

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1993**

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SENATE BILL 501  
House Committee Substitute Favorable 7/19/93

Short Title: Avery Occupancy Tax.

(Local)

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Sponsors:

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Referred to:

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March 17, 1993

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE AVERY COUNTY TO LEVY A ROOM OCCUPANCY  
2 AND TOURISM DEVELOPMENT TAX ON BUSINESSES IN THE COUNTY  
3 THAT ARE NOT SUBJECT TO A MUNICIPAL OCCUPANCY TAX AND TO  
4 SET THE MAXIMUM ROOM OCCUPANCY TAX RATE FOR  
5 ACCOMMODATIONS FURNISHED IN AVERY COUNTY.  
6

7 The General Assembly of North Carolina enacts:

8 Section 1. Occupancy tax.

9 (a) Authorization and Scope.

10 The Avery County Board of Commissioners may by resolution, after not less  
11 than 10 days' public notice and after a public hearing held pursuant thereto, levy a room  
12 occupancy tax of up to three percent (3%) of the gross receipts derived from the rental  
13 of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp,  
14 or similar place within the county that is subject to sales tax imposed by the State under  
15 G.S. 105-164.4(a)(3) and is not subject to a room occupancy tax levied by a  
16 municipality. This tax is in addition to any State or local sales tax. This tax does not  
17 apply to accommodations furnished by nonprofit charitable, educational, or religious  
18 organizations. The occupancy tax rate payable on accommodations furnished within  
19 Avery County may not exceed six percent (6%).

20 (b) Collection.

21 Every operator of a business subject to the tax levied under this section shall,  
22 on and after the effective date of the levy of the tax, collect the tax. This tax shall be  
23 collected as part of the charge for furnishing a taxable accommodation. The tax shall be

1 stated and charged separately from the sales records, and shall be paid by the purchaser  
2 to the operator of the business as trustee for and on account of the county. The tax shall  
3 be added to the sales price and shall be passed on to the purchaser instead of being  
4 borne by the operator of the business. The county shall design, print, and furnish to all  
5 appropriate businesses and persons in the county the necessary forms for filing returns  
6 and instructions to ensure the full collection of the tax. An operator of a business who  
7 collects the occupancy tax levied under this section may deduct from the amount  
8 remitted to the county a discount equal to the discount the State allows the operator for  
9 collecting State sales and use taxes.

10 (c) Administration.

11 The county shall administer a tax levied under this section. A tax levied  
12 under this section is due and payable to the county finance officer in monthly  
13 installments on or before the 15th day of the month following the month in which the  
14 tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or  
15 before the 15th day of each month, prepare and render a return on a form prescribed by  
16 the county. The return shall state the total gross receipts derived in the preceding month  
17 from rentals upon which the tax is levied.

18 A return filed with the county finance officer under this section is not a public  
19 record as defined by G.S. 132-1 and may not be disclosed except as required by law.

20 (d) Penalties.

21 A person, firm, corporation, or association who fails or refuses to file the  
22 return required by this section is subject to the civil and criminal penalties set by G.S.  
23 105-236 for failure to pay or file a return for State sales and use taxes. The board of  
24 commissioners has the same authority to waive the penalties for a room occupancy tax  
25 that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

26 (e) Distribution and Use of Tax Revenue.

27 Avery County shall use at least two-thirds of the net proceeds of the  
28 occupancy tax revenue to promote travel and tourism in Avery County and shall spend  
29 the remainder on tourism-related expenditures. The following definitions apply in this  
30 subsection:

- 31 (1) Net proceeds. – Gross proceeds less the cost to the county of  
32 administering and collecting the tax, as determined by the finance  
33 officer, not to exceed seven percent (7%) of the amount collected.
- 34 (2) Promote travel and tourism. – To advertise or market an area or  
35 activity, publish and distribute pamphlets and other materials, conduct  
36 market research, or engage in similar promotional activities that attract  
37 tourists or business travelers to the area; the term includes  
38 administrative expenses incurred in engaging in the listed activities.
- 39 (3) Tourism-related expenditures. – Expenditures that are designed to  
40 increase the use of lodging facilities in a county or to attract tourists or  
41 business travelers to the county and expenditures incurred by the  
42 county in collecting the tax. The term includes expenditures to  
43 construct, maintain, operate, or market a convention center and other

1 expenditures that, in the judgment of the board of commissioners, will  
2 facilitate and support tourism.

3 (f) Effective Date of Levy.

4 A tax levied under this section shall become effective on the date specified in  
5 the resolution levying the tax. That date must be the first day of a calendar month,  
6 however, and may not be earlier than the first day of the second month after the date the  
7 resolution is adopted.

8 (g) Repeal.

9 A tax levied under this section may be repealed by a resolution adopted by  
10 the Avery County Board of Commissioners. Repeal of a tax levied under this section  
11 shall become effective on the first day of a month and may not become effective until  
12 the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax  
13 levied under this section does not affect a liability for a tax that was attached before the  
14 effective date of the repeal, nor does it affect a right to a refund of a tax that accrued  
15 before the effective date of the repeal.

16 Sec. 2. This act is effective upon ratification.