

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE DRH45138-LYx-115 (5/7)

Short Title: Local Option Cigarette Excise Tax. (Public)

Sponsors: Representatives Miner and Luebke (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE COUNTIES TO LEVY A LOCAL OPTION EXCISE
TAX ON CIGARETTES AND OTHER TOBACCO PRODUCTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-113.3(a) reads as rewritten:

"(a) Scope. – The taxes imposed by this Article shall be collected only once on the same tobacco product. Except as permitted by Article 2 or Article 60 of this Chapter, a city or county may not levy a privilege license tax on the sale of tobacco products."

SECTION 2. Chapter 105 of the General Statutes is amended by adding a new Subchapter to read:

"SUBCHAPTER X. OTHER LOCAL OPTION TAXES.

"Article 60.

"Local Option Tobacco Products Excise Tax.

"§ 105-600. Short title.

This Article is the Local Option Tobacco Products Excise Tax Act.

"§ 105-601. Purpose and intent.

It is the purpose of this Article to afford the counties of this State an opportunity to obtain an additional source of revenue with which to meet their growing financial needs and to reduce their reliance on other revenues, such as the property tax and federal revenue sharing, by providing all counties of the State that are subject to this Article with authority to levy excise and use taxes on cigarettes and other tobacco products.

"§ 105-602. Definitions.

The definitions applicable in Article 2A of this Chapter apply in this Article.

"§ 105-603. Levy; rates; repeal.

(a) Levy. – The board of commissioners of a county may, by resolution, levy local excise and use taxes on cigarettes and other tobacco products in addition to the State excise and use taxes. A county that levies excise and use taxes under this Article

1 must levy the taxes on both cigarettes and other tobacco products. Before adopting a
2 resolution under this subsection, the board of commissioners must give at least 10 days'
3 public notice of its intent to adopt the resolution and must hold a public hearing on the
4 issue of adopting the resolution. The tax may become effective only on the first day of a
5 month and may not become effective earlier than the first day of the second succeeding
6 calendar month following the date the resolution is adopted.

7 (b) Rates. – The county may, by resolution, levy different tax rates for cigarettes
8 and other tobacco products, but the excise tax rate and the use tax rate for any specific
9 product must be the same. The excise and use tax rates applied to cigarettes must be per
10 individual cigarette. The excise and use tax rates applied to other tobacco products must
11 be a percentage of cost price.

12 (c) Repeal. – The board of commissioners of a county may, by resolution, repeal
13 any local excise and use taxes levied pursuant to this Article. The repeal may become
14 effective only on the first day of a month and may not become effective before the end
15 of the fiscal year in which the repeal resolution is adopted. This repeal of a tax does not
16 affect the rights or liabilities of the county, a taxpayer, or another person arising under
17 the resolution authorizing the tax before the effective date of its repeal; nor does it affect
18 the right to any refund of the tax that accrued under the resolution authorizing the tax
19 before the effective date of its repeal.

20 **"§ 105-604. Scope of tax.**

21 (a) Excise Tax. – An excise tax levied pursuant to this Article applies to the sale
22 or possession for sale by a retail dealer of cigarettes or other tobacco products. The tax
23 does not apply to cigarettes that are not subject to the State tax under G.S. 105-113.5 or
24 to other tobacco products that are not subject to the State tax under G.S. 105-113.35.

25 (b) Use Tax. – A use tax levied pursuant to this Article applies to the use,
26 consumption, and possession for use or consumption of cigarettes or other tobacco
27 products. This tax does not apply to cigarettes or other tobacco products for which the
28 tax has been paid under subsection (a) of this section.

29 **"§ 105-605. Administration.**

30 (a) Collection. – Every retail detailer must, on and after the effective date of the
31 levy of the tax, remit to the county the tax levied pursuant to this Article. The tax must
32 be borne by the retailer and is not directly imposed on the consumer. The tax is included
33 in the sales price. The taxing county must design, print, and furnish to all appropriate
34 persons in the county the necessary forms for filing returns and instructions to ensure
35 the full collection of the tax.

36 (b) Administration. – The taxing county shall administer taxes it levies under this
37 Article. A tax levied under this Article is due and payable to the county finance officer
38 in monthly installments on or before the 20th day of the month following the month in
39 which the tax accrues. Every retail dealer liable for the tax shall, on or before the 20th
40 day of each month, prepare and render a return on a form prescribed by the taxing
41 county. The return must contain any information requested by the county. A tax return
42 filed with the county finance officer pursuant to this section is not a public record and
43 may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

1 (c) Records. – Every retail dealer must keep accurate records of the dealer's
2 purchases, inventories, and sales of cigarettes and other tobacco products. The records
3 must be kept open at all times for inspection by the county finance officer or the
4 officer's designee. These records must be maintained for a period of at least three years.

5 (d) Penalties. – A retail dealer who fails or refuses to file a tax return under this
6 Article or to pay the taxes levied pursuant to this Article as required by law is subject to
7 the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for
8 State taxes. The governing board of the taxing county has the same authority to waive
9 the penalties for a tax levied under this Article that the Secretary of Revenue has to
10 waive the penalties for State taxes.

11 **"§ 105-606. Sale of non-tax-paid products a misdemeanor.**

12 Any person who sells or offers for sale non-tax-paid cigarettes or other non-tax-paid
13 tobacco products is guilty of a Class 1 misdemeanor."

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