

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H.B. 260
Mar 4, 2019
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH10123-MCxf-114

Short Title: Scotland Neck Meals Tax. (Local)

Sponsors: Representative Wray.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE TOWN OF SCOTLAND NECK TO LEVY A PREPARED
3 FOOD AND BEVERAGES TAX.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.(a)** Authority. – The Scotland Neck Board of Commissioners, by
6 resolution and after not less than 10 days' public notice and a public hearing, levy a prepared food
7 and beverages tax of up to one percent (1%) of the sales price of prepared food and beverages
8 sold within the Town of Scotland Neck at retail for consumption on or off the premises by a
9 retailer subject to sales tax under G.S. 105-164.4(a)(1) upon the occurrence of an action listed in
10 this subsection. For purposes of catering, the tax applies to food served in the town without regard
11 to the residency of the caterer. This tax is in addition to State and local sales tax.

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

- 15 (1) Net proceeds. – Gross proceeds less the cost to the town of administering and
16 collecting the tax.
17 (2) Prepared food and beverages. – The term includes the following:
18 a. Prepared food. – Defined in G.S. 105-164.3.
19 b. An alcoholic beverage. – Defined in G.S. 18B-101.

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

- 22 (1) Prepared food and beverages served to residents in boardinghouses and sold
23 together on a periodic basis with rental of a sleeping room or lodging.
24 (2) Retail sales exempt from taxation under G.S. 105-164.13.
25 (3) Retail sales through or by means of vending machines.
26 (4) Prepared food and beverages served by a retailer subject to the local
27 occupancy tax if the charge for the prepared food and beverages is included
28 in a single, nonitemized sales price together with the charge for rental of a
29 room, lodging, or accommodation furnished by the retailer.
30 (5) Prepared food and beverages furnished without charge by an employer to an
31 employee.
32 (6) Retail sales by grocers or by grocery sections of supermarkets or other
33 diversified retail establishments, other than sales of prepared food and
34 beverages in the delicatessen or similar department of the grocer or grocery
35 section.
36 (7) Prepared food and beverages served on a federal military reservation.



* D R H 1 0 1 2 3 - M C X F - 1 1 4 *

1 **SECTION 1.(d)** Collection. – Every retailer subject to the tax levied under this
2 section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall
3 be collected as part of the charge for furnishing prepared food and beverages. The tax shall be
4 stated separately on the sales document and shall be paid by the purchaser to the retailer as trustee
5 for and on account of the municipality. The tax shall be added to the sales price and shall be
6 passed on to the purchaser instead of being borne by the retailer. The entity collecting the tax
7 shall design, print, and furnish to all appropriate businesses and persons in the town the necessary
8 forms for filing returns and instructions to ensure the full collection of the tax.

9 **SECTION 1.(e)** Administration. – The Town of Scotland Neck may enter into an
10 agreement with Halifax County for the administration and collection of the tax levied under this
11 section. In the absence of an agreement, the town shall administer the tax levied under this
12 section. A tax levied under this section is due and payable to the local administering authority as
13 agent for the taxing entity in monthly installments on or before the twentieth day of the month
14 following the month in which the tax accrues. Every retailer liable for the tax shall, on or before
15 the twentieth day of each month, prepare and render a return on a form prescribed by the town
16 or, at the town's direction, the entity administering and collecting the tax. The return shall show
17 the total gross receipts derived in the preceding month from sales to which the tax applies.

18 A return filed under this section is not a public record and may not be disclosed except
19 in accordance with G.S. 160A-208.1.

20 The provisions of Article 5 and Article 9 of Chapter 105 of the General Statutes apply
21 to this section to the extent they are not inconsistent with the provisions of this section. The
22 uniform meals tax penalty provisions of G.S. 160A-214.1 apply to a tax levied under this section.

23 **SECTION 1.(f)** Refunds. – The entity administering the tax shall refund to a
24 nonprofit or governmental entity the prepared food and beverages tax paid by the entity on
25 eligible purchases of prepared food and beverages. A nonprofit or governmental entity's purchase
26 of prepared food and beverages is eligible for a refund under this subsection if the entity is entitled
27 to a refund under G.S. 105-164.14(b) or (c) of local sales and use tax paid on the purchase or if
28 the sale is exempt under G.S. 105-164.13. The time limitations, application requirements,
29 penalties, and restrictions provided in G.S. 105-164.14(b), (d), and (d1) apply to refunds to
30 nonprofit entities; the time, limitations, application requirements, penalties, and restrictions
31 provided in G.S. 105-164.14(c), (d), and (d1) apply to refunds to governmental entities. When
32 an entity applies for a refund of the prepared food and beverages tax paid by it on purchases, it
33 shall attach to its application a copy of the application submitted to the Department of Revenue
34 under G.S. 105-164.14 for a refund of the sales and use tax on the same purchases or a written
35 statement that the purchases were exempt from the tax. An applicant for a refund under this
36 subsection shall provide any information required by the entity administering the tax to
37 substantiate the claim.

38 **SECTION 1.(g)** Use of Proceeds. – The proceeds of a tax levied under this section
39 shall be used as provided in this subsection. The entity administering and collecting the tax may
40 deduct from the gross proceeds of the taxes collected under this act an amount not to exceed three
41 percent (3%) of the gross proceeds to pay for the direct cost of administering and collecting the
42 taxes. The remaining proceeds shall be used for the promotion of travel and tourism in the Town
43 of Scotland Neck.

44 **SECTION 1.(h)** Effective Date of Levy. – A tax levied under this section shall
45 become effective on the date specified in the resolution levying the tax. The date shall be the first
46 day of a calendar month and may not be before the first day of the fourth month after the date the
47 resolution is adopted.

48 **SECTION 1.(i)** Repeal. – Repeal or reduction of a tax levied under this section does
49 not affect a liability for a tax that attached before the effective date of the repeal or reduction, nor
50 does it affect a right to a refund of a tax that accrued before the effective date of the repeal or
51 reduction. Any repeal or reduction shall become effective on the first day of a month. Any repeal

1 or reduction may not become effective until the end of the fiscal year in which the repeal
2 resolution is adopted.

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