

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 263\*

Short Title: Remove Auto Sales and Use Tax Cap.

(Public)

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Sponsors: Senators Winner, Plyler, and Rauch.

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Referred to: Finance.

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February 23, 1989

A BILL TO BE ENTITLED

AN ACT TO REMOVE THE THREE HUNDRED DOLLAR SALES AND USE TAX  
CAP ON AIRCRAFT, RAILWAY LOCOMOTIVES, RAILWAY CARS, MOTOR  
VEHICLES, AND BOATS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.4(1) reads as rewritten:

"(1) At the rate of three percent (3%) of the sales price of each item or article of tangible property when sold at retail in this State, the tax to be computed on total net taxable sales as defined herein but for the purpose of computing the amount due the State each and every taxable retail sale, or retail sales upon which the tax has been collected, or the amount of tax actually collected, whichever be greater and whether or not erroneously collected, shall be included in the computation of tax due the State. Provided however, that in the case of the sale of any aircraft, railway locomotive, railway car or the sale of any motor vehicle or boat, the tax shall be only at the rate of two percent (2%) of the sales price, but at no time shall the maximum tax with respect to any one such aircraft, railway locomotive, railway car or motor vehicle or boat, including all accessories attached thereto at the time of delivery thereof to the purchaser, be in excess of three hundred dollars (\$300.00) price.

The separate sale of a new motor vehicle chassis and a new motor vehicle body to be installed thereon, whether by the same retailer or by different retailers shall be subject only to the tax herein prescribed with respect to a single motor vehicle. No tax shall be imposed upon a body mounted on the chassis of a motor vehicle which temporarily enters the State for the purpose of having such body mounted thereon by the manufacturer thereof.

1 Notwithstanding G.S. 105-164.3(16) and regardless whether the seller is a retailer  
2 of motor vehicles, the sales price of a motor vehicle is the gross sales price of the motor  
3 vehicle less any allowance given for a motor vehicle taken in trade as part of the  
4 consideration for the purchased motor vehicle.

5 The tax levied under this section applies to all retail sales of motor vehicles  
6 regardless whether the seller is engaged in business as a retailer of motor vehicles or  
7 whether a tax on the sale of the vehicle has previously been paid under this Article. A  
8 purchaser of a motor vehicle from a retailer shall pay the tax imposed under this Article  
9 to the retailer, who is liable for collecting and remitting the tax to the Secretary. A  
10 purchaser of a motor vehicle is liable for payment of the tax imposed by this Article if  
11 the seller is not a retailer. The purchaser shall pay the tax to the Commissioner of Motor  
12 Vehicles when applying for a certificate of title for the vehicle. When property is  
13 transferred by an individual to a partnership or corporation, and no gain or loss arises as  
14 provided by Section 351 or Section 721 of the Code, such transfer is not a sale for the  
15 purpose of this subdivision if the transfer is incident to the organization of the  
16 partnership or corporation.

17 When applying for a certificate of title, a purchaser of a motor vehicle from a seller  
18 who is not a retailer shall certify in writing the sales price of the purchased motor  
19 vehicle. A purchaser who knowingly makes a false certification of the sales price is  
20 guilty of a misdemeanor.

21 The Commissioner of Motor Vehicles may not issue a certificate of title for a motor  
22 vehicle sold by a seller who is not a retailer unless the tax imposed by this section is  
23 paid when the purchaser of the vehicle applies for a certificate of title. The  
24 Commissioner shall remit taxes collected by him under this subsection to the Secretary.

25 Persons who lease or rent motor vehicles shall collect and remit the tax imposed by  
26 this Article on the separate retail sale of a motor vehicle in addition to the tax imposed  
27 on the proceeds from the lease or rental of the motor vehicle.

28 Provided further, the tax shall be only at the rate of one percent (1%) of the sales  
29 price on the following items:

- 30 a. Horses or mules by whomsoever sold.
- 31 b. Semen to be used in the artificial insemination of animals.
- 32 c. Sales of fuel, other than electricity or piped natural gas, to farmers to  
33 be used by them for any farm purposes other than preparing food,  
34 heating dwellings and other household purposes. The quantity of fuel  
35 purchased or used at any one time shall not in any manner be a  
36 determinative factor as to whether any sale or use of fuel is or is not  
37 subject to the one percent (1%) rate of tax imposed herein.
- 38 d. Sales of fuel, other than electricity or piped natural gas, to  
39 manufacturing industries and manufacturing plants for use in  
40 connection with the operation of such industries and plants other than  
41 sales of fuels to be used for residential heating purposes. The quantity  
42 of fuel purchased used at any one time shall not in any manner be a  
43 determinative factor as to whether any sale or use of fuel is or is not  
44 subject to the one percent (1%) rate of tax imposed herein.

1 e. Sales of fuel, other than electricity or piped natural gas, to commercial  
2 laundries or to pressing and dry-cleaning establishments for use in  
3 machinery used in the direct performance of the laundering or the  
4 pressing and cleaning service.

5 f. Sales to freezer locker plants of wrapping paper, cartons and supplies  
6 consumed directly in the operation of such plant.

7 Provided further, the tax shall be only at the rate of one percent (1%) of the sales  
8 price, subject to a maximum tax of eighty dollars (\$80.00) per article, on the following  
9 items:

10 g. Sales of machines and machinery, whether animal or motor drawn or  
11 operated, and parts and accessories for such machines and machinery  
12 to farmers for use by them in the planting, cultivating, harvesting or  
13 curing of farm crops, and sales of machines and machinery and parts  
14 and accessories for such machines and machinery to dairy operators,  
15 poultry farmers, egg producers, and livestock farmers for use by them  
16 in the production of dairy products, poultry, eggs or livestock, except  
17 such machines, machinery, equipment, parts, and accessories that  
18 come within the provisions of G.S. 105-164.13(4c).

19 The term 'machines and machinery' as used in this subdivision is defined as follows:

20 The term shall include all vehicular implements, designed and sold for any use  
21 defined in this subdivision, which are operated, drawn or propelled by motor or animal  
22 power, but shall not include vehicular implements which are operated wholly by hand,  
23 and shall not include any motor vehicles required to be registered under Chapter 20 of  
24 the General Statutes.

25 The term shall include all nonvehicular implements and mechanical devices  
26 designed and sold for any use defined in this subdivision, which have moving parts, or  
27 which require the use of any motor or animal power, fuel, or electricity in their  
28 operation but shall not include nonvehicular implements which have no moving parts  
29 and are operated wholly by hand.

30 The term shall also include metal flues sold for use in curing tobacco, whether such  
31 flues are attached to handfired furnaces or used in connection with mechanical burners.

32 h. Sales of mill machinery or mill machinery parts and accessories to  
33 manufacturing industries and plants, and sales to contractors and  
34 subcontractors purchasing mill machinery or mill machinery parts and  
35 accessories for use by them in the performance of contracts with  
36 manufacturing industries and plants, and sales to subcontractors  
37 purchasing mill machinery or mill machinery parts and accessories for  
38 use by them in the performance of contracts with general contractors  
39 who have contracts with manufacturing industries and plants. As used  
40 in this paragraph, the term 'manufacturing industries and plants' does  
41 not include delicatessens, cafes, cafeterias, restaurants, and other  
42 similar retailers that are principally engaged in the retail sale of foods  
43 prepared by them for consumption on or off their premises.

- 1           i.       Sales of central office equipment and switchboard and private branch  
2               exchange equipment to telephone companies regularly engaged in  
3               providing telephone service to subscribers on a commercial basis, and  
4               sales to these companies of prewritten computer programs used in  
5               providing telephone service to their subscribers.
- 6           j.       Sales to commercial laundries or to pressing and dry cleaning  
7               establishments of machinery used in the direct performance of the  
8               laundering or the pressing and cleaning service and of parts and  
9               accessories thereto.
- 10          k.       Sales to freezer locker plants of machinery used in the direct operation  
11               of said freezer locker plant and of parts and accessories thereto.
- 12          l.       Sales of broadcasting equipment and parts and accessories thereto and  
13               towers to commercial radio and television companies which are under  
14               the regulation and supervision of the Federal Communications  
15               Commission.
- 16          m.       Sales to farmers of bulk tobacco barns and racks and all parts and  
17               accessories thereto and similar apparatus used for the curing and  
18               drying of any farm produce.
- 19          o.       Sales to farmers of grain, feed or soybean storage facilities and  
20               accessories thereto, whether or not dryers are attached, and all similar  
21               apparatus and accessories thereto for the storage of grain, feed or  
22               soybeans.
- 23          q.       Sales of containers to farmers or producers for use in the planting,  
24               producing, harvesting, curing, marketing, packaging, sale, or  
25               transporting or delivery of their products when such containers do not  
26               go with and become part of the sale of their products at wholesale or  
27               retail."

28           Sec. 2. G.S. 105-164.6(3a) reads as rewritten:

29           "(3a) Every person, firm, or corporation that purchases or acquires a motor vehicle  
30 shall pay a tax at the rate of two percent (2%) of the sales price of the vehicle, not to  
31 exceed ~~three hundred dollars (\$300.00) per vehicle~~ vehicle. This tax shall be paid to the  
32 Commissioner of Motor Vehicles when applying for a certificate of title or registration  
33 plate for the vehicle. A purchaser who furnishes to the Commissioner of Motor Vehicles  
34 a certificate from a retailer of motor vehicles engaged in business in this State stating  
35 that the purchaser has paid the tax levied on the vehicle by this Article to the retailer is  
36 relieved of liability for the tax. No certificate of title, or registration and license plate or  
37 plates shall be issued for any motor vehicle purchased or acquired for use on the streets  
38 and highways of this State unless and until the tax provided for under this Article on  
39 motor vehicles has been paid. Nothing herein is intended to relieve any retailer of motor  
40 vehicles engaged in business in this State from his liability for collecting and remitting  
41 sales or use tax on his sales of motor vehicles for use by the purchasers thereof in this  
42 State and no retailer shall be absolved of this liability for his failure to collect the tax  
43 from such purchasers. The Commissioner of Motor Vehicles shall remit use taxes  
44 collected by him under this subdivision to the Secretary.

1 The tax levied under this section applies to all owners of motor vehicles, regardless  
2 whether the owner purchased or acquired the vehicle from a retailer of motor vehicles  
3 and regardless whether a tax has previously been paid under this Article with respect to  
4 the vehicle.

5 An owner of a motor vehicle acquired from a seller who is not a retailer shall certify  
6 the sales price of the vehicle as provided in G.S. 105-164.4(1).

7 Persons who lease or rent motor vehicles shall collect and remit the tax imposed by  
8 this Article on the separate retail sale of a motor vehicle in addition to the tax imposed  
9 on the proceeds from the lease or rental of the motor vehicle."

10 Sec. 3. This act shall become effective July 1, 1989, and shall apply to sales  
11 made on or after that date.