

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 136

Short Title: Late Video Return/Sales Tax.

(Public)

---

Sponsors: Representatives Weatherly; Arnold, Baker, Brown, Cansler, Davis, McCombs, Mitchell, Preston, Rayfield, and Shubert.

---

Referred to: Judiciary II, if favorable, Finance.

---

February 13, 1997

A BILL TO BE ENTITLED

1  
2 AN ACT TO PROVIDE THAT CERTAIN LATE CHARGES FOR THE LATE  
3 RETURN OF RENTED PROPERTY ARE SUBJECT TO SALES TAX AND TO  
4 PROVIDE FOR TREBLE DAMAGES IN A CIVIL ACTION TO ENFORCE  
5 PAYMENT OF CERTAIN LATE CHARGES FOR THE LATE RETURN OF A  
6 RENTED VIDEOCASSETTE TAPE.

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 105-164.3(16) is amended by adding a new sub-subdivision to  
9 read:

10 “g. The term ‘sales price’ includes a late charge for the late return of  
11 leased or rented personal property to the extent the charge for the  
12 late period does not exceed the rental charge for an equivalent  
13 period. The term ‘sales price’ does not include the excess of the  
14 late charge for the late period over the rental charge for an  
15 equivalent period if the following conditions are met:

16 1. The late charge is imposed only if the lessee violates the  
17 terms of the lease or rental agreement by failing to return  
18 the property on time.

1                   2.     The late charge is charged and accounted for separately  
2                   from the charge for leasing or renting the property."

3                   Section 2. Article 13 of Chapter 66 of the General Statutes is amended by  
4 adding a new section to read:

5 **"§ 66-67.4. Remedies for failure to pay extra-day charges for late return of video.**

6     (a)     The following definitions apply in this section:

7             (1)     Extra-day charge. – A charge for the late return of a rented videocassette  
8             at the same rate as the daily rental charge rate or the regular per day  
9             rental charge rate.

10            (2)     Member of record. – A person in whose name a video rental store  
11            membership is held and on whose membership a videocassette is rented.

12            (3)     Videocassette. – The term includes video cartridges.

13            (4)     Video rental store. – Any entity whose principal business is the rental of  
14            videocassette tapes for noncommercial use.

15     (b)     A member of record who fails to pay the extra-day charges assessed for the late  
16     return of a videocassette within 30 days after written demand for its return is liable to the  
17     video rental store for a minimum amount of fifty dollars (\$50.00) or three times the  
18     amount of the extra-day charges, whichever is greater.

19     (c)     The written demand shall be mailed by certified mail to the member of record's  
20     last known address.

21     (d)     The damages provided for in this section do not apply unless at the time of the  
22     rental of the videocassette tape the video rental store conspicuously displayed in the  
23     vicinity of the checkout counter a sign that displays the following warnings in block  
24     letters not less than one inch in height:

25             'STATE LAW PROVIDES THAT FAILURE TO PAY THE LATE  
26             RETURN, EXTRA-DAY CHARGES DUE ON ANY RENTED  
27             VIDEOCASSETTE TAPE MAY RESULT IN DAMAGES OF TRIPLE  
28             THE AMOUNT OF THE LATE CHARGES, WITH A MINIMUM OF  
29             \$50.00. (G.S. 66-67.4).'

30     (e)     The presiding judge or magistrate may award the prevailing party, as part of  
31     the court costs payable, a reasonable attorney's fee for the licensed attorney representing  
32     the prevailing party in an action under this section.

33     (f)     Nothing contained in this section shall prohibit recovery upon any other theory of  
34     law."

35             Section 3. This act becomes effective October 1, 1997, and applies to rentals  
36 occurring on or after that date.