

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 276

Short Title: Reduce Tax on Nonprescription Drugs.

(Public)

Sponsors: Representatives Sherrill; Berry, Cansler, Culpepper, Hall, Morris, Rayfield, and Thompson.

Referred to: Insurance, if favorable, Finance.

February 19, 1997

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 Section 2. G.S. 105-164.3 is amended by adding the following new definitions
11 in the appropriate alphabetical order:

12 "(3a) Cosmetics. – Compounds intended to be introduced into or applied to
13 the body for cleansing or affecting the appearance or texture. The term
14 includes, for example, cold cream, suntan lotion, hair dye, makeup, and
15 skin lotion.

16 (9a) Nonprescription drug. – A product that can be sold legally without a
17 prescription and is one of the following:

- 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 spray,
12 shaving products, fragrances, shampoo, deodorant, and mouthwash."

13 Section 3. G.S. 105-465 reads as rewritten:

14 **"§ 105-465. County election as to adoption of local sales and use tax.**

15 The board of elections of any county, upon the written request of the board of county
16 commissioners, or upon receipt of a petition signed by qualified voters of the county
17 equal in number to at least fifteen percent (15%) of the total number of votes cast in the
18 county, at the last preceding election for the office of Governor, shall call a special
19 election for the purpose of submitting to the voters of the county the question of whether
20 a one percent (1%) sales and use tax will be levied.

21 The special election shall be held under the same rules applicable to the election of
22 members of the General Assembly. No new registration of voters shall be required. All
23 qualified voters in the county who are properly registered not later than 21 days
24 (excluding Saturdays and Sundays) prior to the election shall be entitled to vote at the
25 election. The county board of elections shall give at least 20 days' public notice prior to
26 the closing of the registration books for the special election.

27 The county board of elections shall prepare ballots for the special election. The
28 question presented on the ballot shall be ~~"FOR~~ be:

29 **[] FOR [] AGAINST**

30 one percent (1%) local sales and use tax on items subject to State sales and use tax at the
31 general State rate and on ~~food~~ or "AGAINST one percent (1%) local sales and use tax on
32 ~~items subject to State sales and use tax at the general State rate and on food".~~ food and
33 nonprescription drugs.'

34 The county board of elections shall fix the date of the special election, except that the
35 special election shall not be held on the date or within 60 days of any biennial election for
36 county officers, nor within one year from the date of the last preceding special election
37 under this section."

38 Section 4. G.S. 105-467 reads as rewritten:

39 **"§ 105-467. Scope of sales tax.**

40 The sales tax that may be imposed under this Article is limited to a tax at the rate of
41 one percent (1%) of the following:

- 1 (1) The sales price of tangible personal property subject to the general rate
2 of sales tax imposed by the State under G.S. 105-164.4(a)(1) and
3 (a)(4b).
- 4 (2) The gross receipts derived from the lease or rental of tangible personal
5 property when the lease or rental of the property is subject to the general
6 rate of sales tax imposed by the State under G.S. 105-164.4(a)(2).
- 7 (3) The gross receipts derived from the rental of any room or other
8 accommodations subject to the general rate of sales tax imposed by the
9 State under G.S. 105-164.4(a)(3).
- 10 (4) The gross receipts derived from services rendered by laundries, dry
11 cleaners, and other businesses subject to the general rate of sales tax
12 imposed by the State under G.S. 105-164.4(a)(4).
- 13 (5) The sales price of food that is not otherwise exempt from tax pursuant to
14 G.S. 105-164.13 but would be exempt from the State sales and use tax
15 pursuant to G.S. 105-164.13 if it were purchased with coupons issued
16 under the Food Stamp Program, 7 U.S.C. § 51.
- 17 (6) The sales price of nonprescription drugs that are exempt from tax
18 imposed by the State pursuant to G.S. 105-164.13B but are not
19 otherwise exempt from tax pursuant to G.S. 105-164.13.

20 The sales tax authorized by this Article does not apply to sales that are taxable by the
21 State under G.S. 105-164.4 but are not specifically included in this section.

22 The State exemptions and exclusions contained in G.S. 105-164.13 and the State
23 refund provisions contained in G.S. 105-164.14 apply to the local sales and use tax
24 authorized to be levied and imposed under this Article. A taxing county may not allow an
25 exemption, exclusion, or refund that is not allowed under the State sales and use tax.

26 The local sales tax authorized to be imposed and levied under this Article applies to
27 taxable transactions by retailers whose place of business is located within the taxing
28 county. For the purpose of this Article, the situs of a transaction is the location of the
29 retailer's place of business."

30 Section 5. The first paragraph of Section 4 of Chapter 1096 of the 1967
31 Session Laws, as amended, is amended by adding a new subdivision to read:

32 "(6) The sales price of nonprescription drugs that are exempt from tax
33 imposed by the State pursuant to G.S. 105-164.13B but are not
34 otherwise exempt from tax pursuant to G.S. 105-164.13."

35 Section 6. Approval under Article 39, 40, or 42 of Chapter 105 of the General
36 Statutes, or under the Mecklenburg County Sales and Use Tax Act, Chapter 1096 of the
37 1967 Session Laws, as amended, of local sales and use taxes on items subject to State
38 sales and use tax at the general State rate constitutes approval of local sales and use taxes
39 on nonprescription drugs.

40 Section 7. This act becomes effective July 1, 1997, and applies to sales made
41 on or after that date.