

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1991

CHAPTER 955
SENATE BILL 1009

AN ACT MAKING TECHNICAL AND ADMINISTRATIVE CHANGES TO THE
LICENSE AND EXCISE TAX LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-65.1(b)(1) reads as rewritten:

"(1) In addition to the license tax imposed under subsection (a), a distributor or operator of soft drink dispensers, except open cup drink dispensers, shall annually pay to the Secretary of Revenue a soft drink dispenser tax in an amount based on the number of dispensers operated, ~~maintained~~maintained, or placed on location by the distributor or operator on July 1 of the license year. The amount of tax due is as follows:

<u>Number of Dispensers</u>	<u>Amount of Tax</u>
5-50 <u>1-50</u>	\$ 7.00 per dispenser
51-100	535.00
101-150	892.50
151-200	1,250.00
200 and up	1,250.00 plus \$357.50 for each additional 50 dispensers or fraction thereof

A distributor or operator who was not in business on July 1 of the license year shall pay a tax based on the number of dispensers ~~he~~the distributor or operator reasonably expects to operate, ~~maintain~~maintain, or place on location during the ensuing license year. If the number of dispensers operated, ~~maintained~~maintained, or placed on location during that year exceeds the distributor's or operator's estimate, the distributor or operator shall, within 20 days of the close of the license year, report the excess to the Secretary and pay any additional tax due according to the above table."

Sec. 2. G.S. 105-85(b)(1) reads as rewritten:

"(1) Laundry. – A business where steam, electricity, or other power is used to clean fabric, including a wet or damp wash laundry, a launderette, a laundrall, or a similar business. The term 'launderettes and laundralls' means commercial establishments in which automatic washing machines and dryers are installed for the use of individual customers, including those that contain coin-operated or coin-activated

washing machines; however, the term does not include an apartment buildings-building in which these machines are provided by the apartment building owner or manager for the exclusive use and convenience of tenants of the buildings-building."

Sec. 3. Part 1 of Article 2A of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-113.4A. Licenses.

(a) General. – To obtain a license required by this Article, an applicant must apply to the Secretary and pay the tax due for the license. A license is not transferable or assignable and must be displayed at the place of business for which it is issued.

(b) Refund. – A refund of a license tax is allowed only when the tax was collected or paid in error. No refund is allowed when a license holder surrenders a license or the Secretary revokes a license.

(c) Duplicate or Amended License. – Upon application to the Secretary, a license holder may obtain without charge one of the following:

(1) A duplicate license, if the license holder establishes that the original license has been lost, destroyed, or defaced.

(2) An amended license, if the license holder establishes that the location of the place of business for which the license was issued has changed.

A duplicate or amended license shall state that it is a duplicate or amended license, as appropriate."

Sec. 4. G.S. 105-113.12 reads as rewritten:

"§ 105-113.12. Distributors' Distributor must obtain license.

(a) ~~Distributors shall obtain, for each place of business, a continuing license, for which a fee~~ A distributor shall obtain for each place of business a continuing distributor's license and shall pay a tax of twenty-five dollars (\$25.00) ~~shall be paid. for the license.~~

(b) For the purposes of this section, 'place of business' means any place where unstamped packages of cigarettes are received or stored by a distributor for the purposes of affixing stamps thereto, and any place where a distributor actually affixes stamps to unstamped packages of cigarettes.

(c) ~~Out of state distributors~~ An out-of-state distributor may obtain ~~appropriate distributors' licenses~~ a distributor's license upon compliance with the provisions of G.S. 105-113.24, for which a fee 105-113.24 and payment of a tax of twenty-five dollars ~~(\$25.00) shall be paid for each such license. (\$25.00).~~"

Sec. 5. G.S. 105-113.13 reads as rewritten:

"§ 105-113.13. Issuance of licenses. Secretary may investigate applicant for distributor's license and require a bond.

(a) ~~All licenses shall be issued by the Secretary.~~

(b) ~~No license shall be issued to a distributor except upon payment of the full fee therefor.~~

(c) ~~Prior to the issuance of any license under this Article, the Secretary may cause to be made such investigation as he deems necessary respecting the eligibility of the applicant to receive such license and the accuracy of the information contained in~~

~~the application therefor. The Secretary may refrain from the issuance of a license where he has reasonable cause to believe that the applicant has wilfully withheld information requested by him for the purpose of determining the eligibility of the applicant to receive a license or where he has reasonable cause to believe that the information submitted in the application is false or misleading and is not made in good faith.~~

~~(d) When the Secretary deems it necessary to the proper administration of this Article, he may require any distributor upon application for a license to file with him a bond payable to the State of North Carolina in such amount and upon such conditions as in the opinion of the Secretary will guarantee the performance of the duties and the discharge of the liabilities of said distributor under this Article. Such bond shall be executed by the distributor as principal and by an indemnity company licensed to do business under the insurance laws of this State as surety.~~

~~(e) No license shall be assignable or transferable.~~

(a) Investigation. – The Secretary may investigate an applicant for a distributor's license to determine if the information the applicant submits with the application is accurate and if the applicant is eligible to be licensed as a distributor. The Secretary may decline to issue a distributor's license to an applicant when the Secretary has reasonable cause to believe any of the following:

- (1) That the applicant has wilfully withheld information requested by the Secretary for the purpose of determining the applicant's eligibility for the license.
- (2) That information submitted with the application is false or misleading.
- (3) That the application is not made in good faith.

(b) Bond. – The Secretary may require a distributor to furnish a bond in an amount that adequately protects the State from loss if the distributor fails to pay taxes due under this Part. A bond shall be conditioned on compliance with this Part, shall be payable to the State, and shall be in the form required by the Secretary. A bond shall be executed by the distributor as principal and by an indemnity company licensed to do business under the insurance laws of this State as surety."

Sec. 6. G.S. 105-113.14 and G.S. 105-113.15 are repealed.

Sec. 7. G.S. 105-113.16(e) reads as rewritten:

"(e) If any person licensed under the provisions of G.S. 105-65.1, ~~405-84, 105-102.5(b)(7), 105-164.4, 105-164.5, 405-164.6 and 105-164.6, or 105-164.29 shall be is~~ convicted by any court of competent jurisdiction in this State of any offense under this Article, the Secretary is authorized to may revoke any or all licenses issued to ~~such the~~ person under the provisions of the aforesaid sections of Chapter 105 of the General Statutes. these statutes. The provisions of subsection (b) ~~above relative to concerning~~ notice, hearing, ~~review~~ review, and appeal shall ~~apply to this subsection (e).~~ a revocation of a license under this subsection."

Sec. 8. G.S. 105-113.17 reads as rewritten:

"§ 105-113.17. ~~Exhibit of license; identification~~ Identification of dispensers.

~~(a) Each license, or certificate thereof, or such other evidence of license as the Secretary may authorize, shall be exhibited in the place of business for which it is issued and in such manner as may be prescribed by the Secretary.~~

~~(b) Every vending machine which dispenses cigarettes shall be identified as to ownership in such manner as the Secretary may prescribe.~~

Each vending machine that dispenses cigarettes must be marked to identify its owner in the manner required by the Secretary."

Sec. 9. G.S. 105-113.24(b) reads as rewritten:

~~"(b) Any such A nonresident distributor shall be required to must agree to submit his the distributor's books, accounts, and records to reasonable examination by the Secretary or his the Secretary's duly authorized agents. Each such nonresident distributor shall file with the Secretary a performance bond fulfilling the terms and conditions set forth with respect to bonds in subsection (d) of The Secretary may require a nonresident distributor to file a bond in accordance with G.S. 105-113.13."~~

Sec. 10. G.S. 105-113.35 is amended by adding a new subsection to read:

"(d) Manufacturer's Option. – A manufacturer who is not a retail dealer and who ships tobacco products other than cigarettes to either a wholesale dealer or retail dealer licensed under this Part may apply to the Secretary to be relieved of paying the tax imposed by this section on the tobacco products. Once granted permission, a manufacturer may choose not to pay the tax until otherwise notified by the Secretary. To be relieved of payment of the tax imposed by this section, a manufacturer must comply with the requirements set by the Secretary."

Sec. 11. G.S. 105-113.36 reads as rewritten:

"§ 105-113.36. Wholesale dealer and retail dealer must obtain license.

A wholesale dealer shall obtain for each place of business a continuing tobacco products license and shall pay a tax of twenty-five dollars (\$25.00) for the license. A retail dealer shall obtain for each place of business a continuing tobacco products license and shall pay a ~~fee~~ tax of ten dollars (\$10.00) for the license. A 'place of business' is a place where a wholesale dealer or where a retail dealer makes tobacco products other than cigarettes or a wholesale dealer or a retail dealer receives or stores non-tax-paid tobacco products other than cigarettes."

Sec. 12. G.S. 105-113.37(c) is repealed.

Sec. 13. G.S. 105-113.44(6) reads as rewritten:

~~"(6) Natural. – Without added ingredients of any kind other than vitamins, vitamins, minerals, or ingredients extracted from an item and later returned to the item during the manufacturing process. Added ingredients include sugar, salt, preservatives, artificial flavoring, coloring, and carbonation. carbonation, and artificial flavoring."~~

Sec. 14. 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¢) is levied on each bottled soft drink.

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

(c) Liquid Base Products. – An excise tax of one dollar (\$1.00) a gallon, or four-fifths of a cent (4/5¢) an ounce or a fraction of an ounce, is levied on a liquid base product. The tax applies regardless whether the liquid base product is diverted to and used for a purpose other than making a soft drink.

- (d) Dry Base Products. – An excise tax is levied on a dry base product at the rate:
- (1) Of one cent (1¢) an ounce or a fraction of an ounce if the dry base product is not converted into a syrup or other liquid base product before it is used to make a soft drink.
 - (2) That would apply under subsection (c) to the resulting liquid base product if the dry base product is converted into a liquid base product before it is used to make a soft drink.

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

Sec. 15. G.S. 105-113.46(9) reads as rewritten:

"(9) A base product for domestic use, ~~except a base product that does not contain any milk and to which a liquid other than milk is added to make a soft drink.~~ use that either contains milk or, according to directions on the base product's container, requires milk to be added to make a soft drink."

Sec. 16. G.S. 105-113.51(e) is repealed.

Sec. 17. G.S. 105-74(c) reads as rewritten:

"(c) Local Licenses. – A municipality may tax each place of business that is taxed under subsection (a) and only if it is located in the municipality. The tax may not exceed the rate provided in subsection (a). Counties and municipalities may tax each business taxed under subsection (b). The tax may not exceed the rate provided in subsection (b). – A municipality may not tax a business taxed under subsection (b)."

Sec. 18. G.S. 105-85(e) reads as rewritten:

"(e) Local Licenses. – A municipality may tax each place of business that is taxed under subsection (a) and only if it is located in the municipality. The tax may not exceed the rate provided in subsection (a). Counties and municipalities may tax each business taxed under subsection (e). The tax may not exceed the rate provided in subsection (e). – A municipality may not tax a business taxed under subsection (c)."

Sec. 19. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 15th day of July, 1992.

Henson P. Barnes
President Pro Tempore of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives