

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 511
Committee Substitute Favorable 6/14/95
Third Edition Engrossed 7/6/95

Short Title: Late Video Return/Sales Tax.

(Public)

Sponsors:

Referred to:

March 21, 1995

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CERTAIN LATE CHARGES FOR THE LATE RETURN OF RENTED PROPERTY ARE SUBJECT TO SALES TAX AND TO PROVIDE FOR TREBLE DAMAGES IN A CIVIL ACTION TO ENFORCE PAYMENT OF CERTAIN LATE CHARGES FOR THE LATE RETURN OF A RENTED VIDEO CASSETTE TAPE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.3(16) is amended by adding a new subdivision to read:

"g. The term 'sales price' includes a late charge for the late return of leased or rented personal property to the extent the charge for the late period does not exceed the rental charge for an equivalent period. The term 'sales price' does not include the excess of the late charge for the late period over the rental charge for an equivalent period if the following conditions are met:

1. The late charge is imposed only if the lessee violates the terms of the lease or rental agreement by failing to return the property on time.

1 2. The late charge is charged and accounted for separately
2 from the charge for leasing or renting the property."

3 Sec. 2. Article 13 of Chapter 66 is amended by adding a new section to read:
4 **"§ 66-67.4. Remedies for failure to pay extra day charges for late return of video.**

5 (a) The following definitions apply in this section:

6 (1) Extra day charge. – A charge for the late return of a rented video
7 cassette at the same rate as the daily rental charge rate or the regular per
8 day rental charge rate.

9 (2) Member of record. – A person in whose name a video rental store
10 membership is held and on whose membership a video cassette is
11 rented.

12 (3) Video cassette. – The term includes video cartridges.

13 (4) Video rental store. – Any entity whose principal business is the rental of
14 video cassette tapes for noncommercial use.

15 (b) A member of record who fails to pay the extra day charges assessed for the late
16 return of a video cassette within 30 days after written demand for its return is liable to the
17 video rental store for a minimum amount of fifty dollars (\$50.00) or three times the
18 amount of the extra day charges, whichever is greater.

19 (c) The written demand shall be mailed by certified mail to the member of record's
20 last known address.

21 (d) The damages provided for in this section do not apply unless at the time of the
22 rental of the video cassette tape the video rental store conspicuously displayed in the
23 vicinity of the checkout counter a sign that displays the following warnings in block
24 letters not less than one inch in height:

25 'STATE LAW PROVIDES THAT FAILURE TO PAY THE LATE
26 RETURN, EXTRA DAY CHARGES DUE ON ANY RENTED VIDEO
27 CASSETTE TAPE MAY RESULT IN DAMAGES OF TRIPLE THE
28 AMOUNT OF THE LATE CHARGES, WITH A MINIMUM OF \$50.00.
29 (G.S. 66-67.4).'

30 (e) The presiding judge or magistrate may award the prevailing party, as part of
31 the court costs payable, a reasonable attorney's fee for the licensed attorney representing
32 the prevailing party in an action under this section.

33 (f) Nothing contained in this section shall prohibit recovery upon any other theory of
34 law."

35 Sec. 3. This act becomes effective October 1, 1995, and applies to rentals
36 occurring on or after that date.