

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE DRS15151-ME-15 (5/12)

Short Title: Sales and Use Tax Exemption for Baked Goods. (Public)

Sponsors: Senator Hoyle.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO EXEMPT BAKED GOODS FROM STATE SALES AND USE TAXES.

3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** G.S. 105-164.3 reads as rewritten:

5 "**§ 105-164.3. Definitions.**

6 The following definitions apply in this Article:

7 (1) Analytical services. – Testing laboratories that are included in national
8 industry 541380 of NAICS or medical laboratories that are included in
9 national industry 621511 of NAICS.

10 (1a) Ancillary service. – A service associated with or incidental to the
11 provision of a telecommunications service. The term includes detailed
12 communications billing, directory assistance, vertical service, and
13 voice mail service. A vertical service is a service, such as call
14 forwarding, caller ID, three-way calling, and conference bridging, that
15 allows a customer to identify a caller or manage multiple calls and call
16 connections.

17 (1b) Baked goods. – Bakery items, including bread, rolls, buns, biscuits,
18 bagels, croissants, pastries, donuts, danish, cakes, tortes, pies, tarts,
19 muffins, bars, cookies, and tortillas.

20 ~~(1b)~~(1c) Bundled transaction. – A retail sale of two or more distinct and
21 identifiable products, at least one of which is taxable and one of which
22 is exempt, for one nonitemized price. Products are not sold for one
23 nonitemized price if an invoice or another sales document made
24 available to the purchaser separately identifies the price of each
25 product. A bundled transaction does not include the retail sale of any
26 of the following:

- 1 a. A product and any packaging item that accompanies the product
- 2 and is exempt under G.S. 105-164.13(23).
- 3 b. A sale of two or more products whose combined price varies, or
- 4 is negotiable, depending on the products the purchaser selects.
- 5 c. A sale of a product accompanied by a transfer of another
- 6 product with no additional consideration.
- 7 d. A product and the delivery or installation of the product.
- 8 e. A product and any service necessary to complete the sale.
- 9 (1d) Business. – Includes any activity engaged in by any person or caused
- 10 to be engaged in by him with the object of gain, profit, benefit or
- 11 advantage, either direct or indirect. The term "business" shall not be
- 12 construed in this Article to include occasional and isolated sales or
- 13 transactions by a person who does not hold himself out as engaged in
- 14 business.
- 15 (1f) Cable service. – The one-way transmission to subscribers of video
- 16 programming or other programming service and any subscriber
- 17 interaction required to select or use the service.
- 18 (2) Candy. – A preparation of sugar, honey, or other natural or artificial
- 19 sweeteners in combination with chocolate, fruits, nuts, or other
- 20 ingredients or flavorings in the form of bars, drops, or pieces that do
- 21 not require refrigeration. The term does not include any preparation
- 22 that contains flour.

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24 **SECTION 2.** G.S. 105-164.13B reads as rewritten:

25 **"§ 105-164.13B. Food exempt from tax.**

26 (a) State Exemption. – Food is exempt from the taxes imposed by this Article

27 unless the food is included in one of the subdivisions in this subsection. The following

28 food items are subject to tax:

- 29 (1) Repealed by Session Laws 2005-276, s. 33.10, effective October 1,
- 30 2005.
- 31 (2) Dietary supplements.
- 32 (3) Food sold through a vending machine.
- 33 (4) Prepared-~~food~~ food, other than baked goods sold without eating
- 34 utensils provided by the seller.
- 35 (5) Soft drinks.
- 36 (6) Repealed by Session Laws 2003-284, s. 45.6B, effective January 1,
- 37 2004.
- 38 (7) Candy.

39 (b) Administration of Local Food Tax. – The Secretary must administer local

40 sales and use taxes imposed on food as if they were imposed under this Article. This

41 applies to local taxes on food imposed under Subchapter VIII of this Chapter and under

42 Chapter 1096 of the 1967 Session Laws."

43 **SECTION 3.** This act becomes effective on July 1, 2008, and applies to

44 sales made on or after that date.