

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 54*

Local Government and Regional Affairs Committee Substitute Adopted 5/27/93

Short Title: Tax on Household Haz. Items.

(Public)

Sponsors:

Referred to: Finance.

February 4, 1993

A BILL TO BE ENTITLED

AN ACT TO IMPOSE AN ADVANCE DISPOSAL TAX ON SMALL QUANTITIES OF NEW HOUSEHOLD HAZARDOUS ITEMS AND TO REQUIRE EACH COUNTY TO PROVIDE FOR THE COLLECTION AND DISPOSAL OF HOUSEHOLD HAZARDOUS WASTE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 105 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 5C.

"ADVANCE DISPOSAL TAX ON NEW HOUSEHOLD HAZARDOUS ITEMS.

"§ 105-187.25. Definitions.

The definitions in G.S. 105-164.3 apply to this Article, except that the term 'sale' does not include lease or rental, and the following definitions apply to this Article:

(1) Household Hazardous Item. – An item that includes, but is not limited to: swimming pool chemicals, antifreeze, motor oil, paint solvents and strippers, oil-based paint, pesticides, herbicides, insecticides, and wood preservatives.

(2) Household Hazardous Waste. – Residential solid waste which, because of its quantity, concentration, or physical or chemical characteristics, may pose a substantial present or potential hazard to human health or the environment.

"§ 105-187.26. Tax imposed.

1 A tax is imposed on a new household hazardous item at the rate of one percent (1%)
2 of the sales price of each new household hazardous item sold at retail by the retailer. A
3 privilege tax is imposed on a retailer and on a merchant at the rate of one percent (1%)
4 of the sales price of each new household hazardous item by the retailer or wholesale
5 merchant to a wholesale merchant or retailer for sale. An excise tax is imposed on a
6 new household hazardous item purchased for storage, use, or consumption in this State.
7 This excise tax is at the rate of one percent (1%) of the cost price of the household
8 hazardous item. These taxes are in addition to all other taxes.

9 **"§ 105-187.27. Administration.**

10 The privilege tax this Article imposes on a retailer who sells new household
11 hazardous items at retail is an additional State sales tax and the excise tax this Article
12 imposes on the storage, use, or consumption of a new household hazardous item in this
13 State is an additional State use tax. Except as otherwise provided in this Article, these
14 taxes shall be collected and administered in the same manner as the State sales and use
15 taxes imposed by Article 5 of this Chapter. As under Article 5 of this Chapter, the
16 additional State sales tax paid when a new household hazardous item is sold is a credit
17 against the additional State use tax imposed on the storage, use, or consumption of the
18 same household hazardous item.

19 **"§ 105-187.28. Exemptions.**

20 (a) The taxes imposed by this Article do not apply to household hazardous items
21 that are sold in containers that due to the containers' volume, weight, or unit are not
22 small quantities and are not generally sold to household consumers. The Department
23 shall make this determination before the tax imposed by this section is instituted.

24 (b) The exemptions in G.S. 105-164.13 and the refunds allowed in G.S. 105-
25 164.14 do not apply to the taxes imposed by this Article.

26 **"§ 105-187.29. Delisting.**

27 The manufacturer of a product taxed under G.S. 105-187.26 may petition the
28 Department of Environment, Health, and Natural Resources for nontaxed status based
29 upon the submittal of information to the Department that the product is not a hazardous
30 household item. The nontaxed status is effective upon approval by the Department.

31 **"§ 105-187.30. Use of tax proceeds.**

32 The Secretary shall distribute the taxes collected under this Article, less the cost of
33 collecting the taxes not to exceed seven-tenths of one percent (.7%) of the taxes
34 collected, in accordance with this section. The Secretary shall retain this cost as
35 reimbursement to the Department of Revenue.

36 Each quarter, the Secretary shall credit the remaining revenue to the Special Waste
37 Account in the Department of Environment, Health, and Natural Resources to be used
38 in accordance with the provisions of G.S. 130A-309.81 and G.S. 130A-309.83. A
39 county may use funds distributed to it under this section only as provided in G.S. 130A-
40 309.81."

41 Sec. 2. Article 9 of Chapter 130A of the General Statutes is amended by
42 adding a new Part to read:

43 "Part 2D. Advance Disposal Tax on New Household Hazardous Items.

44 **"§ 130A-309.80. Purpose.**

1 The General Assembly finds that household hazardous waste is difficult to dispose
2 of in a manner that is safe to the public and safe to the environment. The purpose of this
3 Part is to provide for the safe disposal of household hazardous waste.

4 **"§ 130A-309.81. Use of advance disposal tax proceeds.**

5 Article 5C of Chapter 105 of the General Statutes imposes an advance disposal tax
6 on new household hazardous items to provide funds to the counties for the proper
7 disposal of household hazardous waste. A county may use proceeds of the tax
8 distributed to it by the Department for the proper and safe disposal of household
9 hazardous waste, and for the development of a comprehensive solid waste management
10 plan under G.S. 130A-309.04(e) and (f). Any county that meets or exceeds the State's
11 responsibilities for the collection and disposal of hazardous waste may apply to the
12 Department for additional funds to support a more extensive program.

13 **"§ 130A-309.82. Management of household hazardous waste; additional fee**
14 **prohibited.**

15 (a) Duty. – Each county is responsible for providing for the collection and
16 disposal of household hazardous waste located within its boundaries in accordance with
17 the provisions of this Part and any rules adopted pursuant to this Part. A unit of local
18 government may contract with another unit of local government or a private entity in
19 accordance with Article 15 of Chapter 153A of the General Statutes to provide for the
20 management of household hazardous waste.

21 (b) Plan. – Each county is responsible for developing a description of procedures
22 for the collection and disposal of household hazardous waste. These procedures shall be
23 included in any solid waste management plan required by the Department under this
24 Article. Further, any revisions to the initial description of the collection and disposal
25 procedures for household hazardous waste shall be forwarded to the Department.

26 (c) Restrictions. – A unit of local government or a contracting party may not
27 charge a fee for the disposal of household hazardous waste. Household hazardous waste
28 shall not be disposed of in a landfill or by incineration, unless the landfill or incinerator
29 has been issued a permit that provides for the disposal of household hazardous waste.
30 Empty containers of liquid household hazardous waste that have been triple rinsed and
31 that contain no residue of the household hazardous item may be disposed of in the same
32 manner as municipal solid waste.

33 **"§ 130A-309.83. Special Waste Account.**

34 The Special Waste Account is established within the Department. The Account
35 consists of revenue credited to the Account from the proceeds of the household
36 hazardous waste tax imposed by Article 5C of Chapter 105 of the General Statutes, and
37 contributions and grants from public or private sources.

38 The Department may use up to five percent (5%) of the revenue in the Account for
39 costs associated with permitting, compliance, and fund administration for activities
40 required by this Part.

41 The Department shall use revenue in the Account to make grants to units of local
42 government to assist them in managing household hazardous waste. To administer the
43 grants, the Department shall establish procedures for applying for a grant and the
44 criteria for selecting among grant applicants. The criteria shall include the financial

1 ability of a unit to manage household hazardous waste, the severity of a unit's household
2 hazardous waste problem, and the effort made by a unit to manage household hazardous
3 waste within the resources available to it. Any unit of local government which meets or
4 exceeds the State's waste reduction goals and which, in the Department's judgment, is
5 providing a safe, economical disposal of household hazardous waste, shall be entitled to
6 reimbursement for reasonable costs from the Account.

7 **"§ 130A-309.84. Retailer must post notice of proper disposal.**

8 A person who offers household hazardous items for sale at retail in this State shall
9 post written notice. This notice must be at least 8 1/2 inches by 11 inches in size and
10 must state that State law requires counties to provide a site for the collection of
11 household hazardous waste and must accept household hazardous waste of the type sold
12 at that retail establishment and must state the location of the collection site for that
13 county and that the disposal of discarded household hazardous waste in a landfill or
14 incinerator is against the law.

15 **"§ 130A-309.85. Civil penalties for failure to comply with Part.**

16 (a) General. – The Department may assess civil penalties for violations of this
17 Part as specified in this section. Civil penalties collected under this section shall be
18 credited to the General Fund as nontax revenue.

19 (b) Failure to Post Notice. – The Department may assess a civil penalty of not
20 more than fifty dollars (\$50.00) per violation per day up to a maximum of five hundred
21 dollars (\$500.00) against any person who knowingly fails to post the notice required by
22 G.S. 130A-309.84. Each day a person fails to post a required notice shall constitute a
23 separate violation.

24 (c) Prohibited Disposal. – The Department may assess a civil penalty in
25 accordance with G.S. 130A-309.22 against a person who knowingly places or otherwise
26 disposes of a discarded household hazardous item in a landfill, an incinerator, or a
27 waste-to-energy facility unless otherwise authorized under this Part.

28 **"§ 130A-309.86. Preemption.**

29 This Part preempts any local ordinance regarding the disposal of household
30 hazardous waste that is inconsistent with this Part or the rules adopted pursuant to this
31 Part. A unit of local government may not charge any fees for the disposal of household
32 hazardous waste."

33 Sec. 3. G.S. 130A-309.12(b) reads as rewritten:

34 "(b) The Solid Waste Management Trust Fund shall consist of:

35 (1) Funds appropriated by the General ~~Assembly~~; Assembly.

36 (2) Contributions and grants from public or private ~~sources~~; and sources.

37 (3) Ten percent (10%) of the proceeds of the scrap tire disposal tax
38 imposed under Article 5B of Chapter 105 of the General Statutes.

39 (4) Ten percent (10%) of the proceeds of the advance disposal tax on new
40 household hazardous items imposed under Article 5C of Chapter 105
41 of the General Statutes."

42 Sec. 4. This act becomes effective January 1, 1994.