

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 820

Short Title: Forsyth Meals Tax.

(Local)

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Sponsors: Representative Gray (By Request).

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Referred to: Finance.

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April 15, 1991

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE FORSYTH COUNTY TO LEVY A ONE PERCENT TAX  
ON PREPARED FOOD AND BEVERAGES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 908 of the 1983 Session Laws, as amended, is further  
amended by adding after Part VII a new Part to read:

**"PART VIIA. FORSYTH PREPARED FOOD AND BEVERAGE TAX.**

"Sec. 30.5. Definitions. The definitions in G.S. 105-164.3 apply in this Part. In  
addition, the following definitions apply in this Part:

(1) City. Defined in G.S. 153A-1.

(2) Net proceeds. Gross proceeds less the cost to the county of  
administering and collecting the tax.

(3) Prepared food and beverages. Meals, food, and beverages which a  
retailer has added value to or whose state has been altered (other than  
solely by cooling) by preparing, combining, dividing, heating, or  
serving, in order to make them available for immediate consumption.

"Sec. 30.6. Prepared Food and Beverage Tax Authorized. The Forsyth County  
Board of Commissioners may, by resolution, after not less than 10 days' public notice  
and a public hearing held pursuant thereto, levy a prepared food and beverage tax of up  
to one percent (1%) of the sales price of prepared food and beverages sold within the  
county at retail for consumption on or off the premises by a retailer subject to sales tax  
under G.S. 105-164.4(a)(1). This tax is in addition to State and local sales tax.

"Sec. 30.7. Exemptions. The prepared food and beverage tax does not apply to the  
following sales of prepared food and beverages:

- 1           (1) Prepared food and beverages served to residents in boarding houses  
2           and sold together on a periodic basis with rental of a sleeping room or  
3           lodging.
- 4           (2) Retail sales exempt from taxation under G.S. 105-164.13.
- 5           (3) Retail sales through or by means of vending machines.
- 6           (4) Prepared food and beverages served by a business subject to the  
7           occupancy tax levied pursuant to this act if the charge for the meals or  
8           prepared food or beverages is included in a single, nonitemized sales  
9           price together with the charge for rental of a room, lodging, or  
10           accommodation furnished by the business.
- 11           (5) Prepared food and beverages furnished without charge by an employer  
12           to an employee.
- 13           (6) Retail sales by grocers or by grocery sections of supermarkets or other  
14           diversified retail establishments other than sales of prepared food and  
15           beverages in the delicatessen or similar departments of the grocer or  
16           grocery section.

17           "Sec. 30.8. Administration. Except as otherwise provided in this Part, the levy,  
18           administration, collection, and repeal of the tax authorized by this Part shall be in  
19           accordance with the provisions of Part VII of this act. The penalties provided in Part  
20           VII of this act apply to this Part. A return filed with the county finance officer under  
21           this Part is not a public record as defined by G.S. 132-1 and may not be disclosed except  
22           as required by law.

23           For the convenience of retailers the county shall determine the amount to be added  
24           to the sales price of sales subject to the prepared food and beverage tax. The amounts  
25           shall be set forth in a bracket system and distributed to each retailer responsible for  
26           collecting the prepared food and beverage tax. The use of the bracket system does not  
27           relieve the retailer from the duty of collecting and remitting an amount equal to the  
28           prepared food and beverage tax.

29           "Sec. 30.9. Refunds. The county shall refund to a nonprofit or governmental entity  
30           the prepared food and beverage tax paid by the entity on eligible purchases of prepared  
31           food and beverages. A nonprofit or governmental entity's purchase of prepared food  
32           and beverages is eligible for a refund under this section if the entity is entitled to a  
33           refund under G.S. 105-164.14 of the sales and use tax paid on the purchase. The time  
34           limitations, application requirements, penalties, and restrictions provided in G.S. 105-  
35           164.14(b) and (d) shall apply to refunds to nonprofit entities; the time, limitations,  
36           application requirements, penalties, and restrictions provided in G.S. 105-164.14(c) and  
37           (d) shall apply to refunds to governmental entities. When an entity applies for a refund  
38           of the prepared food and beverage tax paid by it on purchases, it shall attach to its  
39           application a copy of the application submitted to the Department of Revenue under  
40           G.S. 105-164.14 for a refund of the sales and use tax on the same purchases. An  
41           applicant for a refund under this section shall provide any information required by the  
42           county to substantiate the claim.

43           "Sec. 30.10. Use of Proceeds. The county shall distribute the net proceeds of the  
44           tax to the county and to the cities in the county in accordance with the method by which

1 the one percent (1%) sales and use taxes levied pursuant to Article 39 of Chapter 105 of  
2 the General Statutes are distributed. The county and the cities in the county may use the  
3 tax proceeds for economic development purposes, educational purposes, or both."

4           Sec. 2. This act is effective upon ratification.