

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1630

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

Sponsors: Senators Hoyle; Bingham, Brown, Cowell, Garrou, Hagan, Kerr, Malone, McKissick, Nesbitt, Rand, Snow, and Stevens.

Referred to: Finance.

May 19, 2008

A BILL TO BE ENTITLED
AN ACT TO EXEMPT BAKED GOODS FROM STATE SALES AND USE TAXES.
The General Assembly of North Carolina enacts:

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

"§ 105-164.3. Definitions.

The following definitions apply in this Article:

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

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

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

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

a. A product and any packaging item that accompanies the product and is exempt under G.S. 105-164.13(23).

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

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

23 **"§ 105-164.13B. Food exempt from tax.**

24 (a) State Exemption. – Food is exempt from the taxes imposed by this Article
25 unless the food is included in one of the subdivisions in this subsection. The following
26 food items are subject to tax:

- 27 (1) Repealed by Session Laws 2005-276, s. 33.10, effective October 1,
28 2005.
29 (2) Dietary supplements.
30 (3) Food sold through a vending machine.
31 (4) Prepared-~~food~~ food, other than baked goods sold without eating
32 utensils provided by the seller.
33 (5) Soft drinks.
34 (6) Repealed by Session Laws 2003-284, s. 45.6B, effective January 1,
35 2004.
36 (7) Candy.

37 (b) Administration of Local Food Tax. – The Secretary must administer local
38 sales and use taxes imposed on food as if they were imposed under this Article. This
39 applies to local taxes on food imposed under Subchapter VIII of this Chapter and under
40 Chapter 1096 of the 1967 Session Laws."

41 **SECTION 3.** This act becomes effective on July 1, 2008, and applies to
42 sales made on or after that date.