

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 1360\*

Short Title: Highway Use Tax/Sales Tax Changes.

(Public)

Sponsors: Senators Winner, Guy, Kincaid, Rauch, Staton; and Simpson.

Referred to: Finance.

May 23, 1990

A BILL TO BE ENTITLED

AN ACT TO REINSTATE SALES TAX ON CERTAIN VEHICLES AND VEHICLE PARTS, TO MODIFY THE HIGHWAY USE TAX AND THE ALTERNATE GROSS RECEIPTS TAX, AND TO MAKE TECHNICAL CHANGES IN THE LAWS AFFECTED BY THE HIGHWAY TRUST FUND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.3(8b) reads as rewritten:

"(8b) 'Motor vehicle' means ~~any vehicle which is self-propelled and designed primarily for use upon the highways, any vehicle which is propelled by electric power obtained from trolley wires but not operated upon rails, and any vehicle designed to run upon the highways which is propelled by a self-propelled vehicle, but shall not include any implement of husbandry, farm tractor, road construction or maintenance machinery or equipment, special mobile equipment as defined in G.S. 20-4.01, any vehicle designed primarily for use in work off the highway, or a manufactured home. a vehicle that is designed primarily for use upon the highways and is either self-propelled or propelled by a self-propelled vehicle, but does not include:~~

- a. A moped as defined in G.S. 20-4.01(27)(d1).
- b. Special mobile equipment as defined in G.S. 20-4.01(44).
- c. A tow dolly that is exempt from motor vehicle title and registration requirements under G.S. 20-51(10) or (11).

1 d. A farm tractor or other implement of husbandry.

2 e. A manufactured home.

3 f. Road construction or road maintenance machinery or  
4 equipment."

5 Sec. 2. G.S. 105-164.13(32) reads as rewritten:

6 "(32) Sales of motor vehicles, the ~~separate sales~~ sale of a motor vehicle body  
7 ~~and a motor vehicle chassis when the body is to be mounted on the chassis,~~  
8 a motor vehicle chassis when a certificate of title has not been issued  
9 for the chassis, and the sale of a motor vehicle body mounted on a  
10 motor vehicle chassis that temporarily enters the State so the  
11 manufacturer of the body can mount the body on the chassis. ~~of the~~  
12 ~~sale."~~

13 Sec. 3. G.S. 105-164.3(7a) reads as rewritten:

14 "(7a) 'Lease or rental' means ~~the leasing or renting of tangible personal~~  
15 ~~property and the possession or use thereof by the lessee or renter for a~~  
16 ~~consideration without transfer of the title of such property.~~ a transfer,  
17 for consideration, of the use but not the ownership of property to  
18 another for a period of time."

19 Sec. 4. G.S. 105-187.1 reads as rewritten:

20 **"§ 105-187.1. Definitions.**

21 The following definitions and the definitions in G.S. 105-164.3 apply to this Article:

22 (1) 'Commissioner' means the Commissioner of Motor Vehicles.

23 (2) 'Division' means the Division of Motor Vehicles, Department of  
24 Transportation.

25 (3) 'Long-term lease or rental' means a lease or rental made under a  
26 written agreement to lease or rent property to the same person for a  
27 period of at least 365 continuous days.

28 (4) 'Short-term lease or rental' means a lease or rental that is not a long-  
29 term lease or rental."

30 Sec. 5. G.S. 105-187.5(b) reads as rewritten:

31 "(b) Rate. The tax rate on the gross receipts ~~of from~~ the short-term lease or rental  
32 of a motor vehicle is eight percent (8%), ~~unless the vehicle is leased or rented to the~~  
33 ~~same person for a period of more than 90 continuous days. In that circumstance, the tax~~  
34 ~~is eight percent (8%) for the first 90 days the vehicle is leased or rented to the same~~  
35 ~~person and is three percent (3%) for the remainder of the period during which the~~  
36 ~~vehicle is leased or rented to that person.~~ (8%) and the tax rate on the gross receipts  
37 from the long-term lease or rental of a motor vehicle is three percent (3%). The  
38 maximum tax in G.S. 105-187.3(a) applies to the each lease or rental of a motor vehicle  
39 ~~when the vehicle is leased or rented to the same person for more than 90 continuous~~  
40 ~~days. Tax paid by a person from the first day of a continuous lease or rental period~~  
41 ~~applies toward the maximum tax."~~

42 Sec. 6. G.S. 105-187.3(a) reads as rewritten:

43 "(a) Amount. The rate of the use tax imposed by this Article is three percent (3%)  
44 of the retail value of a motor vehicle for which a certificate of title is issued. The tax is

1 payable as provided in G.S. 105-187.4. The tax may not be less than ~~forty dollars~~  
2 ~~(\$40.00)~~ twenty dollars (\$20.00) for each motor vehicle for which a certificate of title is  
3 issued, unless the issuance of a title for the vehicle is exempt from tax under G.S. 105-  
4 187.6(a). The tax may not be more than one thousand dollars (\$1,000) for each motor  
5 vehicle for which a certificate of title is issued."

6 Sec. 7. G.S. 105-187.7 reads as rewritten:

7 **"§ 105-187.7. Credit for tax paid in another state.**

8 A person who, within 90 days before applying for a certificate of title for a motor  
9 vehicle on which the tax imposed by this Article is due, has paid a sales tax, an excise  
10 tax, or a tax substantially equivalent to the tax imposed by this Article on the vehicle to  
11 a taxing jurisdiction outside this State is entitled to a credit against the tax due under this  
12 Article for the amount of tax paid to the other jurisdiction. The credit may not reduce  
13 the person's liability under this Article below the minimum ~~forty dollar (\$40.00) tax.~~ tax  
14 set in G.S. 105-187.3."

15 Sec. 8. G.S. 105-187.8 reads as rewritten:

16 **"§ 105-187.8. Refund for return of purchased motor vehicle.**

17 When a purchaser of a motor vehicle returns the motor vehicle to the seller of the  
18 motor vehicle within 90 days after the purchase and receives a vehicle replacement for  
19 the returned vehicle or a refund of the price paid the seller, whether from the seller or  
20 the manufacturer of the vehicle, the purchaser may obtain a refund of the privilege tax  
21 paid on the certificate of title issued for the returned motor vehicle, less the minimum  
22 tax ~~of forty dollars (\$40.00).~~ set in G.S. 105-187.3.

23 To obtain a refund, the purchaser must apply to the Division for a refund within 30  
24 days after receiving the replacement vehicle or refund of the purchase price. The  
25 application must be made on a form prescribed by the Commission and must be  
26 supported by documentation from the seller of the returned vehicle."

27 Sec. 9. G.S. 105-187.4(b) reads as rewritten:

28 "(b) Sale by Retailer. When a certificate of title for a motor vehicle is issued  
29 because of a sale of the motor vehicle by a retailer, the applicant for the certificate of  
30 title must attach the bill of sale for the motor vehicle to the application. A retailer who  
31 sells a motor vehicle may collect from the purchaser of the vehicle the tax payable upon  
32 the issuance of a certificate of title for the vehicle, apply for a certificate of title on  
33 behalf of the purchaser, and remit the tax due on behalf of the purchaser. If a check  
34 submitted by a retailer in payment of taxes collected under this section is not honored  
35 by the financial institution upon which it is drawn because the retailer's account did not  
36 have sufficient funds to pay the check or the retailer did not have an account at the  
37 institution, the Division may suspend or revoke the license issued to the retailer under  
38 Article 12 of Chapter 20 of the General Statutes."

39 Sec. 10. G.S. 20-294 reads as rewritten:

40 **"§ 20-294. Grounds for denying, suspending or revoking licenses.**

41 A license may be denied, suspended or revoked on any one or more of the following  
42 grounds:

- 43 (1) Material misstatement in application for license.

- 1 (2) Willful and intentional failure to comply with any provision of this  
2 Article or Article 15 or the willful and intentional violation of G.S. 20-  
3 52.1, 20-75, 20-79, 20-82, 20-108, 20-109 or rescission and  
4 cancellation of dealer's license and dealer's plates under G.S. 20-110(e)  
5 or 20-110(f) or any lawful rule or regulation promulgated by the  
6 Division under this Article.
- 7 (3) Being a motor vehicle dealer, failure to have an established place of  
8 business as defined in this Article.
- 9 (4) Willfully defrauding any retail buyer, to the buyer's damage, or any  
10 other person in the conduct of the licensee's business.
- 11 (5) Employment of fraudulent devices, methods or practices in connection  
12 with compliance with the requirements under the laws of this State  
13 with respect to the retaking of motor vehicles under retail installment  
14 contracts and the redemption and resale of such motor vehicles.
- 15 (6) Having used unfair methods of competition or unfair deceptive acts or  
16 practices.
- 17 (7) Knowingly advertising by any means, any assertion, representation or  
18 statement of fact which is untrue, misleading or deceptive in any  
19 particular relating to the conduct of the business licensed or for which  
20 a license is sought.
- 21 (8) Knowingly advertising a used motor vehicle for sale as a new motor  
22 vehicle.
- 23 (9) Conviction of an offense set forth under G.S. 20-106, 20-106.1, 20-  
24 107, 20-112 while holding such a license or within five years next  
25 preceding the date of filing the application; or conviction of a felony  
26 involving moral turpitude under the laws of this State, any other state,  
27 territory or the District of Columbia or of the United States.
- 28 (10) Submitting a bad check to the Division of Motor Vehicles in payment  
29 of highway use taxes collected by the licensee."

30 Sec. 11. G.S. 105-187.5(d) reads as rewritten:

31 "(d) ~~Reporting Administration~~. The Division shall notify the Secretary of Revenue  
32 of a retailer who makes the election under this section. A retailer who makes this  
33 election shall report and remit to the Secretary the tax on the gross receipts of the lease  
34 or rental of the motor vehicle ~~as if the gross receipts were taxable under G.S. 105-164.4(a)(2)~~  
35 . The Secretary shall administer the tax imposed by this section on gross receipts in the  
36 same manner as the tax levied under G.S. 105-164.4(a)(2). The administrative  
37 provisions and powers of the Secretary that apply to the tax levied under G.S. 105-  
38 164.4(a)(2) apply to the tax imposed by this section. In addition, the Division may  
39 request the Secretary to audit a retailer who elects to pay tax on gross receipts under this  
40 section. When the Secretary conducts an audit at the request of the Division, the  
41 Division shall reimburse the Secretary for the cost of the audit, as determined by the  
42 Secretary."

43 Sec. 12. G.S. 105-187.6 reads as rewritten:

44 "**§ 105-187.6. Exemptions from highway use tax.**

1 (a) Full Exemptions. – The tax imposed by this Article does not apply when a  
2 certificate of title is issued as the result of a transfer of a motor vehicle:

- 3 (1) To the insurer of the motor vehicle under G.S. 20-109.1 because the  
4 vehicle is a salvage vehicle.  
5 (2) To either a manufacturer, as defined in G.S. 20-285, or a motor vehicle  
6 retailer for the purpose of ~~resale~~-resale other than lease or rental.  
7 (3) To the same owner to reflect a change or correction in the owner's  
8 name.  
9 (4) To the Department of Human Resources to be equipped by the  
10 Department for use by the handicapped and then transferred to a  
11 handicapped person.  
12 (5) To the State or a local board of education when the motor vehicle is a  
13 school bus and is to be used for public school transportation.  
14 (6) To a local board of education when the motor vehicle is to be used in  
15 the driver education program of a public school to train students to  
16 drive.  
17 (7) By will or intestacy.

18 (b) Partial Exemptions. – Only the minimum tax imposed by this Article applies  
19 when a certificate of title is issued as ~~a~~the result of ~~the~~a transfer of a motor vehicle:

- 20 (1) By a gift between a husband and wife or a parent and child.  
21 ~~(2) By will or intestacy.~~  
22 ~~(3)~~(2) By a distribution of marital property as a result of a divorce.  
23 ~~(4)~~(3) To a secured party who has ~~filed~~a perfected security interest in the  
24 motor vehicle ~~with the Department of the Secretary of State.~~  
25 ~~(5)~~(4) To a partnership or corporation as an incident to the formation of the  
26 partnership or corporation and no gain or loss arises on the transfer  
27 under section 351 or section 721 of the Internal Revenue Code, or to a  
28 corporation by merger or consolidation in accordance with G.S. 55-  
29 110.  
30 ~~(6) To the same owner to reflect a change in the owner's name.~~

31 (c) Out-of-state Vehicles. – A maximum tax of one hundred dollars (\$100.00)  
32 applies when a certificate of title is issued for a motor vehicle that, at the time of  
33 applying for a certificate of title, is and has been titled in another state for at least 90  
34 days."

35 Sec. 13. Article 5A of Chapter 105 of the General Statutes is amended by  
36 adding a new section to read:

37 **"§ 105-187.11. Transition from sales tax to highway use tax for lessors and renters**  
38 **of motor vehicles.**

39 A tax at the rate set in G.S. 105-187.5(b) is levied on the gross receipts derived  
40 by a retailer from the lease or rental of a motor vehicle owned by the retailer before  
41 October 1, 1989, and leased or rented on or after that date. A retailer subject to this tax  
42 may elect to pay highway use tax at the rate set in G.S. 105-187.3(a) on a motor vehicle  
43 owned by the retailer before October 1, 1989, and leased or rented on or after that date.  
44 The retail value of a motor vehicle for which a retailer makes an election under this

1 section is the value of the motor vehicle that would apply under G.S. 105-187.3(b) if the  
 2 retailer received the vehicle because of a reason other than the sale of the motor vehicle  
 3 on the date the retailer makes the election.

4 To make the election allowed by this section, a retailer shall complete a form  
 5 provided by the Division, pay the tax due, and pay the fee set in G.S. 20-85(a)(9). A  
 6 retailer who makes this election may not receive credit for any tax paid on the motor  
 7 vehicle under Article 5 of this Chapter or for any tax on gross receipts paid under this  
 8 Article. The Division shall notify the Secretary of Revenue of a retailer who makes an  
 9 election under this section."

10 Sec. 14. Section 4 of Chapter 753 of the 1989 Session Laws reads as  
 11 rewritten:

12 "Sec. 4. ~~These refunds~~ Refunds for taxable periods ending on or before October 1,  
 13 1989, shall be drawn from the Highway Fund. Refunds for taxable periods ending after  
 14 October 1, 1989, shall be drawn from the Highway Fund and the Highway Trust Fund  
 15 in the same percentage amounts that refunds are drawn from these Funds under G.S.  
 16 105-445."

17 Sec. 15. G.S. 20-57(b) reads as rewritten:

18 "(b) The registration card shall be delivered to the owner and shall contain upon  
 19 the face thereof the name and address of the owner, space for the owner's signature, the  
 20 registration number assigned to the vehicle, and ~~such a~~ description of the vehicle as  
 21 determined by the Commissioner, provided that if there are more than two owners the  
 22 Division may show only two owners on the registration card and indicate that additional  
 23 owners exist by placing after the names listed 'et al.' ~~Upon application to the Division, the~~  
 24 ~~registered owner may acquire additional copies of the registration card at a fee of three dollars~~  
 25 ~~(\$3.00) each.~~ An owner may obtain a copy of a registration card issued in the owner's  
 26 name by applying to the Division for a copy and paying the fee set in G.S. 20-85."

27 Sec. 16. G.S. 20-85(a) reads as rewritten:

28 "(a) ~~Except as provided in G.S. 20-68, the following fees concerning a~~  
 29 ~~certificate of title for a motor vehicle and registration of a motor vehicle shall be paid to~~  
 30 ~~the Division.~~ The following fees are imposed concerning a certificate of title, a  
 31 registration card, or a registration plate for a motor vehicle. These fees are payable to  
 32 the Division and are in addition to the tax imposed by Article 5A of Chapter 105 of the  
 33 General Statutes.

- |    |     |  |         |
|----|-----|--|---------|
| 34 | (1) | Each application for certificate of title    | \$35.00 |
| 35 | (2) | Each application for duplicate               |         |
| 36 |     | or corrected certificate of title            | 10.00   |
| 37 | (3) | Each application of reposessor for           |         |
| 38 |     | certificate of title                         | 10.00   |
| 39 | (4) | Each transfer of registration                | 10.00   |
| 40 | (5) | Each set of replacement registration         |         |
| 41 |     | plates                                       | 10.00   |
| 42 | (6) | Each application for duplicate registration  |         |
| 43 |     | <del>certificate</del> card                  | 10.00   |
| 44 | (7) | Each application for recording supplementary |         |

- 1                   lien           10.00  
2           (8)    Each application for removing a lien from a  
3                   certificate of title 10.00  
4           (9)    Each application for certificate of title  
5                   for a motor vehicle transferred to a  
6                   manufacturer, as defined in G.S. 20-285,  
7                   or a motor vehicle retailer for the purpose  
8                   of resale 10.00."

9           Sec. 17. G.S. 20-85.1(c) reads as rewritten:

10          "(c) All funds collected under ~~this section~~ subsection (a) shall be deposited in  
11 credited to the Highway Fund. One-half of the funds collected under subsection (b)  
12 shall be credited to the Highway Trust Fund and the remaining one-half shall be  
13 credited to the Highway Fund."

14          Sec. 18. Sections 1 through 8 of this act shall become effective July 1, 1990.  
15          The remaining sections of this act are effective upon ratification.