

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 942

Short Title: Raise Admissions Tax/Libraries.

(Public)

Sponsors: Senator Basnight.

Referred to: Finance.

May 14, 1991

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE STATE TAX ON GROSS RECEIPTS DERIVED FROM THE BUSINESS OF OFFERING ENTERTAINMENT OR AMUSEMENT FOR WHICH AN ADMISSION IS CHARGED, TO PROVIDE THAT MOTION PICTURES SHALL BE TAXED IN THE SAME WAY AS OTHER ENTERTAINMENT, TO PROVIDE THAT ADMISSIONS AND MEMBERSHIPS TO ATHLETIC AND RECREATIONAL FACILITIES ARE SUBJECT TO THE SAME GROSS RECEIPTS TAX, AND TO EARMARK THE ADDITIONAL REVENUES GENERATED BY THIS ACT FOR LIBRARIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-36.1 and G.S. 105-37 are repealed.

Sec. 2. G.S. 105-37.1, as amended by Chapter 45 of the 1991 Session Laws, reads as rewritten:

"§ 105-37.1. Amusements – Forms of amusement not otherwise taxed; taxed; admissions to athletic and recreational facilities.

(a) ~~Every person, firm, or corporation engaged in the business of giving, offering or managing any form of entertainment or amusement not otherwise taxed or specifically exempted in this Article, for which an admission is charged, shall pay an annual license tax of fifty dollars (\$50.00) for each room, hall, tent or other place where such admission charges are made.~~

Scope. This section applies to every person, firm, or corporation:

(1) Engaged in the business of providing any form of entertainment or amusement, not otherwise taxed or specifically exempted in this Article, for which an admission is charged.

- 1 (2) Providing access to athletic or recreational facilities for which an
2 admission is charged.
- 3 (3) Providing access to athletic or recreational facilities for which a
4 membership fee is charged.
- 5 (4) Providing any dance or athletic contest, other than a high school or
6 elementary school contest, for which an admission fee in excess of
7 fifty cents (50¢) is charged.

8 (b) Tax. Every person, firm, or corporation engaged in an activity to which this
9 section applies shall pay an annual license tax of fifty dollars (\$50.00) for each location
10 at which it engages in the activity.

11 In addition to the license tax levied above, ~~such the~~ person, firm, or corporation shall
12 pay an additional tax upon the gross receipts of ~~such business the~~ activity at the rate of
13 ~~three percent (3%).~~ five percent (5%). Reports shall be made to the Secretary of
14 Revenue, in ~~such form as he may prescribe,~~ the form prescribed by the Secretary, within
15 the first 10 days of each month covering all ~~such the~~ gross receipts for the previous
16 month, and the ~~additional tax herein levied~~ gross receipts tax shall be paid monthly at the
17 time ~~such the~~ reports are made. The annual license tax ~~herein levied in this subsection~~
18 shall be treated as an advance payment of the ~~tax upon gross receipts herein levied,~~ gross
19 receipts tax levied in this subsection, and the annual license tax shall be applied as a
20 credit upon or advance payment of the gross receipts tax.

21 ~~Every person, firm, or corporation giving, offering, or managing any dance or~~
22 ~~athletic contest of any kind, except high school and elementary school athletic contests,~~
23 ~~for which an admission fee in excess of fifty cents (50¢) is charged, shall pay an annual~~
24 ~~license tax of fifty dollars (\$50.00) for each location where such charges are made, and,~~
25 ~~in addition, a tax upon the gross receipts derived from admission charges at the rate of~~
26 ~~three percent (3%). The additional tax upon gross receipts shall be levied and collected~~
27 ~~in accordance with such regulations as may be made by the Secretary of Revenue.~~

28 (c) Exemptions.

- 29 (1) School Contests. No tax shall be levied on admission fees for high
30 school and elementary school contests.
- 31 (2) Certain School and Charitable Amusements. Dances and other
32 amusements actually promoted and managed by civic organizations
33 and private and public secondary schools, shall not be subject to the
34 license tax imposed by this section and the first one thousand dollars
35 (\$1,000) of gross receipts derived from ~~such these~~ events shall be
36 exempt from the gross receipts tax ~~herein levied~~ when the entire
37 proceeds of ~~such dances or other amusements~~ the event are used
38 exclusively for the school or civic and charitable purposes of ~~such the~~
39 organizations and not to defray the expenses of the organization
40 conducting ~~such the~~ dance or amusement. The mere sponsorship of a
41 dance or other amusement by such a school, civic, or fraternal
42 organization ~~shall not be deemed to exempt such dance or other amusement~~
43 ~~as provided in this paragraph,~~ does not exempt the dance or amusement,
44 but the exemption shall apply only when the dance or amusement is

1 actually managed and conducted by the school, civic, or fraternal
2 organization and the proceeds are used as herein before required. actually
3 used as provided in this subdivision.

4 (3) Arts Centers. Dances and other amusements promoted and managed
5 by a qualifying corporation that operates a center for the performing
6 and visual arts are exempt from the license tax and the gross receipts
7 tax imposed under this section if the dance or other amusement is held
8 at the center. 'Qualifying corporation' means a corporation that is
9 exempt from income tax under G.S. 105-130.11(a)(3). "Center for the
10 performing and visual arts" means a facility, having a fixed location,
11 that provides space for dramatic performances, studios, classrooms and
12 similar accommodations to organized arts groups and individual
13 artists. This exemption shall not apply to athletic events.

14 (4) Teen Centers. The license and gross receipts taxes imposed by this
15 section do not apply to a person, firm, or corporation that is exempt
16 from income tax under Article 4 of this Chapter and is engaged in the
17 business of operating a teen center. A 'teen center' is a fixed facility
18 whose primary purpose is to provide recreational activities, dramatic
19 performances, dances, and other amusements exclusively for
20 teenagers.

21 (5) Cherokee Indian Entertainments. No tax shall be collected pursuant to
22 this section with respect to entertainments or amusements offered or
23 given on the Cherokee Indian Reservation when the person, firm or
24 corporation giving, offering, or managing the entertainment or
25 amusement is authorized to do business on the Reservation and pays
26 the tribal gross receipts levy to the tribal council.

27 ~~(b)~~ (d) Local Licenses. Counties shall not levy any license tax on the ~~business~~
28 activity taxed under this section, but cities and towns may levy a license tax not in
29 excess of one half the base tax levied ~~herein~~ under this section.

30 ~~(c)~~ ~~No tax shall be collected pursuant to this section with respect to~~
31 ~~entertainments or amusements offered or given on the Cherokee Indian reservation~~
32 ~~when the person, firm or corporation giving, offering or managing such entertainment or~~
33 ~~amusement is authorized to do business on the reservation and pays the tribal gross~~
34 ~~receipts levy to the tribal council.~~

35 ~~(d)~~ (e) Still Dates Restricted. It is not the purpose of this Article to discourage
36 agricultural fairs in the State, and to further this cause, no carnival company taxable
37 under this section may play a 'still date' in any county where there is a regularly
38 advertised agricultural fair, 30 days prior to the dates of the fair. This subsection does
39 not restrict the date on which a fair or tobacco festival may be held if (i) it is held by a
40 veteran's organization or post chartered by Congress or organized and operated on a
41 statewide or nationwide basis and (ii) the organization or post has held the fair or
42 festival annually since before July 1, 1988."

43 Sec. 3. G.S. 105-38(f) reads as rewritten:

1 (f) Upon all performances taxable under this section there is levied, in addition
2 to the license tax levied in this section, a tax upon the gross receipts of such business at
3 the rate of ~~three percent (3%)~~ five percent (5%). The license tax herein levied shall be
4 treated as an advance payment of the tax upon gross receipts herein levied, and the
5 license tax shall be applied as a credit upon or advance payment of the gross receipts
6 tax. The Secretary of Revenue may adopt such regulations as may be necessary to
7 effectuate the provisions of this section and shall prescribe the form and character of
8 reports to be made, and shall have such authority of supervision as may be necessary to
9 effectuate the purpose of this Subchapter."

10 Sec. 4. Article 2 of Chapter 105 of the General Statutes is amended by
11 adding a new section to read:

12 **"§ 105-38.1. Distribution of part of admissions tax for libraries.**

13 (a) Distribution. Of the net proceeds collected under G.S. 105-37.1 and G.S. 105-
14 38, the Secretary shall, on a quarterly basis, set aside for distribution an amount equal to
15 (i) all of the net proceeds collected under G.S. 105-37.1 from the gross receipts tax on
16 motion picture businesses and the gross receipts tax on the activities described in G.S.
17 105-37.1(a)(2) and (3), plus (ii) forty percent (40%) of the net proceeds collected under
18 G.S. 105-37.1 from the gross receipts tax on other activities, plus (iii) forty percent
19 (40%) of the net proceeds collected under G.S. 105-38. The amount set aside shall be
20 disbursed as follows:

- 21 (1) Two percent (2%) shall be credited to the Department of Cultural
22 Resources to be used to provide grants to special libraries in the State
23 under a grant program to be administered by the State Library
24 Commission created in G.S. 143B-91.
- 25 (2) Forty percent (40%) shall be credited to the Department of Cultural
26 Resources to be distributed among the legally established municipal,
27 county, and regional public libraries of the State.
- 28 (3) Thirty-four percent (34%) shall be credited to the Board of Governors
29 of The University of North Carolina to be distributed among the
30 libraries of its constituent institutions.
- 31 (4) Twenty-four percent (24%) shall be credited to the Department of
32 Community Colleges to be distributed among the community college
33 libraries of the State.

34 (b) Use of Funds. Funds distributed pursuant to this act may be used only to
35 purchase library materials, as defined in G.S. 153A-262."

36 Sec. 5. G.S. 105-102.5(d)(1) reads as rewritten:

37 "(1) A person, firm, or corporation required to be licensed under G.S. ~~105-~~
38 ~~36.1, 105-37, 105-37.1, 105-62, 105-65.1, 105-74, 105-85, 105-89, or~~
39 ~~105-89.1~~ is not required to procure for the same location the general
40 business license imposed by this section."

41 Sec. 6. G.S. 143B-90 reads as rewritten:

42 **"§ 143B-90. State Library Commission – creation, powers and duties.**

43 There is hereby created the State Library Commission of the Department of Cultural
44 Resources. The State Library Commission has the following functions and duties:

- 1 (1) To advise the Secretary of Cultural Resources on matters relating to
2 the operation and services of the State ~~Library;~~ Library.
- 3 (2) To suggest programs to the Secretary to aid in the development of
4 libraries ~~statewide;~~ statewide.
- 5 (3) To advise the Secretary upon any matter the Secretary might refer to ~~it;~~
6 it.
- 7 (4) To evaluate and approve the State Plan for Public Library
8 ~~Development;~~ Development.
- 9 (5) To evaluate and approve the State Plan for Multitype Library
10 ~~Cooperation;~~ Cooperation.
- 11 (6) To evaluate and approve plans for federally funded library ~~programs;~~
12 programs.
- 13 (7) To evaluate and approve State Library policies for the acquisition of
14 library ~~materials;~~ and materials.
- 15 (8) To serve as a search committee to seek out, interview, and recommend
16 to the Secretary one of more experienced and professionally trained
17 librarians for the position of Director of the Division of State Library
18 when a vacancy occurs, and to assist and cooperate with the Secretary
19 in periodic reviews of the performance of the Director and the
20 Division.
- 21 (9) To serve as a screening and advisory committee to accept applications
22 from special libraries for grants and to make recommendations to the
23 Secretary for the award of grants to special libraries from funds
24 credited to the Department pursuant to G.S. 105-38.1."

25 Sec. 7. Section 4 of this act becomes effective October 1, 1991. The
26 remainder of this act becomes effective July 1, 1991.