#### SESSION 1995

HOUSE BILL 734

Short Title: Reduce Tax on Nonprescription Drugs.

(Public)

Sponsors: Representatives Sherrill, Pulley; Allred, Baker, Brawley, J. Brown, Capps, Clary, Cocklereece, Cummings, Davis, Decker, Edwards, Justus, McComas, Miner, Nichols, Robinson, Russell, Sexton, Sharpe, Snowden, Thompson, and G. Wilson.

Referred to: Finance.

### April 3, 1995

1	A BILL TO BE ENTITLED		
2	AN ACT TO REPEAL THE FOUR PERCENT STATE SALES AND USE TAX ON		
3	NONPRESCRIPTION MEDICINES.		
4	The General Assembly of North Carolina enacts:		
5	Section 1. Article 5 of Chapter 105 of the General Statutes is amended by		
6	adding a new section to read:		
7	"§ 105-164.13B. Nonprescription drugs exempt from State tax only.		
8	The taxes imposed by this Article do not apply to nonprescription drugs that are not		
9	otherwise exempt pursuant to G.S. 105-164.13."		
10	Sec. 2. G.S. 105-164.3 is amended by adding the following new definitions in		
11	the appropriate alphabetical order:		
12	"(3a) <u>Cosmetics. – Compounds intended to be introduced into or applied</u>		
13	to the body for cleansing or affecting the appearance or texture. The		
14	term includes, for example, cold cream, suntan lotion, hair dye,		
15	makeup, and skin lotion.		
16	(9a) Nonprescription drug. – A product that can be sold legally without a		
17	prescription and is one of the following:		

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1	a. A compound intended to be introduced into or applied to the			
2	body for the prevention, diagnosis, mitigation, or treatment of			
3	human disease or human disorder.			
4	b. A test kit intended for the diagnosis of human disease or human			
5	disorder.			
6	c. A compound intended for human consumption for the			
7	preservation of health.			
8	The term 'nonprescription drug' does not include, however, food,			
9	cosmetics, or toiletries, even if they contain medicinal ingredients.			
10	(21a) Toiletries. – Products intended or customarily used for grooming			
11	purposes. The term includes, for example, soap, toothpaste, hair			
12	spray, shaving products, fragrances, shampoo, deodorant, and			
13	mouthwash."			
14	Sec. 3. G.S. 105-465 reads as rewritten:			
15	"§ 105-465. County election as to adoption of local sales and use tax.			
16	The board of elections of any county, upon the written request of the board of county			
17	commissioners thereof, or upon receipt of a petition signed by qualified voters of the			
18	county equal in number to at least fifteen percent (15%) of the total number of votes cast			
19	in the county, at the last preceding election for the office of Governor, shall call a special			
20	election for the purpose of submitting to the voters of the county the question of whether			
21	a one percent (1%) sales and use tax as hereinafter provided will be levied.			
22	The special election shall be held under the same rules and regulations applicable to			
23	the election of members of the General Assembly. No new registration of voters shall be			
24	required. All qualified voters in the county who are properly registered not later than 21			
25	days (excluding Saturdays and Sundays) prior to the election shall be entitled to vote at			
26	said election. The county board of elections shall give at least 20 days' public notice prior			
27	to the closing of the registration books for the special election.			
28	The county board of election shall prepare ballots for the special election which shall			
29	contain the words, 'FOR the election. The question presented on the ballot shall be:			
30	[]FOR []AGAINST			
31	one percent (1%) local sales and use tax only on those items presently covered by the four			
32	percent (4%) sales and use tax,' and the words, on items subject to State sales and use tax at			
33	the general State rate and on nonprescription drugs. 'AGAINST the one percent (1%) local			
34 35	sales and use tax only on those items presently covered by the four percent (4%) sales and use tax,' with appropriate squares so that each voter may designate his vote by his cross (X) mark.			
36	The county board of elections shall fix the date of the special election; provided,			
37	however, that the special election shall not be held on the date of any biennial election for			
38	county officers, nor within 60 days thereof, nor within one year from the date of the last			
39	preceding special election under this section."			
40	Sec. 4. G.S. 105-467 reads as rewritten:			
41	"§ 105-467. Scope of sales tax.			
42	The sales tax which-that may be imposed under this Article is limited to a tax at the			
43	rate of one percent (1%) <del>of:</del> -of the following:			
	rr			

1	(1)	The sales price of those articles of tangible personal property now		
2		subject to the general rate of sales tax imposed by the State under		
3		G.S. 105-164.4(a)(1) and (4b); (a)(4b).		
4	(2)	The gross receipts derived from the lease or rental of tangible		
5		personal property when the lease or rental of the property is subject		
6		to the general rate of sales tax imposed by the State under G.S. 105-		
7		$\frac{164.4(a)(2);}{105-164.4(a)(2)}$		
8	(3)	The gross receipts derived from the rental of any room or lodging		
9		furnished by any hotel, motel, inn, tourist camp or other similar		
10		accommodations now-subject to the general rate of sales tax imposed		
11		by the State under G.S. <del>105-164.4(a)(3); and <u>105-164.4(a)(3).</u></del>		
12	(4)	The gross receipts derived from services rendered by laundries, dry		
13		cleaners, and other businesses now-subject to the general rate of sales		
14		tax imposed by the State under G.S. 105-164.4(a)(4).		
15	<u>(5)</u>	The sales price of nonprescription drugs that are exempt from tax		
16		imposed by the State pursuant to G.S. 105-164.13B but are not		
17		otherwise exempt from tax pursuant to G.S. 105-164.13.		
18	The sales tax authorized by this Article does not apply to sales that are taxable by the			
19	State under G.S. 105-164.4 but are not specifically included in subdivisions (1) through			
20	(4)-(5) of this section.			
21	The <u>State</u> exemptions and exclusions contained in G.S. 105-164.13 and the <u>State</u>			
22	refund provisions	contained in G.S. 105-164.14 shall-apply with equal force and in like		
23	manner-to the local sales and use tax authorized to be levied and imposed under this			
24	Article. A taxing county shall have no authority, with respect to the local sales and use tax			
25	imposed under this Article to change, alter, add to or delete any refund provisions contained in			
26	G.S. 105-164.14, or any exemptions or exclusions contained in G.S. 105-164.13 or which are			
27	elsewhere provided formay not allow an exemption, exclusion, or refund that is not			
28	allowed under the State sales and use tax.			
29	The local sales tax authorized to be imposed and levied under the provisions of this			
30	Article shall apply to such retail sales, leases, rentals, the rendering of services,			
31	furnishing of rooms, lodgings or accommodations and other applies to taxable			
32	transactions which are made, furnished or rendered by retailers whose place of business is			
33	located within the taxing county. The tax imposed shall apply to the furnishing of rooms,			
34	lodging or other accommodations within the county which are rented to transients. For			
35	the purpose of this Article, the situs of a transaction is the location of the retailer's place			
36	of business."			
37	Sec. 5. G.S. 105-468 reads as rewritten:			
38	"§ 105-468. Scope of use tax.			
39	The use tax which may be imposed under authorized by this Article shall be is a tax at			
40	the rate of one percent (1%) of the cost price of each item or article of tangible personal			
41	property when it-that is not sold in the taxing county but is used, consumed consumed, or			
42	stored for use or consumption in the taxing county, except that no tax shall be imposed upon			
43	tangible personal property when the property would be taxed by the State at a rate other than the			

general rate of tax set in G.S. 105-164.4 if it were taxable under G.S. 105-164.6. county. The

2 tax applies to the same items that are subject to tax under G.S. 105-467.

3 Every retailer who is engaged in business in this State and in the taxing county and is required to collect the use tax levied by G.S. 105-164.6 shall also-collect the one percent 4 5 (1%) use tax when such-the property is to be used, consumed consumed, or stored in the 6 taxing county, one percent (1%) use tax to be collected concurrently with the State's use tax; but 7 no retailer not required to collect the use tax levied by G.S. 105-164.6 shall be required to collect 8 the one percent (1%) use tax. county. The use tax contemplated by this section shall be 9 levied against the purchaser, and the purchaser's liability for the use tax shall be 10 extinguished only upon payment of the use tax to the retailer, where the retailer is required to collect the tax, or to the Secretary of Revenue, or to the taxing county, as 11 12 appropriate, Secretary, where the retailer is not required to collect the tax.

13 Where a local sales or use tax has been paid with respect to tangible personal property 14 by the purchaser, either in another taxing county within the State, or in a taxing jurisdiction outside the State where the purpose of the tax is similar in purpose and intent 15 to the tax which may be imposed pursuant to this Article, the tax paid may be credited 16 against the tax imposed under this section by a taxing county upon the same property. If 17 the amount of sales or use tax so paid is less than the amount of the use tax due the taxing 18 19 county under this section, the purchaser shall pay to the Secretary of Revenue or to the 20 taxing county, as appropriate, an amount equal to the difference between the amount so 21 paid in the other taxing county or jurisdiction and the amount due in the taxing county. 22 The Secretary of Revenue or the taxing county, as appropriate, may require such-proof of 23 payment in another taxing county or jurisdiction as is deemed to be necessary. jurisdiction. The use tax levied under this Article is not subject to credit for payment of any State sales 24 25 or use tax not imposed for the benefit and use of counties and municipalities. No credit shall be given under this section for sales or use taxes paid in a taxing jurisdiction outside 26 27 this State if that taxing jurisdiction does not grant similar credit for sales taxes paid under 28 this Article."

Sec. 6. The first paragraph of Section 4 of Chapter 1096 of the 1967 Session
Laws, as amended, is amended as follows:

and adding the word "and".

By deleting the word "and" before subdivision (4).

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(1)

(2)

(3)

"(5)

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By adding a new subdivision to read: <u>The sales price of nonprescription drugs that are exempt from tax</u> <u>imposed by the State pursuant to G.S. 105-164.13B but are not</u> <u>otherwise exempt from tax pursuant to G.S. 105-164.13.</u>"

By changing the period at the end of subdivision (4) to a semicolon

Sec. 7. The first sentence of Section 5 of Chapter 1096 of the 1967 Session Laws is amended by deleting the first sentence of that section and substituting the following sentences to read:

41 "The use tax that Mecklenburg County may impose under this division is a tax at the 42 rate of one percent (1%) of the cost price of each item or article of tangible personal 43 property that is not sold but is used, consumed, or stored for use or consumption in

Mecklenburg County. The tax applies to the same items that are subject to tax under 1 Section 4 of this act." 2 3 Sec. 8. Approval under Article 39, 40, or 42 of Chapter 105 of the General Statutes, or under the Mecklenburg County Sales and Use Tax Act, Chapter 1096 of the 4 5 1967 Session Laws, as amended, of local sales and use taxes on items subject to State sales and use tax at the general State rate constitutes approval of local sales and use taxes 6 7 on nonprescription drugs. 8 Sec. 9. This act becomes effective July 1, 1995, and applies to sales made on

9 or after that date.