

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 251

Short Title: Phase Out Soft Drink Tax.

(Public)

Sponsors: Senators Rand, Hoyle, Blackmon, Kincaid, McDaniel, Ballantine, Carrington, Clark, Horton, Forrester, Little, McKoy, Foxx, East, Davis, Cochrane, Ledbetter, Cooper, Edwards, Soles, and Warren.

Referred to: Finance.

February 23, 1995

A BILL TO BE ENTITLED  
AN ACT TO PHASE OUT THE EXCISE TAX ON SOFT DRINKS OVER FOUR YEARS.

The General Assembly of North Carolina enacts:

Section 1. 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¢)~~ at the applicable rate provided in the following table is levied on each bottled soft drink.

<u>Date Tax Accrues</u>	<u>Rate</u>
<u>From 7/1/95 until 6/30/96</u>	<u>3/4¢</u>
<u>From 7/1/96 until 6/30/97</u>	<u>1/2¢</u>
<u>After 7/1/97</u>	<u>1/4¢</u>

(b) Repealed by Session Laws 1991, c. 689, s. 276.

(c) Liquid Base Products. – An excise tax at the ~~rate of one dollar (\$1.00) a gallon~~ applicable per-gallon rate provided in table below is levied on each individual container of 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.

<u>Date Tax Accrues</u>	<u>Rate</u>
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1	<u>From 7/1/95 until 6/30/96</u>	<u>75¢</u>
2	<u>From 7/1/96 until 6/30/97</u>	<u>50¢</u>
3	<u>After 7/1/97</u>	<u>25¢</u>

4 (d) Dry Base Products. – An excise tax is levied on each individual container of a  
5 dry base product ~~at the rate of~~ at:

- 6 (1) ~~Of one cent (1¢) an ounce—~~The applicable per-ounce rate in the table  
7 below if the dry base product is not converted into a syrup or other  
8 liquid base product before it is used to make a soft drink.

9 **Date Tax Accrues      Rate**

10 From 7/1/95 until 6/30/96      3/4¢

11 From 7/1/96 until 6/30/97      1/2¢

12 After 7/1/97      1/4¢

- 13 (2) ~~That—~~The rate that would apply under subsection (c) to the resulting  
14 liquid base product if the dry base product is converted into a liquid  
15 base product before it is used to make a soft drink.

16 (e) Repealed by Session Laws 1991, c. 689, s. 276."

17 Sec. 2. G.S. 105-113.52(a) reads as rewritten:

18 "(a) Tax Reduction. – The tax on the first 15,000 gross of bottled soft drinks sold at  
19 wholesale on or after October 1 of each year by a distributor or wholesale dealer who is  
20 liable for the tax and who files a timely report under G.S. 105-113.51 is ~~seventy-two cents~~  
21 ~~(72¢) a gross rather than one-half~~ the amount stated in G.S. 105-113.45. The tax reduction  
22 does not apply to bottled soft drinks acquired by the distributor or wholesale dealer in a  
23 sale in which the distributor or wholesale dealer presented a soft drink certificate of  
24 liability, and it does not apply to sales made by a distributor or wholesale dealer who is  
25 not licensed as required by this Article. When reporting tax due on bottled soft drinks to  
26 which this reduced rate applies, a distributor or wholesale dealer shall pay the reduced  
27 amount."

28 Sec. 3. Effective July 1, 1998, Article 2B of Chapter 105 of the General  
29 Statutes, as amended by this act, is repealed. The Secretary shall retain from collections  
30 under Article 2 of Chapter 105 of the General Statutes the cost of refunding the taxes  
31 levied in Article 2B of Chapter 105 of the General Statutes.

32 Sec. 4. G.S. 105-164.3(16) reads as rewritten:

33 "(16) Except as provided in paragraph f., 'sales price' means the total amount  
34 for which tangible personal property is sold including charges for any  
35 services that go into the fabrication, manufacture or delivery of such  
36 tangible personal property and that are a part of the sale valued in  
37 money whether paid in money or otherwise and includes any amount for  
38 which credit is given to the purchaser by the seller without any  
39 deduction therefrom on account of the cost of the property sold, the cost  
40 of materials used, labor or service costs, interest charged, losses or any  
41 other expenses whatsoever. Provided, however, that where a  
42 manufacturer, producer or contractor erects, installs or affixes tangible  
43 personal property upon real property pursuant to a construction or

1 performance-type contract with or for the benefit of the owner of such  
2 real property, the sales price shall be the cost of such property to the  
3 manufacturer, producer or contractor performing the contract. Provided,  
4 further:

- 5 a. The cost for labor or services rendered in erecting, installing or  
6 applying property sold when separately charged shall not be  
7 included as a part of the 'sales price';
- 8 b. Finance charges, service charges or interest from credit extended  
9 under conditional sales contracts or other conditional contracts  
10 providing for deferred payments of the purchase price shall not  
11 be considered a part of the 'sales price' when separately charged;
- 12 c. 'Sales price' shall not include the amount of any tax imposed by  
13 the United States upon or with respect to retail sales whether  
14 imposed upon the retailer or consumer except that any  
15 manufacturers' or importers' excise tax shall be included in the  
16 term.
- 17 d. 'Sales price' shall not include any amounts charged as deposits on  
18 beverage containers which are returnable to vendors for reuse  
19 and which amounts are refundable or creditable to vendees,  
20 whether or not said deposits are separately charged.
- 21 e. 'Sales price' shall not include amounts charged as deposits on  
22 aeronautic, automotive, industrial, marine and farm replacement  
23 parts which are returnable to vendors for rebuilding or  
24 remanufacturing and which amounts are refundable or creditable  
25 to vendees, whether or not such deposits are separately charged.  
26 This subsection shall not be construed to include tires and  
27 batteries.
- 28 f. The sales price of tangible personal property sold through a coin-  
29 operated vending machine, other than closed-container soft  
30 drinks ~~subject to excise tax under Article 2B of this Chapter~~ or  
31 tobacco products, is considered to be fifty percent (50%) of the  
32 total amount for which the property is sold in the vending  
33 machine."

34 Sec. 5. This act does not affect the rights or liabilities of the State, a taxpayer,  
35 or another person arising under a statute repealed by this act before its repeal; nor does it  
36 affect the right to any refund or credit of a tax that would otherwise have been available  
37 under the repealed statute before its repeal.

38 Sec. 6. Sections 1 and 2 of this act become effective July 1, 1995. The  
39 remainder of this act becomes effective July 1, 1998.