

GENERAL ASSEMBLY OF NORTH CAROLINA
SECOND EXTRA SESSION 1996

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HOUSE BILL 74

Short Title: Repeal Milk Drink Tax.

(Public)

Sponsors: Representative Allred.

Referred to: Rules.

July 10, 1996

A BILL TO BE ENTITLED

1 AN ACT TO GENERALLY REVISE THE STATE BUDGET BY EXEMPTING
2 BOTTLED SOFT DRINKS THAT CONTAIN MILK FROM THE SOFT DRINK
3 TAX WITHOUT THE REQUIREMENT THAT THEY MUST FIRST REGISTER
4 WITH THE DEPARTMENT OF REVENUE AND TO MAKE APPROPRIATION
5 CHANGES.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 105-113.46 reads as rewritten:

9 **"§ 105-113.46. Exemptions.**

10 The taxes imposed by this Article do not apply to an item that is listed in this section
11 and, if the item is a bottled soft drink or a juice concentrate included in subdivision ~~(2)~~,
12 ~~(3)~~, (3) or (3a), is registered with the Secretary in accordance with G.S. 105-113.47:

13 (1) ~~A natural liquid milk drink produced by a farmer or a dairy.~~

14 (2) A bottled soft drink that contains ~~at least thirty five percent (35%)~~
15 ~~natural milk measured by volume and is not exempt under subdivision~~
16 ~~(1)-milk.~~

17 (3) Natural juice.

18 (3a) Juice that would be natural if it did not contain sugar.

19 (4) Natural water.

- 1 (5) A base product used to make a bottled soft drink subject to tax under
2 this Article.
3 (6) Coffee or tea in any form.
4 (7) A bottled soft drink or base product sold outside the State.
5 (8) A bottled soft drink or base product sold to the federal government.
6 (9) A base product for domestic use that either contains milk or, according
7 to directions on the base product's container, requires milk to be added
8 to make a soft drink."

9 Sec. 2. G.S. 105-113.47(a) reads as rewritten:

10 "(a) Requirement. – To be exempt from the tax imposed by this Article, the
11 following items must be registered with the Secretary as an exempt item:

- 12 (1) ~~A bottled soft drink that contains at least thirty-five percent (35%)~~
13 ~~natural milk measured by volume and is not exempt under G.S. 105-~~
14 ~~113.46(1).~~
15 (2) A natural juice bottled soft drink.
16 (3) A natural juice concentrate.
17 (4) A juice concentrate or juice bottled soft drink that would be natural if it
18 did not contain sugar."

19 Sec. 3. Appropriations are reduced accordingly.

20 Sec. 4. This act is effective retroactively as of October 1, 1991. A taxpayer
21 who paid an excise tax on a product that is exempt under this act may apply for a refund
22 of the tax by submitting an application for refund to the Department of Revenue by
23 January 1, 1997. A taxpayer who submits a timely application may receive a refund in an
24 amount equal to the amount of taxes paid on the item since October 1, 1991, along with
25 interest at the rate provided in G.S. 105-266 for refunds of overpaid taxes. If any
26 penalties have been assessed for failure to pay this tax, these penalties shall be waived
27 and, if the penalties have been paid, they shall be refunded to the taxpayer. The
28 application must be in the form and contain the information required by the Secretary of
29 Revenue.