

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 1720

Short Title: Wilmington Occupancy Tax. (Local)

Sponsors: Representative Wright.

Referred to: Finance.

June 13, 2002

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE CITY OF WILMINGTON TO LEVY A ROOM
2 OCCUPANCY AND TOURISM DEVELOPMENT TAX.
3

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Occupancy tax. – (a) Authorization and Scope. – The
6 Wilmington City Council may, by resolution, levy a local occupancy tax of up to three
7 percent (3%) of the gross receipts derived from the rental of any room, lodging, or
8 accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within
9 the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3).
10 This tax is in addition to any State or local sales tax. This tax does not apply to
11 accommodations furnished by nonprofit charitable, educational, or religious
12 organizations when furnished in furtherance of their nonprofit purpose.

13 Before adopting a resolution levying a tax under this act, the Wilmington City
14 Council must hold a public hearing on the question. The City Council must give at least
15 15 days' public notice of the hearing, including details on the proposed uses of the tax
16 proceeds.

17 **SECTION 1.(b)** Administration. – Except as otherwise provided in this act, a
18 tax levied under this section shall be levied, administered, collected, and repealed as
19 provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax
20 levied under this section.

21 **SECTION 1.(c)** Use of Tax Revenue. – The City of Wilmington shall use the
22 net proceeds of the occupancy tax only for tourism-related expenditures.

23 The following definitions apply in this subsection:

- 24 (1) Net proceeds. – Gross proceeds less the cost to the city of
25 administering and collecting the tax, as determined by the finance
26 officer, not to exceed three percent (3%) of the first five hundred
27 thousand dollars (\$500,000) of gross proceeds collected each year and
28 one percent (1%) of the remaining gross receipts collected each year.

- 1 (2) Tourism-related expenditures. – Expenditures that, in the judgment of
2 the city, are designed to increase the use of lodging facilities, meeting
3 facilities, or convention facilities in a city or to attract tourists or
4 business travelers to the city. The term includes tourism-related capital
5 expenditures.

6 **SECTION 1.(d) Reports.** – The city shall annually publish a detailed, audited
7 report on its receipts and expenditures of the occupancy tax proceeds during the
8 preceding year. The text of the report must be included in the minutes of the City
9 Council, placed on the city's web site, and made available in hard copy upon request.

10 **SECTION 2.** Town administrative provisions. – G.S. 160A-215 reads as
11 rewritten:

12 "**§ 160A-215. Uniform provisions for room occupancy taxes.**

13 (a) Scope. – This section applies only to municipalities the General Assembly
14 has authorized to levy room occupancy taxes. For the purpose of this section, the term
15 "city" means a municipality.

16 (b) Levy. – A room occupancy tax may be levied only by resolution, after not
17 less than 10 days' public notice and after a public hearing held pursuant thereto. A room
18 occupancy tax shall become effective on the date specified in the resolution levying the
19 tax. That date must be the first day of a calendar month, however, and may not be
20 earlier than the first day of the second month after the date the resolution is adopted.

21 (c) Collection. – Every operator of a business subject to a room occupancy tax
22 shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall
23 be collected as part of the charge for furnishing a taxable accommodation. The tax shall
24 be stated and charged separately from the sales records and shall be paid by the
25 purchaser to the operator of the business as trustee for and on account of the taxing city.
26 The tax shall be added to the sales price and shall be passed on to the purchaser instead
27 of being borne by the operator of the business. The taxing city shall design, print, and
28 furnish to all appropriate businesses and persons in the city the necessary forms for
29 filing returns and instructions to ensure the full collection of the tax. An operator of a
30 business who collects a room occupancy tax may deduct from the amount remitted to
31 the taxing city a discount equal to the discount the State allows the operator for State
32 sales and use tax.

33 (d) Administration. – The taxing city shall administer a room occupancy tax it
34 levies. A room occupancy tax is due and payable to the city finance officer in monthly
35 installments on or before the fifteenth day of the month following the month in which
36 the tax accrues. Every person, firm, corporation, or association liable for the tax shall,
37 on or before the fifteenth day of each month, prepare and render a return on a form
38 prescribed by the taxing city. The return shall state the total gross receipts derived in the
39 preceding month from rentals upon which the tax is levied. A room occupancy tax
40 return filed with the city finance officer is not a public record and may not be disclosed
41 except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

42 (e) Penalties. – A person, firm, corporation, or association who fails or refuses to
43 file a room occupancy tax return or pay a room occupancy tax as required by law is
44 subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a

1 return for State sales and use taxes. The governing board of the taxing city has the same
2 authority to waive the penalties for a room occupancy tax that the Secretary of Revenue
3 has to waive the penalties for State sales and use taxes.

4 (f) Repeal or Reduction. – A room occupancy tax levied by a city may be
5 repealed or reduced by a resolution adopted by the governing body of the city. Repeal or
6 reduction of a room occupancy tax shall become effective on the first day of a month
7 and may not become effective until the end of the fiscal year in which the resolution
8 was adopted. Repeal or reduction of a room occupancy tax does not affect a liability for
9 a tax that was attached before the effective date of the repeal or reduction, nor does it
10 affect a right to a refund of a tax that accrued before the effective date of the repeal or
11 reduction.

12 (g) This section applies only to Beech Mountain District W, to the Cities of
13 Gastonia, Goldsboro, Greensboro, High Point, Kings Mountain, Lexington, Lincolnton,
14 Lumberton, Monroe, Mount Airy, Shelby, Statesville, ~~and Washington, Washington, and~~
15 Wilmington, to the Towns of Beech Mountain, Carrboro, Mooresville, North Topsail
16 Beach, Selma, Smithfield, St. Pauls, and Wilkesboro, and to the municipalities in Avery
17 and Brunswick Counties."

18 **SECTION 3.** This act is effective when it becomes law.