

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 226

Short Title: One Cent Local Sales Tax.

(Public)

Sponsors: Representative James.

Referred to: Finance.

March 11, 1991

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE AN ADDITIONAL ONE CENT LOCAL OPTION SALES TAX, ELIMINATE THE ANNUAL REIMBURSEMENTS TO LOCAL GOVERNMENTS FOR PREVIOUSLY REPEALED LOCAL TAXES, AND ELIMINATE THE ANNUAL DISTRIBUTION OF INTANGIBLES TAX REVENUE TO LOCAL GOVERNMENTS.

The General Assembly of North Carolina enacts:

Section 1. The title of Article 39 of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 39.

"FIRST ONE-CENT (1¢) LOCAL GOVERNMENT SALES AND USE TAX."

Sec. 2. G.S. 105-463 reads as rewritten:

"§ 105-463. Short title.

This Article shall be known as the ~~Local~~ First One-cent (1¢) Local Government Sales and Use Tax Act."

Sec. 3. The title of Article 40 of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 40.

~~"SUPPLEMENTAL~~ FIRST ONE-HALF-CENT (1/2¢) LOCAL GOVERNMENT SALES AND USE TAXES-TAX."

Sec. 4. G.S. 105-480 reads as rewritten:

"§ 105-480. Short title.

1 This Article shall be known as the ~~Supplemental~~ First One-half-cent (1/2¢) Local
2 Government Sales and Use Tax Act."

3 Sec. 5. G.S. 105-468.1 and Article 41 of Chapter 105 of the General Statutes
4 are repealed.

5 Sec. 6. The title of Article 42 of Chapter 105 of the General Statutes reads as
6 rewritten:

7 **"ARTICLE 42.**

8 **"ADDITIONAL SUPPLEMENTAL SECOND ONE-HALF-CENT (1/2¢) LOCAL**
9 **GOVERNMENT SALES AND USE TAXES. TAX."**

10 Sec. 7. G.S. 105-495 reads as rewritten:

11 **"§ 105-495. Short title.**

12 This Article shall be known as the ~~Additional Supplemental~~ Second One-half-cent
13 (1/2¢) Local Government Sales and Use Tax Act."

14 Sec. 8. Subchapter VIII of Chapter 105 of the General Statutes is amended
15 by adding a new Article to read:

16 **"ARTICLE 43.**

17 **"SECOND ONE-CENT (1¢) LOCAL GOVERNMENT SALES AND USE TAX.**

18 **"§ 105-505. Short title.**

19 This Article shall be known as the Second One-cent (1¢) Local Government Sales
20 and Use Tax Act.

21 **"§ 105-506. Purpose; definition.**

22 This Article gives the counties and cities of this State an opportunity to obtain an
23 added source of revenue with which to meet their growing financial needs. It provides
24 all counties of the State that are subject to this Article with authority to levy one percent
25 (1%) sales and use taxes. As used in this Article, the term 'city' has the meaning
26 provided in G.S. 153A-1(1).

27 **"§ 105-507. Limitations.**

28 This Article applies only to counties that levy the first one percent (1%) local sales
29 and use tax under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session
30 Laws, the first one-half percent (1/2%) local sales and use tax under Article 40 of this
31 Chapter, and the second one-half percent (1/2%) local sales and use tax under Article 42
32 of this Chapter.

33 **"§ 105-508. Levy and collection of taxes.**

34 A county subject to this Article may levy one percent (1%) local sales and use taxes
35 in addition to any other State and local sales and use taxes levied pursuant to law.
36 Except as provided in this Article, the adoption, levy, collection, distribution,
37 administration, and repeal of these additional taxes shall be in accordance with Article
38 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this
39 Article, references to 'this Article' mean 'Article 43 of Chapter 105 of the General
40 Statutes'.

41 **"§ 105-509. Form of ballot.**

42 (a) The form of the question to be presented on a ballot for a special election
43 concerning the levy of the taxes authorized by this Article shall be: 'FOR one percent
44 (1%) local sales and use taxes in addition to the current two percent (2%) local sales and

1 use taxes' or 'AGAINST one percent (1%) local sales and use taxes in addition to the
2 current two percent (2%) local sales and use taxes.'

3 (b) The form of the question to be presented on a ballot for a special election
4 concerning the repeal of any taxes levied pursuant to this Article shall be: 'FOR repeal
5 of the additional one percent (1%) local sales and use taxes, thus reducing local sales
6 and use taxes to two percent (2%)' or 'AGAINST repeal of the additional one percent
7 (1%) local sales and use taxes, thus reducing local sales and use taxes to two percent
8 (2%).'

9 **"§ 105-510. Distribution of taxes.**

10 The Secretary shall, on a quarterly basis, allocate the net proceeds of the one percent
11 (1%) sales and use taxes levied under this Article among the taxing counties as follows:
12 (i) one-half of the net proceeds shall be allocated in proportion to the amount of the net
13 proceeds collected in each county; and (ii) one-half of the net proceeds shall be
14 allocated on a per capita basis according to the most recent annual population estimates
15 certified to the Secretary by the State Budget Officer. 'Net proceeds' means gross
16 proceeds less taxes refunded, the cost to the State of collecting and administering the tax
17 in the taxing county, and other deductions properly charged to the taxing county. The
18 amounts allocated to each taxing county shall then be divided among the county and the
19 cities located in the county in accordance with the method by which the one percent
20 (1%) local sales and use taxes levied in that county pursuant to Article 39 of this
21 Chapter or Chapter 1096 of the 1967 Session Laws are distributed.

22 If any taxes levied under this Article by a county have not been collected in that
23 county for a full quarter because of the levy or repeal of the taxes, the Secretary shall
24 distribute a pro rata share to that county for that quarter based on the number of months
25 the taxes were collected in that county during the quarter.

26 **"§ 105-511. Hold-harmless distribution.**

27 (a) Allocation. As soon as practicable after July 1, 1992, the Secretary shall
28 allocate for distribution to each taxing county an amount equal to the excess of the
29 amount the county and the cities in the county received during the 1990-91 fiscal year
30 from the Local Government Tax Reimbursement Reserve created in Section 52 of
31 Chapter 752 of the 1989 Session Laws over the amount the county and the cities in the
32 county received during the 1991-92 fiscal year from the Local Government Tax
33 Reimbursement Reserve, the taxes collected under Article 7 of this Chapter, and the
34 distribution under G.S. 105-510.

35 Each year thereafter, as soon as practicable after July 1, the Secretary shall allocate
36 for distribution to each taxing county an amount equal to the excess of the amount the
37 county and the cities in the county received during the 1990-91 fiscal year from the
38 Local Government Tax Reimbursement Reserve over the amount the county and the
39 cities in the county received during the preceding fiscal year under G.S. 105-510.

40 (b) Distribution Between Counties and Cities. The amount allocated to each
41 taxing county shall then be divided among the county and the cities in the county in
42 accordance with the method by which the one percent (1%) sales and use taxes levied in
43 that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session
44 Laws are distributed.

1 (c) Funds distributed under this section shall be drawn from local sales and use
2 tax collections under Article 40 of this Chapter."

3 Sec. 9. G.S. 105-198 reads as rewritten:

4 **"§ 105-198. Intangible personal property.**

5 The intangible personal properties enumerated and defined in this Article are
6 classified under authority of Section 2(2), Article V of the North Carolina Constitution.
7 The taxes are levied for the purposes stated in this ~~Article~~ Subchapter."

8 Sec. 10. Effective July 1, 1991, G.S. 105-164.44C, 105-275.1, 105-277A,
9 and 105-277.1A are repealed.

10 Sec. 11. Effective July 1, 1992, G.S. 105-213 and G.S. 105-213.1 are
11 repealed.

12 Sec. 12. Effective July 1, 1992, G.S. 105-113.82 reads as rewritten:

13 **"§ 105-113.82. Appropriation of amount equal to part of beer and wine taxes.**

14 (a) Amount, Method. – An amount equal to the following percentages of the net
15 amount of excise taxes collected, during the period that begins the preceding October 1
16 and ends September 30, on the sale of malt beverages and wine, less the amount of the
17 net proceeds credited to the Department of Agriculture under G.S 105-113.81A, and
18 less the amount provided in subsection (a1), is annually appropriated from the General
19 Fund to the counties and cities in which the retail sale of these beverages is authorized:

- 20 (1) Of the tax on malt beverages levied under G.S. 105-113.80(a), twenty-
21 three and three-fourths percent (23 3/4%);
22 (2) Of the tax on unfortified wine levied under G.S. 105-113.80(b), sixty-
23 two percent (62%); and
24 (3) Of the tax on fortified wine levied under G.S. 105-113.80(b), twenty-
25 two percent (22%).

26 If malt beverages, unfortified wine, or fortified wine may be licensed to be sold at
27 retail in both a county and a city located in the county, both the county and city shall
28 receive a portion of the amount appropriated, that portion to be determined on the basis
29 of population. If one of these beverages may be licensed to be sold at retail in a city
30 located in a county in which the sale of the beverage is otherwise prohibited, only the
31 city shall receive a portion of the amount appropriated, that portion to be determined on
32 the basis of population. The amount of the appropriation to be distributed under
33 subdivisions (1), (2), and (3) shall be computed separately.

34 (a1) Reduction in Amount Appropriated. The appropriation provided in subsection
35 (a) shall be reduced by an amount equal to the costs for the preceding fiscal year of:

- 36 (1) The Department of Revenue in performing the duties imposed by
37 Article 15 of this Chapter.
38 (2) The Property Tax Commission.
39 (3) The Institute of Government in operating a training program in
40 property tax appraisal and assessment administration.

41 (b) ~~Reduction in Appropriation.~~ Appropriation to County or City. – Where the sale
42 of malt beverages, unfortified wine, or fortified wine is prohibited in a defined area of a
43 city or county in which the sale of the beverage is authorized, the amount that would
44 otherwise be appropriated to the city or county on the basis of population under

1 subsection (a) shall be reduced in the same ratio that the area of the defined area bears
2 to the total area of the city or county, unless the defined area is a city. If the defined area
3 in a county is a city, the reduction in the amount that would otherwise be appropriated
4 to the county under subsection (a) shall be based on population instead of area.

5 (c) Exception. – Notwithstanding subsection (a), in a county in which ABC stores
6 have been established by petition, the amount appropriated shall be distributed as
7 though the entire county had approved the retail sale of a beverage whose retail sale is
8 authorized in part of the county.

9 (d) Time. – The appropriation shall be distributed to cities and counties within 60
10 days after September 30 of each year.

11 (e) Population Estimates. – To determine the population of a city or county for
12 purposes of the distribution required by this section, the Secretary shall use the most
13 recent annual estimate of population certified by the State Budget Officer.

14 (f) City Defined. – As used in this section, the term 'city' means a city as defined
15 in G.S. 153A-1(1) or an urban service district defined by the governing body of a
16 consolidated city-county.

17 (g) Use of Funds. – Funds appropriated to a county or city under this section may
18 be used for any public purpose.

19 (h) Act. – The appropriation made by this section shall be included in the Current
20 Operations Appropriations Act."

21 Sec. 13. Effective July 1, 1992, G.S. 105-288(d) reads as rewritten:

22 "(d) All expenses of the ~~Commission~~, Commission and the Department of Revenue
23 in performing the duties enumerated in this Article shall be paid from ~~funds appropriated~~
24 ~~out of revenue derived from the excise taxes on beer and wine in accordance with G.S.~~
25 105-113.82, tax on intangible personal property as provided by G.S. 105-213."

26 Sec. 14. Effective July 1, 1992, G.S. 108A-93 reads as rewritten:

27 "**§ 108A-93. Withholding of State moneys from counties failing to pay public**
28 **assistance costs.**

29 The Director of the Budget ~~is authorized to~~ may withhold from any county that does
30 not pay its full share of public assistance costs to the State and has not ~~arranged for~~
31 ~~payment pursuant to G.S. 108-54.1 or obtained a loan for repayment under G.S. 108A-89,~~
32 any State moneys appropriated from the General Fund for public assistance and related
33 administrative costs, or ~~to~~ may direct the Secretary of Revenue and State ~~Treasurer~~
34 Controller to withhold any tax owed to a county under ~~Article 7 of Chapter 105 of the~~
35 ~~General Statutes, G.S. 105-113.82, Article 39 of Chapter 105 of the General Statutes~~
36 Subchapter VIII of Chapter 105 of the General Statutes, or Chapter 1096 of the Session
37 Laws of 1967. The Director of the Budget shall notify the chairman of the board of
38 county commissioners of the proposed action prior to the withholding of funds."

39 Sec. 15. Effective July 1, 1992, G.S. 105-486(a) reads as rewritten:

40 "(a) County Allocation. – The Secretary shall, on a quarterly basis, allocate the net
41 proceeds of the additional one-half percent (1/2%) sales and use taxes levied under this
42 Article to the taxing counties on a per capita basis according to the most recent annual
43 population estimates certified to the Secretary by the State Budget Officer. Before
44 making the first quarterly allocation on or after July 1 of each year, however, the

1 Secretary shall first deduct from the net proceeds the amount to be distributed pursuant
2 to G.S. 105-511."

3 Sec. 16. Section 10 of this act becomes effective July 1, 1991. Sections 11
4 through 15 of this act become effective July 1, 1992, and apply to distributions made on
5 or after that date. The remainder of this act is effective upon ratification.

6 Sec. 17. A tax levied under Article 43 of Chapter 105 of the General Statutes,
7 as enacted by this act, does not apply to construction materials purchased to fulfill a
8 lump sum or unit price contract entered into or awarded before the effective date of the
9 levy, or entered into or awarded pursuant to a bid made before the effective date of the
10 levy, when the construction materials would otherwise be subject to the tax levied under
11 Article 34 of Chapter 105 of the General Statutes.