

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H

1

HOUSE BILL 1511

Short Title: Merchant's Discount.

(Public)

Sponsors: Representatives Moore; and Frye.

Referred to: Commerce, Small Business, and Entrepreneurship, if favorable, Finance.

April 20, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR A SALES TAX DISCOUNT FOR MERCHANTS.
3 The General Assembly of North Carolina enacts:

4 SECTION 1. G.S. 105-164.21 is reenacted and rewritten to read:

5 "**§ 105-164.21. Merchant's discount.**

6 (a) Amount. – Except as provided in subsection (b) of this section, a retailer who pays
7 the retail sales or use tax imposed by this Article may deduct from the amount of the tax paid a
8 discount of one percent (1%).

9 (b) Restrictions. – The Secretary may deny a retailer the benefit of this section for
10 failure to pay the full tax when due as well as in cases of fraud, evasion, or failure to keep
11 accurate and clear records as required by this Article. In order to receive the discount provided
12 in this section, a retailer must deduct the discount when it remits the tax to the Department. A
13 retailer who sells electricity, telecommunications services, or ancillary services may not deduct
14 the discount provided in this section on sales of electricity, telecommunications services, or
15 ancillary services."

16 SECTION 2. G.S. 105-164.21(a) reads as rewritten:

17 "(a) Amount. – Except as provided in subsection (b) of this section, a retailer who pays
18 the retail sales or use tax imposed by this Article may deduct from the amount of the tax paid a
19 discount of ~~one percent (1%)~~ two percent (2%)."

20 SECTION 3. G.S. 105-164.21(a) reads as rewritten:

21 "(a) Amount. – Except as provided in subsection (b) of this section, a retailer who pays
22 the retail sales or use tax imposed by this Article may deduct from the amount of the tax paid a
23 discount of ~~two percent (2%)~~ three percent (3%)."

24 SECTION 4. G.S. 105-474 reads as rewritten:

25 "**§ 105-474. Definitions; construction of Article; remedies and penalties.** Administration
26 and construction of Article.

27 This Article shall be administered consistently with Article 5 of this Chapter to the extent
28 practicable. The merchant's discount provided in G.S. 105-164.21 does not apply to this Article.
29 The remaining provisions of Articles 5 and 9 of this Chapter apply to this Article to the extent
30 they are consistent with this Article.

31 ~~The definitions set forth in G.S. 105-164.3 shall apply to this Article insofar as such~~
32 ~~definitions are not inconsistent with the provisions of this Article, and all other provisions of~~
33 ~~Article 5 and of Article 9 of Subchapter 1, Chapter 105 of the General Statutes, as the same~~
34 ~~relate to the North Carolina Sales and Use Tax Act shall be applicable to this Article unless~~
35 ~~such provisions are inconsistent with the provisions of this Article. The administrative~~
36 ~~interpretations made by the Secretary of Revenue with respect to the North Carolina Sales and~~
37 ~~Use Tax Act, to the extent not inconsistent with the provisions of this Article, may be~~



* H 1 5 1 1 - V - 1 *

1 uniformly applied in the construction and interpretation of this Article. It is the intention of this
2 Article that the provisions of this Article and the provisions of the North Carolina Sales and
3 Use Tax Act, insofar as practicable, shall be harmonized.

4 The provisions with respect to remedies and penalties applicable to the North Carolina
5 Sales and Use Tax Act, as contained in Article 5 and Article 9, Subchapter 1, Chapter 105 of
6 the General Statutes, shall be applicable in like manner to the tax authorized to be levied and
7 collected under this Article, to the extent that the same are not inconsistent with the provisions
8 of this Article."

9 **SECTION 5.** The first sentence of Section 10 of Chapter 1096 of the 1967 Session
10 Laws is amended by adding after the word 'Act' the phrase ', other than G.S. 105-164.21,'.

11 **SECTION 6.** G.S. 105-187.5(d) reads as rewritten:

12 "(d) Administration. – The Division shall notify the Secretary of Revenue of a retailer
13 who makes the election under this section. A retailer who makes this election shall report and
14 remit to the Secretary the tax on the gross receipts of the lease or rental of the motor vehicle.
15 The Secretary shall administer the tax imposed by this section on gross receipts in the same
16 manner as the tax levied under G.S. 105-164.4(a)(2). The administrative provisions and powers
17 of the Secretary that apply to the tax levied under G.S. 105-164.4(a)(2) apply to the tax
18 imposed by this section. The merchant's discount provided in G.S. 105-164.21 does not apply
19 to this section.In addition, the

20 The Division may request the Secretary to audit a retailer who elects to pay tax on gross
21 receipts under this section. When the Secretary conducts an audit at the request of the Division,
22 the Division shall reimburse the Secretary for the cost of the audit, as determined by the
23 Secretary. In conducting an audit of a retailer under this section, the Secretary may audit any
24 sales of motor vehicles made by the retailer."

25 **SECTION 7.** G.S. 105-187.17 reads as rewritten:

26 "**§ 105-187.17. Administration.**

27 (a) Retail Sale or Use. – The privilege tax this Article imposes on a tire retailer who
28 sells new tires at retail is an additional State sales tax and the excise tax this Article imposes on
29 the storage, use, or consumption of a new tire in this State is an additional State use tax. Except
30 as otherwise provided in this Article, these taxes shall be collected and administered in the
31 same manner as the State sales and use taxes imposed by Article 5 of this Chapter. As under
32 Article 5 of this Chapter, the additional State sales tax paid when a new tire is sold is a credit
33 against the additional State use tax imposed on the storage, use, or consumption of the same
34 tire.

35 (b) Wholesale Sale or Use. – The privilege tax this Article imposes on a tire retailer and
36 on a tire wholesale merchant who sell new tires for placement in this State on a vehicle offered
37 for sale, lease, or rental is a tax on the wholesale sale of the tires. This tax and the excise tax
38 this Article imposes on a new tire purchased for placement in this State on a vehicle offered for
39 sale, lease, or rental shall, to the extent practical, be collected and administered as if they were
40 additional State sales and use taxes. The privilege tax paid when a new tire is sold for
41 placement on a vehicle offered for sale, lease, or rental is a credit against the use tax imposed
42 on the purchase of the same tire for placement in this State on a vehicle offered for sale, lease,
43 or rental.

44 (c) Discount. – The merchant's discount provided in G.S. 105-164.21 does not apply to
45 this Article."

46 **SECTION 8.** G.S. 105-187.22 reads as rewritten:

47 "**§ 105-187.22. Administration.**

48 The privilege tax this Article imposes on a white goods retailer is an additional State sales
49 tax and the excise tax this Article imposes on the storage, use, or consumption of a new white
50 good in this State is an additional State use tax. Except as otherwise provided in this Article,
51 these taxes shall be collected and administered in the same manner as the State sales and use

1 taxes imposed by Article 5 of this Chapter. As under Article 5 of this Chapter, the additional
2 State sales tax paid when a new white good is sold at retail is a credit against the additional
3 State use tax imposed on the storage, use, or consumption of the same white good. The
4 merchant's discount provided in G.S. 105-164.21 does not apply to this Article."

5 **SECTION 9.** G.S. 105-187.32 reads as rewritten:

6 "**§ 105-187.32. Administration.**

7 The privilege tax this Article imposes on a dry-cleaning solvent retailer is an additional
8 State sales tax, and the excise tax this Article imposes on the storage, use, or consumption of
9 dry-cleaning solvent by a dry-cleaning facility in this State is an additional State use tax.
10 Except as otherwise provided in this Article these taxes shall be collected and administered in
11 the same manner as the State sales and use taxes imposed by Article 5 of this Chapter. The
12 merchant's discount provided in G.S. 105-164.21 does not apply to this Article. As under
13 Article 5 of this Chapter, the additional State sales tax paid when dry-cleaning solvent is sold at
14 retail is a credit against the additional State use tax imposed on the storage, use, or consumption
15 of the same dry-cleaning solvent."

16 **SECTION 10.** Section 1 of this act becomes effective July 1, 2009. Sections 4
17 through 9 apply to returns filed on or after that date. Section 2 of this act becomes effective
18 January 1, 2010. Section 3 of this act becomes effective January 1, 2011.