

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997

SESSION LAW 1998-95
SENATE BILL 1252

AN ACT TO SIMPLIFY AND MODIFY PRIVILEGE LICENSE AND EXCISE
TAXES AND RELATED PERMIT FEES.

The General Assembly of North Carolina enacts:

Section 1. The title of Article 2 of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 2.

~~"Schedule B. License Privilege Taxes."~~

Section 2. G.S. 105-33 reads as rewritten:

"§ 105-33. Taxes under this Article.

(a) ~~General. – Taxes in this Article or schedule shall be~~ are imposed as ~~State license taxes~~ for the privilege of carrying on the business, exercising the privilege, or doing the act ~~named, named, and nothing in this Article shall be construed to relieve any person, firm, or corporation from the payment of the tax prescribed in this Article or schedule: Provided, the obtaining of a license required by this Article shall not of itself authorize the practice of a profession, business, or trade for which a State qualification license is required.~~

(b) ~~If the business made taxable or the privilege to be exercised under this Article is carried on at two or more separate places, a separate State license for each place is required.~~ License Taxes. – A license tax imposed by this Article is an annual tax. The tax is due by July 1 of each year. The tax is imposed for the privilege of engaging in a specified activity during the fiscal year that begins on the July 1 due date of the tax. The full amount of a license tax applies to a person who, during a fiscal year, begins to engage in an activity for which this Article requires a license. Before a person engages in an activity for which this Article requires a license, the person must obtain the required license.

(c) ~~Every State license issued under this Article or schedule shall be for 12 months, shall expire on the thirtieth day of June of each year, and shall be for the full amount of tax prescribed; provided, that where the tax is levied on an annual basis and the licensee begins such business or exercises such privilege after the first day of January and prior to the thirtieth day of June of each year, then such licensee shall be required to pay one half of the tax prescribed other than the tax prescribed to be computed and levied upon a gross receipts and/or percentage basis for the conducting of such business or the exercising of such privilege to and including the thirtieth day of June, next following. Every county, city and town license issued under this Article or~~

~~schedule shall be for 12 months, and shall expire on the thirty first day of May or thirtieth day of June of each year as the governing body of such county, city or town may determine: Provided, that where the licensee begins such business or exercises such privilege after the expiration of seven months of the current license year of such municipality, then such licensee shall be required to pay one half of the tax prescribed other than the tax prescribed to be computed upon a gross receipts and/or percentage basis.~~ Other Taxes. – The taxes imposed by this Article on a percentage basis or another basis are due as specified in this Article.

~~(d) The State license issued under G.S. 105-41 is a personal privilege to conduct the profession or business named in the State license, is not transferable to any other person, and does not limit the person named in the license to conducting the profession or business and exercising the privilege named in the State license to the county and/or city and location specified in the State license, unless otherwise provided in this Article. Other licenses issued for a tax year for the conduct of a business at a specified location shall upon a sale or transfer of the business be deemed a sufficient license for the succeeding purchaser for the conduct of the business specified at that location for the balance of the tax year. If the holder of a license under this Article moves the business for which a license tax has been paid to another location, a new license may be issued to the licensee at a new location for the balance of the license year, upon surrender of the original license for cancellation and the payment of a fee of five dollars (\$5.00) for each license certificate reissued.~~

~~(e) Repealed by Session Laws 1989, c. 584, s. 1.~~

~~(f) All State taxes imposed by this Article shall be paid to the Secretary of Revenue, or to one of his deputies; shall be due and payable on or before the first day of July of each year, and after such date shall be deemed delinquent, and subject to all the remedies available and the penalties imposed for the payment of delinquent State license and privilege taxes; provided, that if a person, firm, or corporation begins any business or the exercise of any privilege requiring a license under this Article or schedule after the thirtieth day of June and prior to the thirtieth day of the following June of any year, then such person, firm, or corporation shall apply for and obtain a State license for conducting such business or exercising any such privilege in advance, and before the beginning of such business or the exercise of such privilege; and a failure to so apply and to obtain such State license shall be and constitute a delinquent payment of the State license tax due, and such person, firm, or corporation shall be subject to the remedies available and penalties imposed for the payment of such delinquent taxes.~~

~~(g) The taxes imposed and the rates specified in this Article or schedule shall apply to the subjects taxed on and after the first day of June, 1939, and prior to said date the taxes imposed and the rates specified in the Revenue Act of 1937 shall apply.~~

~~(h) Liability Upon Transfer. – It shall be the duty of a A grantee, transferee, or purchaser of any business or property subject to the State license taxes imposed in this Article to must make diligent inquiry as to whether the State license tax has been paid, but when such paid. If the business or property has been granted, sold, transferred, or conveyed to an innocent purchaser for value and without notice that the vendor owed or is liable for any of the State license taxes imposed under this Article, such the property,~~

while in the possession of ~~such the~~ innocent purchaser, ~~shall not be~~ is not subject to any lien for such State license ~~the~~ taxes.

(i) ~~The tax collector of a county or city shall issue licenses required under this Article by the governing body of the county or city and shall collect the taxes due for these licenses.~~

(j) ~~Any person, firm, or corporation who shall wilfully make any false statement in an application for a license under any section of this Article or schedule shall be guilty of a Class 1 misdemeanor, which may include a fine which shall not be less than the amount of tax specified under such section, and shall be in addition to the amount of such tax.~~

(k) Repealed by Session Laws 1987, c. 190."

Section 3. G.S. 105-33.1 reads as rewritten:

"§ 105-33.1. Definitions.

The following definitions apply in this Article:

(1) City. – Defined in G.S. 105-228.90.

~~(1)(1a)~~ Code. – Defined in G.S. 105-228.90.

(2) Municipality.— A municipal corporation organized under the laws of this State.

(3) Person. – Defined in G.S. 105-228.90.

(4) Secretary. —~~The Secretary of Revenue.~~ Defined in G.S. 105-228.90."

Section 4. G.S.105-37.1 reads as rewritten:

"§ 105-37.1. Amusements – Forms of amusement not otherwise taxed.

(a) ~~Every person, firm, or corporation~~ person engaged in the business of giving, ~~offering~~ offering, or managing any form of entertainment or amusement not otherwise taxed ~~or specifically exempted in under~~ this Article, for which an admission is charged, shall pay an annual license tax of fifty dollars (\$50.00) for each room, hall, tent or other place where such admission charges are made.

~~In addition to the license tax levied above, such person, firm, or corporation shall pay an additional~~ a tax upon the gross receipts of ~~such the~~ business at the rate of three percent (3%). Reports shall be made to the Secretary of Revenue, ~~in such form as he may prescribe,~~ within the first 10 days of each month covering all ~~such the~~ gross receipts for the previous month, and the ~~additional tax herein levied~~ shall be paid monthly at the time ~~such the~~ reports are made. ~~The annual license tax herein levied shall be treated as an advance payment of the tax upon gross receipts herein levied, and the annual license tax shall be applied as a credit upon or advance payment of the gross receipts tax.~~

Every ~~person, firm, or corporation~~ person giving, offering, or managing any dance or athletic contest of any kind, except high school and elementary school athletic contests, for which an admission fee in excess of fifty cents (50¢) is charged, shall pay ~~an annual license tax of fifty dollars (\$50.00) for each location where such charges are made, and, in addition,~~ a tax upon the gross receipts derived from admission charges at the rate of three percent (3%). The ~~additional tax upon gross receipts shall be levied and collected in accordance with such regulations as may be made by the Secretary of Revenue.~~ as

~~prescribed by the Secretary. No tax shall be levied on admission fees for high school and elementary school contests.~~

~~Dances and other amusements actually promoted and managed by civic organizations and private and public secondary schools, shall not be subject to the license tax imposed by this section and the first one thousand dollars (\$1,000) of gross receipts derived from such events shall be exempt from the gross receipts tax herein levied when the entire proceeds of such dances or other amusements are used exclusively for the school or civic and charitable purposes of such organizations and not to defray the expenses of the organization conducting such dance or amusement. The mere sponsorship of dance or other amusement by such a school, civic, or fraternal organization shall not be deemed to exempt such dance or other amusement as provided in this paragraph, but the exemption shall apply only when the dance or amusement is actually managed and conducted by the school, civic, or fraternal organization and the proceeds are used as herein before required.~~

~~Dances and other amusements promoted and managed by a qualifying corporation that operates a center for the performing and visual arts are exempt from the license tax and the gross receipts tax imposed under this section if the dance or other amusement is held at the center. "Qualifying corporation" means a corporation that is exempt from income tax under G.S. 105-130.11(a)(3). "Center for the performing and visual arts" means a facility, having a fixed location, that provides space for dramatic performances, studios, classrooms and similar accommodations to organized arts groups and individual artists. This exemption shall not apply to athletic events.~~

~~The license and gross receipts taxes imposed by this section do not apply to a person, firm, or corporation that is exempt from income tax under Article 4 of this Chapter and is engaged in the business of operating a teen center. A "teen center" is a fixed facility whose primary purpose is to provide recreational activities, dramatic performances, dances, and other amusements exclusively for teenagers.~~

~~(b) Counties shall not levy any license tax on the business taxed under this section, but cities and towns may levy a license tax not in excess of one half the base tax levied herein, twenty-five dollars (\$25.00).~~

~~(c) No tax shall be collected pursuant to this section with respect to entertainments or amusements offered or given on the Cherokee Indian reservation when the person, firm or corporation giving, offering or managing such entertainment or amusement is authorized to do business on the reservation and pays the tribal gross receipts levy to the tribal council.~~

~~(d) It is not the purpose of this Article to discourage agricultural fairs in the State, and to further this cause, no carnival company taxable under this section may play a "still date" in any county where there is a regularly advertised agricultural fair, 30 days prior to the dates of the fair. This subsection does not restrict the date on which a fair or tobacco festival may be held if (i) it is held by a veteran's organization or post chartered by Congress or organized and operated on a statewide or nationwide basis and (ii) the organization or post has held the fair or festival annually since before July 1, 1988."~~

Section 5. G.S. 105-38 reads as rewritten:

"§ 105-38. Amusements — ~~Circuses, menageries, wild west, dog and/or pony shows, etc.~~ Circuses and other traveling amusements.

(a) ~~Every person, firm, or corporation~~ person engaged in the business of exhibiting performances, such as a circus, menagerie, wild west show, dog and/or pony show, or any other similar show, exhibition ~~exhibition, or performance similar thereto,~~ performance not taxed in other sections of this Article, shall apply for and obtain a State license from the Secretary of Revenue for the privilege of engaging in such business, and pay for such license a tax of fifty dollars (\$50.00) for each day or part of a day for each place in the State where exhibitions or performances are to be given. pay a tax upon the gross receipts of the business at the rate of three percent (3%).

(b) ~~Every person, firm, or corporation~~ person by whom any show or exhibition taxed under this section is owned or controlled shall file with the ~~Secretary of Revenue,~~ Secretary, not less than five days before entering this State for the purpose of ~~such~~ the exhibitions or performances therein, a statement, under oath, setting out in detail the dates, times, and places for the exhibitions or performances. ~~such information as may be required by the Secretary of Revenue covering the places in the State where exhibitions or performances are to be given, the character of the exhibitions, and such other and further information as may be required.~~ Upon receipt of such statement, the Secretary of Revenue shall fix and determine the amount of State license tax with which such person, firm, or corporation is chargeable, shall endorse his findings upon such statement, and shall transmit a copy of such statement and findings to each such person, firm, or corporation to be charged, to the sheriff or tax collector of each county in which exhibitions or performances are to be given, and to the division deputy of the Secretary of Revenue, with full and particular instructions as to the State license tax to be paid. ~~Before giving any of the exhibitions or performances provided for in such statement, the person, firm, or corporation making such statement shall pay the Secretary of Revenue the tax so fixed and determined. If one or more of such exhibitions or performances included in such statement and for which the tax has been paid shall be canceled, the Secretary of Revenue may, upon proper application made to him, refund the tax for such canceled exhibitions or performances. Every such person, firm, or corporation shall give to the Secretary of Revenue a notice of not less than five days before giving any of such exhibitions or performances in each county.~~

(c) ~~The sheriff of each county in which such exhibitions or performances are advertised to be exhibited shall promptly communicate such information to the Secretary of Revenue; and if the statement required in this section has not been filed as provided herein, or not filed in time for certified copies thereof, with proper instructions, to be transmitted to the sheriffs of the several counties and the division deputy, the Secretary of Revenue shall cause his division deputy to attend at one or more points in the State where such exhibitions or performances are advertised or expected to exhibit, for the purpose of securing such statement prescribed in this section, of fixing and determining the amount of State license tax with which such person, firm, or corporation is taxable, and to collect such tax or give instructions for the collection of such tax.~~

~~(d) Every such person, firm, or corporation by whom or which any such exhibition or performance described in this section is given in any county, city or town, or within five miles thereof, wherein is held an annual agricultural fair, during the week of such annual agricultural fair, shall pay a State license of one thousand dollars (\$1,000) for each exhibition or performance in addition to the license tax first levied in this section, to be assessed and collected by the Secretary of Revenue or his duly authorized deputy.~~

~~(e) The provisions of this section, or any other section of this Article, shall not be construed to allow without the payment of the tax imposed in this section, any exhibition or performance described in this section for charitable, benevolent, educational, or any other purpose whatsoever, by any person, firm, or corporation who is engaged in giving such exhibitions or performances, no matter what terms of contract may be entered into or under what auspices such exhibitions or performances are given. It being the intent and purpose of this section that every person, firm, or corporation who or which is engaged in the business of giving such exhibitions or performances, whether a part or all of the proceeds are for charitable, benevolent, educational, or other purposes or not, shall pay the State license tax imposed in this section.~~

~~(f) Upon all performances taxable under this section there is levied, in addition to the license tax levied in this section, a tax upon the gross receipts of such business at the rate of three percent (3%). The license tax herein levied shall be treated as an advance payment of the tax upon gross receipts herein levied, and the license tax shall be applied as a credit upon or advance payment of the gross receipts tax. The Secretary of Revenue may adopt such regulations as may be necessary to effectuate the provisions of this section and shall prescribe the form and character of reports to be made, and shall have such authority of supervision as may be necessary to effectuate the purpose of this Subchapter.~~

~~(g) Repealed.~~

~~(h) Counties, cities, and towns Counties and cities may levy a license tax on the business taxed under this section not in excess of one half of the license tax levied by the State, but shall not levy a parade tax or a tax under subsection (g) of this section. twenty-five dollars (\$25.00) for each day or part of a day for each place where exhibitions or performances are to be given."~~

Section 5.1. Article 2 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-38.1. Amusements - Motion picture shows.

(a) Tax. – A privilege tax at the rate of one percent (1%) is imposed on the gross receipts of a person who is engaged in the business of operating a motion picture show for which an admission is charged. The tax is due when a return is due. A return is due by the 10th day after the end of each month and covers the gross receipts received during the previous month. If a person offers an entertainment or amusement that includes both a motion picture taxable under this section and an entertainment or amusement taxable under G.S. 105-37.1 or G.S. 105-38, the tax in G.S. 105-37.1 or G.S. 105-38, as appropriate, applies to the entire gross receipts and the tax levied in this section does not apply.

(b) Exemption. – Gross receipts from a motion picture show promoted and managed by a qualifying corporation that operates a center for the performing and visual arts is exempt from the tax imposed under this section if the motion picture is shown at the center and if the showing of motion pictures is not the primary purpose of the center. As used in this subsection, 'qualifying corporation' and 'center for the performing and visual arts' have the same meaning as in G.S. 105-40."

Section 6. G.S. 105-40 reads as rewritten:

"§ 105-40. Amusements —~~Certain exhibitions, performances, and entertainments~~ exempt from ~~license~~ tax.

The following forms of amusement are exempt from the taxes imposed under this Article:

- (1) All exhibitions, performances, and entertainments, except as in this Article expressly mentioned as not exempt, produced by local talent exclusively, ~~and~~ for the benefit of religious, charitable, benevolent or educational purposes, ~~and where as long as~~ no compensation is paid to such local talent shall be exempt from the State license tax. the local talent.
- (2) The North Carolina Symphony Society, Incorporated, as specified in G.S. 140-10.1.
- (3) All exhibits, shows, attractions, and amusements operated by a society or association organized under the provisions of Chapter 106 of the General Statutes where the society or association has obtained a permit from the Secretary to operate without the payment of taxes under this Article.
- (4) All outdoor historical dramas, as specified in Article 19C of Chapter 143 of the General Statutes.
- (5) All elementary and secondary school athletic contests, dances, and other amusements.
- (6) The first one thousand dollars (\$1,000) of gross receipts derived from dances and other amusements actually promoted and managed by civic organizations when the entire proceeds of the dances or other amusements are used exclusively for civic and charitable purposes of the organizations and not to defray the expenses of the organization conducting the dance or amusement. The mere sponsorship of a dance or another amusement by a civic or fraternal organization does not exempt the dance or other amusement, because the exemption applies only when the dance or amusement is actually managed and conducted by the civic or fraternal organization.
- (7) All dances and other amusements promoted and managed by a qualifying corporation that operates a center for the performing and visual arts if the dance or other amusement is held at the center. 'Qualifying corporation' means a corporation that is exempt from income tax under G.S. 105-130.11(a)(3). 'Center for the performing and visual arts' means a facility, having a fixed location, that provides

space for dramatic performances, studios, classrooms, and similar accommodations to organized arts groups and individual artists. This exemption does not apply to athletic events.

- (8) A person that is exempt from income tax under Article 4 of this Chapter and is engaged in the business of operating a teen center. A 'teen center' is a fixed facility whose primary purpose is to provide recreational activities, dramatic performances, dances, and other amusements exclusively for teenagers.
- (9) All entertainments or amusements offered or given on the Cherokee Indian reservation when the person giving, offering, or managing the entertainment or amusement is authorized to do business on the reservation and pays the tribal gross receipts levy to the tribal council."

Section 7. G.S. 105-41 reads as rewritten:

"§ 105-41. Attorneys-at-law and other professionals.

(a) Every individual in this State who practices a profession or engages in a business and is included in the list below must obtain from the Secretary a statewide license for the privilege of practicing the profession or engaging in the business. A license required by this section is not transferable to another person. The tax for each license is fifty dollars ~~(\$50.00); the tax does not apply to an individual who is at least 75 years old. (\$50.00).~~

- (1) An attorney-at-law.
- (2) A physician, a veterinarian, a surgeon, an osteopath, a chiropractor, a chiroprapist, a dentist, an ophthalmologist, an optician, an optometrist, or another person who practices a professional art of healing.
- (3) A professional engineer, as defined in G.S. 89C-3.
- (4) A registered land surveyor, as defined in G.S. 89C-3.
- (5) An architect.
- (6) A landscape architect.
- (7) A photographer, a canvasser for any photographer, or an agent of a photographer in transmitting photographs to be copied, enlarged, or colored.
- (8) A real estate broker or a real estate salesman, as defined in G.S. 93A-2. A real estate broker or a real estate salesman who is also a real estate appraiser is required to obtain only one license under this section to cover both activities.
- (9) A real estate appraiser, as defined in G.S. 93E-1-4. A real estate appraiser who is also a real estate broker or a real estate salesman is required to obtain only one license under this section to cover both activities.
- (10) A person who solicits or negotiates loans on real estate as agent for another for a commission, brokerage, or other compensation.
- (11) A mortician or embalmer licensed under G.S. 90-210.25.

(b) ~~Persons practicing the professional art of healing for a fee or reward shall be exempt from the payment of the license tax levied in the preceding paragraph of this~~

section, if such persons are adherents of established churches or religious organizations and confine their healing practice to prayer or spiritual means. The following persons are exempt from the tax:

- (1) A person who is at least 75 years old.
- (2) A person practicing the professional art of healing for a fee or reward, if the person is an adherent of an established church or religious organization and confines the healing practice to prayer or spiritual means.
- (3) A blind person engaging in a trade or profession as a sole proprietor. A 'blind person' means any person who is totally blind or whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or where the widest diameter of visual field subtends an angle no greater than 20 degrees. This exemption shall not extend to any sole proprietor who permits more than one person other than the proprietor to work regularly in connection with the trade or profession for remuneration or recompense of any kind, unless the other person in excess of one so remunerated is a blind person.

(c) Every person engaged in the public practice of accounting as a principal, or as a manager of the business of public accountant, shall pay for such license fifty dollars (\$50.00), and in addition shall pay a license of twelve dollars and fifty cents (\$12.50) for each person employed who is engaged in the capacity of supervising or handling the work of auditing, devising or installing systems of accounts.

~~(d) Every licensed mortician or embalmer shall in like manner apply for and obtain from the Secretary of Revenue a statewide license for practicing his profession, whether for himself or in the employ of another, and pay for such license a tax of fifty dollars (\$50.00).~~

(e) Licenses issued under this section are issued as personal privilege licenses and shall not be issued in the name of a firm or corporation: ~~Provided, that a corporation.~~ A licensed photographer having a located place of business in this State, shall be State is liable for a license tax on each agent or solicitor, solicitor employed by him the photographer for soliciting business. If any person engages in more than one of the activities for which a privilege tax is levied by this section, such the person shall be is liable for a privilege tax with respect to each activity engaged in.

(f) Repealed by Session Laws 1981, c. 17.

~~(g) License Revocable for Failure To Pay Tax. Whenever it shall be made to appear to any judge of the superior court that any person practicing any profession for which the payment of a license tax is required by this section has failed, or fails, to pay the professional tax levied in this section, and execution has been issued for the same by the Secretary of Revenue and returned by the proper officer "no property to be found," or returned for other cause without payment of the tax, it shall be the duty of the judge presiding in the superior court of the county in which such person resides, upon presentation therefor, to cause the clerk of said court to issue a rule requiring such person to show cause by the next session of court why such person should not be deprived of license to practice such profession for failure to pay such professional tax.~~

Such rule shall be served by the sheriff upon said person 20 days before the next session of the court, and if at the return term of court such person fails to show sufficient cause, the said judge may enter a judgment suspending the professional license of such person until all such tax as may be due shall have been paid, and such order of suspension shall be binding upon all courts, boards and commission having authority of law in this State with respect to the granting or continuing of license to practice any such profession.

(h) ~~Counties, cities, or towns shall~~ Counties and cities may not levy any license tax on the business or professions taxed under this section; ~~section.~~ and the statewide license herein provided for shall privilege the licensee to engage in such business or profession in every county, city, or town in this State.

(i) Obtaining a license required by this Article does not of itself authorize the practice of a profession, business, or trade for which a State qualification license is required."

Section 8. Chapter 93B of the General Statutes is amended by adding the following new section to read:

"§ 93B-15. Payment of license fees by members of the armed forces.

An individual who is serving in the armed forces of the United States and to whom G.S. 105-249.2 grants an extension of time to file a tax return is granted an extension of time to pay any license fee charged by an occupational licensing board or as a condition of retaining a license granted by the board. The extension is for the same period that would apply if the license fee were a tax."

Section 9. G.S. 105-83 reads as rewritten:

"§ 105-83. Installment paper dealers.

(a) Every person engaged in the business of dealing in, buying, or discounting installment paper, notes, bonds, contracts, or evidences of ~~debt, where debt for which,~~ at the time of or in connection with the execution of said the instruments, a lien is reserved or taken upon personal property located in this State to secure the payment of ~~such the~~ obligations, ~~shall apply for and obtain from the Secretary a State license for the privilege of engaging in such business or for the purchasing of such obligations in this State, and shall pay for such license an annual tax of one hundred dollars (\$100.00).~~

(b) ~~In addition to obtaining a State license from the Secretary, each person subject to the tax levied in subsection (a) shall submit to the Secretary quarterly no later than the twentieth day of January, April, July, and October of each year, upon forms prescribed by the Secretary, a full, accurate, and complete statement, verified by the officer, agent, or person making the statement, of the total face value of the installment paper, notes, bonds, contracts, and evidences of debt obligations dealt in, bought, or discounted within the preceding three calendar months and, at the same time, shall pay a tax of two hundred and seventy five thousandths of one percent (.275%)~~ two hundred seventy-seven thousandths of one percent (.277%) of the face value of these obligations.

(c) If any person deals in, buys, or discounts any obligations described in this section without ~~obtaining the license required by this section or paying a tax imposed by this section,~~ the person may not bring an action in a State court to enforce collection of an obligation dealt in, bought, or discounted during the period of noncompliance with

this section until the person obtains the license and pays the amount of tax, penalties, and interest due.

(d) This section does not apply to corporations liable for the tax levied under G.S. 105-102.3.

(e) ~~Counties, cities, and towns~~ Counties and cities shall not levy any license tax on the business taxed under this section."

Section 10. G.S. 105-102.3 reads as rewritten:

"§ 105-102.3. Banks.

There is ~~hereby~~ imposed upon every bank or banking association, including each national banking association, that is operating in this State as a commercial bank, an industrial bank, a savings bank created other than under Chapter 54B of the General Statutes or the Home Owners' Loan Act of 1933 (12 U.S.C. §§ 1461-68), a trust company, or any combination of such facilities or services, and whether such bank or banking association, hereinafter to be referred to as a bank or banks, ~~be is~~ organized, under the laws of the United States or the laws of North Carolina, in the corporate form or in some other form of business organization, an annual privilege tax ~~tax~~. A report and the privilege tax are due by the first day of July of each year on forms provided by the Secretary. The tax rate is in the amount of thirty dollars (\$30.00) for each one million dollars (\$1,000,000) or fractional part thereof of total assets held as hereinafter provided. ~~provided in this section.~~ The assets upon which the tax is levied shall be determined by averaging the total assets shown in the four quarterly call reports of condition (consolidating domestic subsidiaries) for the preceding calendar year as required by bank regulatory ~~authorities; provided,~~ authorities. ~~If a bank has been in operation less than a calendar year, then the assets upon which the tax is levied shall be determined by multiplying the average of the total assets by a fraction, the denominator of which is 365 and the numerator of which is the number of days of operation, however, where a new bank commences operations within the State there shall be levied and paid an annual privilege tax of one hundred dollars (\$100.00) until such bank shall have made four quarterly call reports of condition (consolidating domestic subsidiaries) for a single calendar year; provided further, however, where~~ If a bank operates an international banking facility, as defined in G.S. 105-130.5(b)(13), the assets upon which the tax is levied shall be reduced by the average amount for the taxable year of all assets of the international banking facility which are employed outside the United States, as computed pursuant to G.S. 105-130.5(b)(13)c. For an out-of-state bank with one or more branches in this State, or for an in-state bank with one or more branches outside this State, the assets of the out-of-state bank or of the in-state bank upon which the tax is levied shall be reduced by the average amount for the taxable year of all assets of the out-of-state bank or of the in-state bank which are employed outside this State. The tax imposed hereunder in this section shall be for the privilege of carrying on the businesses herein defined on a statewide basis regardless of the number of places or locations of business within the State. ~~Counties, cities and towns shall~~ Counties and cities may not levy a license or privilege tax on the businesses taxed under this section, nor on the business of an international banking facility as defined in subsection (b)(13) of G.S. 105-130.5."

Section 11. G.S. 105-102.6(d) reads as rewritten:

"(d) Tax. – Every publisher shall apply for and obtain from the Secretary a newsprint publisher tax reporting number and shall file an annual report with the Secretary by January 31 of each year. The report shall include the following information for the preceding calendar year:

- (1) Tonnage of virgin newsprint consumed.
- (2) Tonnage of nonvirgin newsprint consumed.
- (3) Gross tonnage of newsprint consumed.
- (4) Itemized percentages of recycled postconsumer recovered paper contained in tonnage of nonvirgin newsprint consumed.
- (5) Recycled content tonnage.
- (6) Recycled content percentage.
- (7) Recycling tonnage.

In addition, each publisher whose recycled content percentage for a calendar year is less than the applicable minimum recycled content percentage provided in subsection (c) shall pay a tax of fifteen dollars (\$15.00) on each ton by which the publisher's recycled content tonnage falls short of the tonnage of recycled postconsumer recovered paper needed to achieve the applicable minimum recycled content percentage provided in subsection (c). This tax is due when the report is filed. No county or ~~municipality~~ city may impose a license tax on the business taxed under this section."

Section 12. G.S. 105-107 is repealed.

Section 13. G.S. 105-109(a) is repealed.

Section 14. G.S. 105-113.68(a)(6) reads as rewritten:

"(6) 'License' means a certificate, issued pursuant to this Article ~~by the Secretary or by a city or county~~, that authorizes a person to engage in a phase of the alcoholic beverage industry."

Section 15. G.S. 105-113.69 reads as rewritten:

"§ 105-113.69. License tax; effect of license.

The taxes imposed in ~~Parts 2 and 3~~ Part 3 of this Article are license taxes on the privilege of engaging in the activity authorized by the license. Licenses issued ~~by the State or a local government~~ under this Article authorize the licensee to engage in only those activities that are authorized by the corresponding ABC permit. The activities authorized by each retail ABC permit are described in Article 10 of Chapter ~~18B, 18B~~ of the General Statutes and the activities authorized by each commercial ABC permit are described in Article 11 of that Chapter."

Section 16. G.S. 105-113.70 reads as rewritten:

"§ 105-113.70. Issuance, duration, transfer of license.

(a) Issuance, Qualifications. – Each person who receives an ABC permit shall obtain the corresponding local license, if any, under this Article. ~~All State licenses are issued by the Secretary.~~ All local licenses are issued by the city or county where the establishment for which the license is sought is located. The information required to be provided and the qualifications for a ~~State or~~ local license are the same as the information and qualifications required for the corresponding ABC permit. Upon proper application and payment of the prescribed tax, issuance of a ~~State or~~ local license is

mandatory if the applicant holds the corresponding ABC permit. No local license may be issued under this Article until the applicant has received from the ABC Commission the applicable permit for that activity, and no county license may be issued for an establishment located in a city in that county until the applicant has received from the city the applicable license for that activity.

(b) Duration. – All licenses issued under this section are annual licenses for the period from May 1 to April 30.

(c) Transfer. – A license may not be transferred from one person to another or from one location to another.

(d) License Exclusive. —~~Neither the State nor a~~ A local government may not require a license for activities related to the manufacture or sale of alcoholic beverages other than the licenses stated in this Article."

Section 17. G.S. 105-113.72 is repealed.

Section 18. G.S. 105-113.74 is repealed.

Section 19. G.S. 105-113.75 is repealed.

Section 20. G.S. 105-113.76 is repealed.

Section 21. G.S. 105-113.79 reads as rewritten:

"§ 105-113.79. City wholesaler license.

A city may require city malt beverage and wine wholesaler licenses for businesses located inside the city, but may not require a license for a business located outside the city, regardless whether that business sells or delivers malt beverages or wine inside the city. The city may charge an annual tax of not more than ~~twenty five percent (25%) of the annual tax for the equivalent State license as set by G.S. 105-113.74.~~ thirty-seven dollars and fifty cents (\$37.50) for a city malt beverage wholesaler or a city wine wholesaler license."

Section 22. G.S. 105-113.80(a) reads as rewritten:

"(a) Beer. – An excise tax of fifty-three and one hundred seventy-seven one thousandths cents (53.177¢) per gallon is levied on the sale of malt ~~beverages at the rate of:~~ beverages.

(1) ~~Forty eight and three hundred eighty seven one thousandths cents (48.387¢) per gallon on malt beverages in barrels holding at least seven and three fourths gallons; and~~

(2) ~~Fifty three and three hundred seventy six one thousandths cents (53.376¢) per gallon on malt beverages in cans, bottles, barrels, or other containers holding less than seven and three fourths gallons."~~

Section 23. G.S. 105-113.83(c) reads as rewritten:

"(c) ~~Railroad Sales License.~~ Sales. —~~This section does not affect the duty of a holder of a State railroad sales license to remit excise taxes on alcoholic beverages sold by that licensee in this State, as provided in G.S. 105-113.76~~ Each person operating a railroad train in this State on which alcoholic beverages are sold must submit monthly reports of the amount of alcoholic beverages sold in this State and must remit the applicable excise tax due on the sale of these beverages when the report is submitted. The report is due on or before the 15th day of the month following the month in which

the beverages are sold. The report must be made on a form prescribed by the Secretary."

Section 24. G.S. 105-113.84 reads as rewritten:

"§ 105-113.84. Invoices; report of resident brewery, resident winery, or nonresident vendor.

(a) Invoice. – ~~When a~~ A resident brewery, resident winery, or nonresident vendor that sells or delivers wine or malt beverages to a North Carolina wholesaler or importer; ~~importer he~~ shall give that wholesaler or importer two copies of the sales ~~invoice. He~~ invoice and shall also file one copy with the Secretary. The invoice shall state: state all of the following:

- (1) The name and address of the ~~licensee-permit holder~~ making the sale or delivery; ~~delivery.~~
- (2) The name, address, and ~~license-permit~~ number of the wholesaler or importer receiving the ~~beverages;~~ beverages.
- (3) The kind of beverage sold or ~~delivered; and~~ delivered, including the number of cases.
- (4) The exact quantities of beverages sold or delivered, specified by size and type of ~~container.~~ containers.
- (5) The total gallons of malt beverages, the total liters of unfortified wine, and the total liters of fortified wine.

(b) Monthly Report. – Each resident brewery, resident winery, or nonresident vendor that sells or delivers wine or malt beverages in North Carolina shall prepare and file with the Secretary a monthly report, on a form provided by the Secretary, stating the exact quantities of those beverages sold to North Carolina wholesalers or importers during the previous month. ~~The report shall specify the size and type of containers sold.~~ The report shall be filed on or before the 15th day of the month following the month in which the beverages are sold or delivered."

Section 25. G.S. 105-113.86 reads as rewritten:

"§ 105-113.86. Bonds.

(a) Wholesalers and Importers. – ~~Each holder of a malt beverage~~ A wholesaler ~~license, a wine wholesaler license, or an~~ or importer ~~license~~ shall furnish a bond in an amount of not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars ~~(\$50,000) to cover his tax liability. (\$50,000).~~ The bond shall be conditioned on compliance with this Article, shall be payable to the State, shall be in a form acceptable to the Secretary, and shall be secured by a corporate surety or by a pledge of obligations of the federal government, the State, or a political subdivision of the State. The Secretary shall proportion the bond amount to the anticipated tax liability of the wholesaler or importer. The Secretary shall periodically review the sufficiency of bonds furnished by wholesalers and importers, and shall increase the amount of a bond required of a wholesaler or importer when the amount of the bond furnished no longer covers the wholesaler's or importer's anticipated tax liability.

(b) Nonresident Vendors. – The Secretary may require the holder of a nonresident vendor ~~license~~ ABC permit to furnish a bond in an amount not to exceed two thousand dollars (\$2,000). The bond shall be conditioned on compliance with this

Article, shall be payable to the State, shall be in a form acceptable to the Secretary, and shall be secured by a corporate surety or by a pledge of obligations of the federal government, the State, or a political subdivision of the State."

Section 26. G.S. 105-113.89 reads as rewritten:

"§ 105-113.89. Other applicable administrative provisions.

The administrative provisions of Article 9 of this Chapter apply to this Article. ~~In addition, the following administrative provisions of Schedule B of this Chapter apply to the license taxes levied under this Article: G.S. 105-103, 105-104, 105-105, 105-108, 105-109, 105-110, and 105-112. In applying the provisions of Schedule B to this Article, the month "May" shall be substituted for the month "July."~~

Section 27. G.S. 105-249 is repealed.

Section 28. G.S. 105-249.1 is repealed.

Section 29. G.S. 18B-902 reads as rewritten:

"§ 18B-902. Application for permit; fees.

(a) Form. – An application for an ABC permit shall be on a form prescribed by the Commission and shall be notarized. The application shall be signed and sworn to by each person required to qualify under G.S. 18B-900(c).

(b) Investigation. – Before issuing a new permit, the Commission, with the assistance of the ALE Division, shall investigate the applicant and the premises for which the permit is requested. The Commission may request the assistance of local ABC officers in investigating applications. An applicant shall cooperate fully with the investigation.

(c) False Information. – Knowingly making a false statement in an application for an ABC permit shall be grounds for denying, suspending, revoking or taking other action against the permit as provided in G.S. 18B-104 and shall also be unlawful.

(d) Fees. – An application for an ABC permit shall be accompanied by payment of the following application fee:

- (1) On-premises malt beverage permit —~~\$200.00.~~ \$400.00.
- (2) Off-premises malt beverage permit —~~\$200.00.~~ \$400.00.
- (3) On-premises unfortified wine permit —~~\$200.00.~~ \$400.00.
- (4) Off-premises unfortified wine permit —~~\$200.00.~~ \$400.00.
- (5) On-premises fortified wine permit —~~\$200.00.~~ \$400.00.
- (6) Off-premises fortified wine permit —~~\$200.00.~~ \$400.00.
- (7) Brown-bagging permit —~~\$200.00,~~ \$400.00, unless the application is for a restaurant seating less than 50, in which case the fee shall be ~~\$100.00.~~ \$200.00.
- (8) Special occasion permit —~~\$200.00.~~ \$400.00.
- (9) Limited special occasion permit —~~\$25.00.~~ \$50.00.
- (10) Mixed beverages permit —~~\$750.00.~~ \$1,000.
- (11) Culinary permit —~~\$100.00.~~ \$200.00.
- (12) Unfortified winery permit —~~\$150.00.~~ \$300.00.
- (13) Fortified winery permit —~~\$150.00.~~ \$300.00.
- (14) Limited winery permit —~~\$150.00.~~ \$300.00.
- (15) Brewery permit —~~\$150.00.~~ \$300.00.

- (16) Distillery permit —~~\$150.00.~~ \$300.00.
- (17) Fuel alcohol permit —~~\$50.00.~~ \$100.00.
- (18) Wine importer permit —~~\$150.00.~~ \$300.00.
- (19) Wine wholesaler permit —~~\$150.00.~~ \$300.00.
- (20) Malt beverage importer permit —~~\$150.00.~~ \$300.00.
- (21) Malt beverage wholesaler permit —~~\$150.00.~~ \$300.00.
- (22) Bottler permit —~~\$150.00.~~ \$300.00.
- (23) Salesman permit —~~\$25.00.~~ \$100.00.
- (24) Vendor representative permit —~~\$25.00.~~ \$50.00.
- (25) Nonresident malt beverage vendor permit —~~\$50.00.~~ \$100.00.
- (26) Nonresident wine vendor permit —~~\$50.00.~~ \$100.00.
- (27) Any special one-time permit under G.S. 18B-1002 —~~\$25.00.~~ \$50.00.
- (28) Winery special event permit —~~\$100.00.~~ \$200.00.
- (29) Mixed beverages catering permit —~~\$100.00.~~ \$200.00.
- (30) Guest room cabinet permit —~~\$750.00.~~ \$1,000.
- (31) Liquor importer/bottler permit —~~\$250.00.~~ \$500.00.
- (32) Cider and vinegar manufacturer permit —~~\$100.00.~~ \$200.00.
- (33) Brew on premises permit —~~\$200.00.~~ \$400.00.

(e) ~~Fee for Combined Applications. — If application is made at the same time for retail malt beverage, unfortified wine and fortified wine permits for a single business location, the total fee for those applications shall be two hundred dollars (\$200.00). If application is made at the same time for brown bagging and special occasion permits for a single business location, the total fee for those applications shall be three hundred dollars (\$300.00). If application is made at the same time for wine and malt beverage importer permits, the total fee for those applications shall be one hundred fifty dollars (\$150.00). If application is made at the same time for wine and malt beverage wholesaler permits, the total fee for those applications shall be one hundred fifty dollars (\$150.00). If application is made at the same time for nonresident malt beverage vendor and nonresident wine vendor permits, the total fee for those applications shall be fifty dollars (\$50.00).~~

(f) ~~Fee Not Refundable. — The fee required by subsection (d) shall not be refunded.~~

(g) ~~Fees to Treasurer. — All fees collected by the Commission under this or any other section of this Chapter shall be remitted to the State Treasurer for the General Fund.~~

Section 30. G.S. 18B-903(b) reads as rewritten:

"(b) ~~Renewal. — Application for renewal of an ABC permit shall be on a form provided by the Commission. An application for renewal shall be accompanied by an application fee of twenty-five percent (25%) of the original application fee set in G.S. 18B-902, except that the renewal application fee for each mixed beverages permit and each guest room cabinet permit shall be five-seven hundred fifty dollars (\$500.00).~~ Renewal. — Application for renewal of an ABC permit shall be on a form provided by the Commission. An application for renewal shall be accompanied by an application fee of twenty-five percent (25%) of the original application fee set in G.S. 18B-902, except that the renewal application fee for each mixed beverages permit and each guest room cabinet permit shall be five-seven hundred fifty dollars (\$500.00). A renewal fee shall not be refundable."

Section 31. Sections 1 through 5, 6 through 13, 27, and 28 of this act become effective July 1, 1999. Section 5.1 of this act becomes effective October 1, 1998. The remaining sections of this act become effective May 1, 1999.

In the General Assembly read three times and ratified this the 5th day of August, 1998.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 8:50 a.m. this 14th day of August, 1998