.S. 105-467.

20 Every retailer who is engaged in business in this State and in the taxing county and
21 is required to collect the use tax levied by G.S. 105-164.6 shall also collect the one
22 percent (1%) use tax when such the property is to be used, consumed consumed, or
23 stored in the taxing county, one percent (1%) use tax to be collected concurrently with the
24 State's use tax; but no retailer not required to collect the use tax levied by G.S. 105-164.6 shall
25 be required to collect the one percent (1%) use tax. county. The use tax contemplated by
26 this section shall be levied against the purchaser, and the purchaser's liability for the use
27 tax shall be extinguished only upon payment of the use tax to the retailer, where the
28 retailer is required to collect the tax, or to the ~~Secretary of Revenue, or to the taxing county,~~
29 ~~as appropriate, Secretary,~~ where the retailer is not required to collect the tax.

30 Where a local sales or use tax has been paid with respect to tangible personal
31 property by the purchaser, either in another taxing county within the State, or in a taxing
32 jurisdiction outside the State where the purpose of the tax is similar in purpose and
33 intent to the tax which may be imposed pursuant to this Article, the tax paid may be
34 credited against the tax imposed under this section by a taxing county upon the same
35 property. If the amount of sales or use tax so paid is less than the amount of the use tax
36 due the taxing county under this section, the purchaser shall pay to the Secretary of
37 ~~Revenue or to the taxing county, as appropriate,~~ an amount equal to the difference between
38 the amount so paid in the other taxing county or jurisdiction and the amount due in the
39 taxing county. ~~The Secretary of Revenue or the taxing county, as appropriate,~~ may require
40 such proof of payment in another taxing county or jurisdiction as is deemed to be
41 necessary. The use tax levied under this Article is not subject to credit for payment of
42 any State sales or use tax not imposed for the benefit and use of counties and
43 municipalities. No credit shall be given under this section for sales or use taxes paid in

1 a taxing jurisdiction outside this State if that taxing jurisdiction does not grant similar
2 credit for sales taxes paid under this Article."

3 Sec. 5. The first paragraph of Section 4 of Chapter 1096 of the 1967 Session
4 Laws, as amended, is amended as follows:

5 (1) By deleting the word "and" before subdivision (4).

6 (2) By changing the period at the end of subdivision (4) to a semicolon
7 and adding the word "and".

8 (3) By adding a new subdivision to read:

9 "(5) The sales price of food and related items subject to two percent (2%)
10 sales tax imposed by the State under G.S. 105-164.4(a)(5)."

11 Sec. 6. The first sentence of Section 5 of Chapter 1096 of the 1967 Session
12 Laws is amended by deleting the first sentence of that section and substituting the
13 following sentences to read:

14 "The use tax that Mecklenburg County may impose under this division is a tax at the
15 rate of one percent (1%) of the cost price of each item or article of tangible personal
16 property that is not sold but is used, consumed, or stored for use or consumption in
17 Mecklenburg County. The tax applies to the same items that are subject to tax under
18 Section 4 of this act."

19 Sec. 7. Approval under Article 39, 40, or 42 of Chapter 105 of the General
20 Statutes, or under the Mecklenburg County Sales and Use Tax Act, Chapter 1096 of the
21 1967 Session Laws, as amended, of local sales and use taxes on items subject to State
22 sales and use tax at the general State rate constitutes approval of local sales and use
23 taxes on food.

24 Sec. 8. This act becomes effective July 1, 1994, and applies to sales made on
25 or after that date.