

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE DRH60249-MC~~x~~-138 (4/10)

Short Title: Amend Taxation Of Construction Machinery. (Public)

Sponsors: Representatives Saunders and Goforth (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REPLACE THE SALES TAXES ON LIGHT CONSTRUCTION
3 EQUIPMENT WITH AN EXCISE TAX.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 105-164.3 reads as rewritten:

6 "§ 105-164.3. **Definitions.**

7 The following definitions apply in this Article:

8 ...

9 (17b) Light construction equipment. – Equipment that is self-propelled, has
10 an engine of not more than 160 net horsepower, and is not designed
11 primarily for transportation.

12 ~~(17a)~~(17d) Load and leave. – Delivery to the purchaser by use of a
13 tangible storage media where the tangible storage media is not
14 physically transferred to the purchaser."

15 SECTION 2. Article 5F of Chapter 105 of the General Statutes reads as
16 rewritten:

17 "Article 5F.

18 "Manufacturing Fuel and Certain Machinery and Equipment.

19 "§ 105-187.50. **Definitions.**~~**Administration.**~~

20 (a) Definitions. – The definitions in G.S 105-164.3 apply in this Article.

21 (b) Administration. – The privilege taxes imposed by this Article are in addition
22 to the State use tax. Except as otherwise provided in this Article, the collection and
23 administration of these taxes are the same as the State use tax imposed by Article 5 of
24 this Chapter.

25 (c) Credit. – A credit is allowed against the tax imposed by this Article for the
26 amount of a sales or use tax, privilege or excise tax, or substantially equivalent tax paid
27 to another state. The credit allowed by this subsection does not apply to tax paid to

1 another state that does not grant a similar credit for the privilege tax paid in North
2 Carolina.

3 **"§ 105-187.51. Tax imposed on mill machinery.**

4 (a) Scope. – A privilege tax is imposed on the following persons:

5 (1) A manufacturing industry or plant that purchases mill machinery or
6 mill machinery parts or accessories for storage, use, or consumption in
7 this State. A manufacturing industry or plant does not include a
8 delicatessen, cafe, cafeteria, restaurant, or another similar retailer that
9 is principally engaged in the retail sale of foods prepared by it for
10 consumption on or off its premises.

11 (2) A contractor or subcontractor that purchases mill machinery or mill
12 machinery parts or accessories for use in the performance of a contract
13 with a manufacturing industry or plant.

14 (3) A subcontractor that purchases mill machinery or mill machinery parts
15 or accessories for use in the performance of a contract with a general
16 contractor that has a contract with a manufacturing industry or plant.

17 (b) Rate. – The tax is one percent (1%) of the sales price of the machinery, part,
18 or accessory purchased. The maximum tax is eighty dollars (\$80.00) per article. As used
19 in this section, the term "accessories" does not include electricity.

20 **"§ 105-187.51A. Tax imposed on manufacturing fuel.**

21 A privilege tax is imposed on a manufacturing industry or plant that purchases fuel
22 to operate the industry or plant. The tax is one percent (1%) of the sales price of the
23 fuel. The tax does not apply to electricity or piped natural gas.

24 **"§ 105-187.51B. (Effective until July 1, 2007) Tax imposed on recycling equipment.**

25 (a) Tax. – A privilege tax is imposed on a major recycling facility that purchases
26 any of the following tangible personal property for use in connection with the facility:

27 (1) Cranes, structural steel crane support systems, and foundations related
28 to the cranes and support systems.

29 (2) Port and dock facilities.

30 (3) Rail equipment.

31 (4) Material handling equipment.

32 (b) Rate. – The tax is one percent (1%) of the sales price of the tangible personal
33 property. The maximum tax is eighty dollars (\$80.00) per article.

34 **"§ 105-187.51B. (Effective July 1, 2007) Tax imposed on certain recyclers and
35 research and development companies.**

36 (a) Tax. – A privilege tax is imposed on the following:

37 (1) A major recycling facility that purchases any of the following tangible
38 personal property for use in connection with the facility:

39 a. Cranes, structural steel crane support systems, and foundations
40 related to the cranes and support systems.

41 b. Port and dock facilities.

42 c. Rail equipment.

43 d. Material handling equipment.

- 1 (2) A research and development company in the physical, engineering,
2 and life sciences that is included in industry 54171 of NAICS and that
3 purchases equipment or an attachment or repair part for equipment that
4 meets all of the following requirements:
- 5 a. Is capitalized by the company for tax purposes under the Code.
 - 6 b. Is used by the company in the research and development of
7 tangible personal property.
 - 8 c. Would be considered mill machinery under G.S. 105-187.51 if
9 it were purchased by a manufacturing industry or plant and used
10 in the research and development of tangible personal property
11 manufactured by the industry or plant.

12 (b) Rate. – The tax is one percent (1%) of the sales price of the equipment or
13 other tangible personal property. The maximum tax is eighty dollars (\$80.00) per
14 article.

15 **"105-187.51C. Tax imposed on light construction equipment.**

16 (a) Scope. – A privilege tax is imposed on any person who purchases light
17 construction equipment.

18 (b) The tax is equal to the general rate of tax under G.S. 105-164.4 of the sales
19 price of the light construction equipment purchased. The maximum tax is three hundred
20 dollars (\$300.00) per article.

21 **"§ 105-187.52. Administration.**

22 (a) ~~Administration. – The privilege taxes imposed by this Article are in addition~~
23 ~~to the State use tax. Except as otherwise provided in this Article, the collection and~~
24 ~~administration of these taxes is the same as the State use tax imposed by Article 5 of~~
25 ~~this Chapter.~~

26 (b) ~~Credit. – A credit is allowed against the tax imposed by this Article for the~~
27 ~~amount of a sales or use tax, privilege or excise tax, or substantially equivalent tax paid~~
28 ~~to another state. The credit allowed by this subsection does not apply to tax paid to~~
29 ~~another state that does not grant a similar credit for the privilege tax paid in North~~
30 ~~Carolina.~~

31 **"§ 105-187.53. Commercial logging items.**

32 This Article does not apply to an item that is exempt from sales and use tax under
33 G.S. 105-164.13(4f)."

34 **SECTION 3.** This act becomes effective January 1, 2008, and applies to
35 sales made on or after that date.