

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

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**HOUSE BILL 689  
Committee Substitute Favorable 5/4/05**

Short Title: Monroe Meals Tax.

(Local)

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Sponsors:

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Referred to:

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March 17, 2005

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF MONROE TO LEVY A PREPARED  
FOOD AND BEVERAGES TAX BY VOTE OF THE PEOPLE.

The General Assembly of North Carolina enacts:

**SECTION 1.(a)** Authority; Vote. – If the majority of those voting on the question pursuant to this section vote for the levy of the tax, the Monroe City Council may, by ordinance, levy a prepared food and beverages tax of up to one percent (1%) of the sales price of prepared food and beverages sold within the City of Monroe at retail for consumption on or off the premises by a retailer subject to sales tax under G.S. 105-164(a)(1). This tax is in addition to State and local sales tax.

The Monroe City Council may direct the county board of elections to submit to the qualified voters of the city during any election held in 2006 the question of whether to levy a local prepared food and beverages tax of one percent (1%) as provided in this section. The election must be held on a date jointly agreed upon by the board of elections and city council and held in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

"[ ] FOR [ ] AGAINST

One percent (1%) local prepared food and beverages tax, in addition to the current local sales and use taxes, to be used for the Civic Center Project for the City of Monroe."

**SECTION 1.(b)** Definitions. – The definitions in G.S. 105-164.3 apply to this section to the extent they are not inconsistent with the provisions of this section. In addition, the following definitions apply in this act:

- (1) Net proceeds. – Gross proceeds less the cost to the city of administering and collecting the tax.
- (2) Prepared food and beverages. – The term includes the following:
  - a. Prepared food, as defined in G.S. 105-164.3.

- 1                   b.     An alcoholic beverage, as defined in G.S. 18B-101, that meets  
2                             at least one of the conditions of prepared food under  
3                             G.S. 105-164.3.

4                   **SECTION 1.(c)** Exemptions. – The prepared food and beverages tax does  
5 not apply to the following sales of prepared food and beverages:

- 6                   (1)     Prepared food and beverages served to residents in boardinghouses and  
7                             sold together on a periodic basis with rental of a sleeping room or  
8                             lodging.  
9                   (2)     Retail sales exempt from taxation under G.S. 105-164.13.  
10                   (3)     Retail sales through or by means of vending machines.  
11                   (4)     Prepared food and beverages served by a retailer subject to the local  
12                             occupancy tax if the charge for the prepared food and beverages is  
13                             included in a single, nonitemized sales price together with the charge  
14                             for rental of a room, lodging, or accommodation furnished by the  
15                             retailer.  
16                   (5)     Prepared food and beverages furnished without charge by an employer  
17                             to an employee.  
18                   (6)     Retail sales by grocers or by grocery sections of supermarkets or other  
19                             diversified retail establishments, other than sales of prepared food and  
20                             beverages in the delicatessen or similar department of the grocer or  
21                             grocery section.  
22                   (7)     Prepared food and beverages served on a federal military reservation.

23                   **SECTION 1.(d)** Collection. – Every retailer subject to the tax levied under  
24 this section shall, on and after the effective date of the levy of the tax, collect the tax.  
25 This tax shall be collected as part of the charge for furnishing prepared food and  
26 beverages. The tax shall be stated separately on the sale document and shall be paid by  
27 the purchaser to the retailer as trustee for and on account of the city. The tax shall be  
28 added to the sales price and shall be passed on to the purchaser instead of being borne  
29 by the retailer. The city shall design, print, and furnish to all appropriate businesses and  
30 persons in the city the necessary forms for filing returns and instructions to ensure the  
31 full collection of the tax.

32                   **SECTION 1.(e)** Administration. – The city shall administer a tax levied  
33 under this section. A tax levied under this section is due and payable to the city's  
34 director of finance and administration in monthly installments on or before the 15th day  
35 of the month following the month in which the tax accrues. Every retailer liable for the  
36 tax shall, on or before the 15th day of each month, prepare and render a return on a form  
37 prescribed by the city. The return shall show the total gross receipts derived in the  
38 preceding month from sales to which the tax applies.

39                   A return filed with the city's director of finance and administration under this  
40 section is not a public record and may not be disclosed except in accordance with  
41 G.S. 160A-208.1.

42                   The provisions of Article 5 and Article 9 of Chapter 105 of the General  
43 Statutes apply to this section to the extent they are not inconsistent with the provisions

1 of this section. The uniform meals tax penalty provisions of G.S. 160A-214.1 apply to a  
2 tax levied under this section.

3       **SECTION 1.(f)** Refunds. – The city shall refund to a nonprofit or  
4 governmental entity the prepared food and beverages tax paid by the entity on eligible  
5 purchases of prepared food and beverages. A nonprofit or governmental entity's  
6 purchase of prepared food and beverages is eligible for a refund under this subsection if  
7 the entity is entitled to a refund under G.S. 105-164.14(b) or (c) of local sales and use  
8 tax paid on the purchase or if the sale is exempt under G.S. 105-164.13. The time  
9 limitations, application requirements, penalties, and restrictions provided in  
10 G.S. 105-164.14(b) and (d) apply to refunds to nonprofit entities; the time, limitations,  
11 application requirements, penalties, and restrictions provided in G.S. 105-164.14(c) and  
12 (d) apply to refunds to governmental entities. When an entity applies for a refund of the  
13 prepared food and beverages tax paid by it on purchases, it must attach to its application  
14 a copy of the application submitted to the Department of Revenue under  
15 G.S. 105-164.14 for a refund of the sales and use tax on the same purchases or a written  
16 statement that the purchases were exempt from the tax. An applicant for a refund under  
17 this subsection must provide any information required by the city to substantiate the  
18 claim.

19       **SECTION 1.(g)** Use of Net Proceeds. – The City of Monroe must use the  
20 net proceeds of a tax levied under this section for the construction, operation, and  
21 maintenance of a civic center.

22       **SECTION 1.(h)** Effective Date of Levy. – A tax levied under this section  
23 shall become effective on the date specified in the ordinance levying the tax. The date  
24 must be the first day of a calendar month and may not be before the first day of the  
25 fourth month after the date the ordinance is adopted.

26       **SECTION 1.(i)** Repeal. – A tax levied under this section may be repealed by  
27 an ordinance adopted by the Monroe City Council. The Monroe City Council shall  
28 repeal the tax when the Civic Center Project for which the tax was imposed is  
29 constructed and any debt for the Project has been paid. Any repeal shall become  
30 effective on the first day of a month and may not become effective until the end of the  
31 fiscal year in which the repeal ordinance is adopted. Repeal of a tax levied under this  
32 section does not affect a liability for a tax that attached before the effective date of the  
33 repeal, nor does it affect a right to a refund of a tax that accrued before the effective date  
34 of the repeal.

35       **SECTION 2.** This act is effective when it becomes law.