

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 223
Second Edition Engrossed 4/25/95

Short Title: Phase Out Soft Drink Tax.

(Public)

Sponsors: Representatives Gray, Black; Aldridge, Alexander, Allred, Arnold, Baker, Barbee, Berry, Blue, Bowie, Brawley, J. Brown, W. Brown, Buchanan, Cansler, Capps, Carpenter, Church, Clary, Cocklereece, Crawford, Creech, Culp, Culpepper, Cummings, Cunningham, Davis, Decker, Dickson, Dockham, Earle, Eddins, Edwards, Esposito, Fox, Grady, Hensley, Hiatt, Hill, Holmes, Howard, H. Hunter, Hurley, Ives, Justus, Kiser, Lemmond, Linney, McComas, McCombs, McCrary, McMahan, Mercer, K. Miller, Miner, Mitchell, Morgan, Nichols, Nye, Oldham, Owens, Pate, Preston, Pulley, Rayfield, Redwine, Reynolds, Richardson, Robinson, Rogers, Russell, Sexton, Sharpe, Sherrill, Shubert, Snowden, Tallent, Thompson, Tolson, Wainwright, Warner, Weatherly, Wilkins, C. Wilson, G. Wilson, and Yongue.

Referred to: Finance.

February 20, 1995

A BILL TO BE ENTITLED

AN ACT TO PHASE OUT THE EXCISE TAX ON SOFT DRINKS OVER FOUR YEARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-113.45 reads as rewritten:

"§ 105-113.45. Excise taxes on soft drinks and base products.

(a) Bottled Soft Drinks. – An excise tax ~~of one cent (1¢)~~ at the applicable rate provided in the following table is levied on each bottled soft drink.

<u>Date Tax Accrues</u>	<u>Rate</u>
<u>From 7/1/95 until 6/30/96</u>	<u>3/4¢</u>

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1 From 7/1/96 until 6/30/97 1/2¢

2 After 7/1/97 1/4¢

3 (b) Repealed by Session Laws 1991, c. 689, s. 276.

4 (c) Liquid Base Products. – An excise tax at the ~~rate of one dollar (\$1.00) a gallon~~
5 applicable per-gallon rate provided in table below is levied on each individual container
6 of a liquid base product. The tax applies regardless whether the liquid base product is
7 diverted to and used for a purpose other than making a soft drink.

8 **Date Tax Accrues** **Rate**

9 From 7/1/95 until 6/30/96 75¢

10 From 7/1/96 until 6/30/97 50¢

11 After 7/1/97 25¢

12 (d) Dry Base Products. – An excise tax is levied on each individual container of a
13 dry base product ~~at the rate:~~ at:

14 (1) ~~Of one cent (1¢) an ounce–The applicable per-ounce rate in the table~~
15 below if the dry base product is not converted into a syrup or other
16 liquid base product before it is used to make a soft drink.

17 **Date Tax Accrues** **Rate**

18 From 7/1/95 until 6/30/96 3/4¢

19 From 7/1/96 until 6/30/97 1/2¢

20 After 7/1/97 1/4¢

21 (2) ~~That~~–The rate that would apply under subsection (c) to the resulting
22 liquid base product if the dry base product is converted into a liquid
23 base product before it is used to make a soft drink.

24 (e) Repealed by Session Laws 1991, c. 689, s. 276."

25 Sec. 2. G.S. 105-113.52(a) reads as rewritten:

26 "(a) Tax Reduction. – The tax on the first 15,000 gross of bottled soft drinks sold at
27 wholesale on or after October 1 of each year by a distributor or wholesale dealer who is
28 liable for the tax and who files a timely report under G.S. 105-113.51 is ~~seventy-two cents~~
29 ~~(72¢) a gross rather than one-half~~ the amount stated in G.S. 105-113.45. The tax reduction
30 does not apply to bottled soft drinks acquired by the distributor or wholesale dealer in a
31 sale in which the distributor or wholesale dealer presented a soft drink certificate of
32 liability, and it does not apply to sales made by a distributor or wholesale dealer who is
33 not licensed as required by this Article. When reporting tax due on bottled soft drinks to
34 which this reduced rate applies, a distributor or wholesale dealer shall pay the reduced
35 amount."

36 Sec. 3. Effective July 1, 1998, Article 2B of Chapter 105 of the General
37 Statutes, as amended by this act, is repealed. The Secretary shall retain from collections
38 under Article 2 of Chapter 105 of the General Statutes the cost of refunding the taxes
39 levied in Article 2B of Chapter 105 of the General Statutes.

40 Sec. 4. G.S. 105-164.3(16) reads as rewritten:

41 "(16) Except as provided in paragraph f., 'sales price' means the total amount
42 for which tangible personal property is sold including charges for any
43 services that go into the fabrication, manufacture or delivery of such

1 tangible personal property and that are a part of the sale valued in
2 money whether paid in money or otherwise and includes any amount for
3 which credit is given to the purchaser by the seller without any
4 deduction therefrom on account of the cost of the property sold, the cost
5 of materials used, labor or service costs, interest charged, losses or any
6 other expenses whatsoever. Provided, however, that where a
7 manufacturer, producer or contractor erects, installs or affixes tangible
8 personal property upon real property pursuant to a construction or
9 performance-type contract with or for the benefit of the owner of such
10 real property, the sales price shall be the cost of such property to the
11 manufacturer, producer or contractor performing the contract. Provided,
12 further:

- 13 a. The cost for labor or services rendered in erecting, installing or
14 applying property sold when separately charged shall not be
15 included as a part of the 'sales price';
- 16 b. Finance charges, service charges or interest from credit extended
17 under conditional sales contracts or other conditional contracts
18 providing for deferred payments of the purchase price shall not
19 be considered a part of the 'sales price' when separately charged;
- 20 c. 'Sales price' shall not include the amount of any tax imposed by
21 the United States upon or with respect to retail sales whether
22 imposed upon the retailer or consumer except that any
23 manufacturers' or importers' excise tax shall be included in the
24 term.
- 25 d. 'Sales price' shall not include any amounts charged as deposits on
26 beverage containers which are returnable to vendors for reuse
27 and which amounts are refundable or creditable to vendees,
28 whether or not said deposits are separately charged.
- 29 e. 'Sales price' shall not include amounts charged as deposits on
30 aeronautic, automotive, industrial, marine and farm replacement
31 parts which are returnable to vendors for rebuilding or
32 remanufacturing and which amounts are refundable or creditable
33 to vendees, whether or not such deposits are separately charged.
34 This subsection shall not be construed to include tires and
35 batteries.
- 36 f. The sales price of tangible personal property sold through a coin-
37 operated vending machine, other than closed-container soft
38 drinks ~~subject to excise tax under Article 2B of this Chapter~~ or
39 tobacco products, is considered to be fifty percent (50%) of the
40 total amount for which the property is sold in the vending
41 machine."

42 Sec. 5. This act does not affect the rights or liabilities of the State, a taxpayer,
43 or another person arising under a statute repealed by this act before its repeal; nor does it

1 affect the right to any refund or credit of a tax that would otherwise have been available
2 under the repealed statute before its repeal.

3 Sec. 6. Sections 1 and 2 of this act become effective July 1, 1995. The
4 remainder of this act becomes effective July 1, 1998. The change made by Section 2 of
5 this act to the tax reduction for certain sales of bottled soft drinks applies to sales made
6 on or after July 1, 1995.