

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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HOUSE BILL 1665  
Committee Substitute Favorable 8/28/02

Short Title: Interstate Air Couriers - Bill Lee.

(Public)

Sponsors:

Referred to:

June 13, 2002

A BILL TO BE ENTITLED

AN ACT TO AMEND TAX LAWS RELATED TO INTERSTATE AIR COURIERS  
AND TO AMEND THE WAGE STANDARD UNDER THE WILLIAM S. LEE  
QUALITY JOBS AND BUSINESS EXPANSION ACT TO ACCOUNT FOR THE  
VALUE OF HEALTH INSURANCE TO PART-TIME JOBS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 105-164.3(13) and (15) read as rewritten:

**"§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...

(13) Hub. – Either of the following:

- a. An interstate air courier's hub is ~~the airport in this State that meets all of the following conditions:~~
  1. ~~The air courier has allocated to the airport under G.S. 105-338 more than sixty percent (60%) of its aircraft value apportioned to this State.~~
  2. ~~The air courier's primary function at the airport is to sort and distribute letters and packages received from multiple consolidation locations.~~
  3. ~~The air courier's primary function at the airport is not to consolidate letters and packages and deliver them to another airport for sorting and distribution.~~ the interstate air courier's principal airport within the State for sorting and distributing letters and packages and from which the interstate air courier has, or expects to have upon completion of construction, no less than 150 departures a month under normal operating conditions.
- b. An interstate passenger air carrier's hub is the airport in this State that meets both of the following conditions:

- 1 1. The air carrier has allocated to the airport under G.S.  
2 105-338 more than sixty percent (60%) of its aircraft  
3 value apportioned to this State.
- 4 2. The majority of the air carrier's passengers boarding at  
5 the airport are connecting from other airports rather than  
6 originating at that airport.

7 ...

- 8 (15) ~~Interstate air courier. – A person engaged in the air courier services~~  
9 ~~business, as defined in G.S. 105-129.2, in interstate commerce whose~~  
10 ~~primary business is the furnishing of air delivery of individually~~  
11 ~~addressed letters and packages for compensation, in interstate~~  
12 ~~commerce, except by the United States Postal Service."~~

13 **SECTION 2.** G.S. 105-129.2A is amended by adding a new subsection to  
14 read:

15 "(a1) Sunset for Interstate Air Couriers. – Notwithstanding subsection (a) of this  
16 section, in the case of an interstate air courier that enters into a real estate lease on or  
17 before January 1, 2006, with an airport authority that provides for the lease of at least  
18 100 acres of real property with a lease term in excess of 15 years, this Article is repealed  
19 effective for business activities that occur on or after January 1, 2010."

20 **SECTION 3.** G.S. 105-129.4(b) reads as rewritten:

21 "(b) Wage Standard. – A taxpayer is eligible for the credit for creating jobs or the  
22 credit for worker training if, for the calendar year the jobs are created or the worker  
23 training is provided, the average wage of the jobs for which the credit is claimed meets  
24 the wage standard and the average wage of all jobs at the location with respect to which  
25 the credit is claimed meets the wage standard. No credit is allowed for jobs not included  
26 in the wage calculation. A taxpayer is eligible for the credit for investing in machinery  
27 and equipment, the credit for research and development, the credit for investing in real  
28 property for a central office or aircraft facility, or the credit for substantial investment in  
29 other property if, for the calendar year the taxpayer engages in the activity that qualifies  
30 for the credit, the average wage of all jobs at the location with respect to which the  
31 credit is claimed meets the wage standard. In making the wage calculation, the taxpayer  
32 must include any positions that were filled for at least 1,600 hours during the calendar  
33 year the taxpayer engages in the activity that qualifies for the credit even if those  
34 positions are not filled at the time the taxpayer claims the credit.

35 Part-time jobs for which the taxpayer provides health insurance as provided in  
36 subsection (b2) of this section are considered to have an average weekly wage at least  
37 equal to the applicable percentage times the applicable average weekly wage for the  
38 county in which the jobs will be located. There may be a period of up to 100 days  
39 between the time at which an employee begins a part-time job and the time at which the  
40 taxpayer begins to provide health insurance for that employee.

41 Jobs meet the wage standard if they pay an average weekly wage that is at least  
42 equal to the applicable percentage times the applicable average weekly wage for the  
43 county in which the jobs will be located, as computed by the Secretary of Commerce  
44 from data compiled by the Employment Security Commission for the most recent period

1 for which data are available. The applicable percentage for jobs located in an enterprise  
2 tier one area is one hundred percent (100%). The applicable percentage for all other jobs  
3 is one hundred ten percent (110%). The applicable average weekly wage is the lowest of  
4 the following: (i) the average wage for all insured private employers in the county, (ii)  
5 the average wage for all insured private employers in the State, and (iii) the average  
6 wage for all insured private employers in the county multiplied by the county  
7 income/wage adjustment factor. The county income/wage adjustment factor is the  
8 county income/wage ratio divided by the State income/wage ratio. The county  
9 income/wage ratio is average per capita income in the county divided by the annualized  
10 average wage for all insured private employers in the county. The State income/wage  
11 ratio is the average per capita income in the State divided by the annualized average  
12 wage for all insured private employers in the State. The Department of Commerce must  
13 annually publish the wage standard for each county."

14 **SECTION 4.** G.S. 105-129.4(b1) reads as rewritten:

15 "(b1) Large Investment. – A taxpayer who is otherwise eligible for a tax credit  
16 under this Article becomes eligible for the large investment enhancements provided for  
17 credits under this Article if the Secretary of Commerce makes a written determination  
18 that the taxpayer is expected to purchase or lease, and place in service in connection  
19 with the eligible business within a two-year period, at least one hundred fifty million  
20 dollars (\$150,000,000) worth of one or more of the following: real property, machinery  
21 and equipment, or central office or aircraft facility property. In the case of an interstate  
22 air courier that has or is constructing a hub in this State, this investment may be placed  
23 in service in connection with the eligible business within a seven-year period. If the  
24 taxpayer fails to make the required level of investment within ~~this two-year~~the  
25 applicable period, the taxpayer forfeits the large investment enhancements as provided  
26 in subsection (d) of this section."

27 **SECTION 5.** G.S. 105-129.5(c) reads as rewritten:

28 "(c) Carryforward. – Any unused portion of a credit with respect to a large  
29 investment, with respect to the technology commercialization credit allowed in G.S.  
30 105-129.9A, or with respect to substantial investment in other property under G.S.  
31 105-129.12A may be carried forward for the succeeding 20 years. Any unused portion  
32 of a credit with respect to research and development activities under G.S. 105-129.10  
33 may be carried forward for the succeeding 15 years. Any unused portion of a credit may  
34 be carried forward for the succeeding 10 years if, before the taxpayer claims the credit,  
35 the Secretary of Commerce makes a written determination that the taxpayer is expected  
36 to purchase or lease, and place in service in connection with the eligible business within  
37 a two-year period, at least fifty million dollars (\$50,000,000) worth of one or more of  
38 the following: real property, machinery and equipment, or central office or aircraft  
39 facility property. In the case of an interstate air courier that has or is constructing a hub  
40 in this State, this investment may be placed in service in connection with the eligible  
41 business within a seven-year period. If the taxpayer fails to make the required level of  
42 investment within ~~this two-year~~the applicable period, the taxpayer forfeits this  
43 enhanced carryforward period. Any unused portion of any other credit may be carried  
44 forward for the succeeding five years."

1           **SECTION 6.** G.S. 105-129.8(d) reads as rewritten:

2           "(d) Planned Expansion. – A taxpayer that signs a letter of commitment with the  
3 Department of Commerce to create at least twenty new full-time jobs in a specific area  
4 within two years of the date the letter is signed qualifies for the credit in the amount  
5 allowed by this section based on the area's enterprise tier and development zone  
6 designation for that year even though the employees are not hired that year. In the case  
7 of an interstate air courier that has or is constructing a hub in this State, the applicable  
8 time period is seven years. The credit shall be available in the taxable year after at least  
9 twenty employees have been hired if the hirings are within the ~~two-year~~applicable  
10 commitment period. The conditions outlined in subsection (a) apply to a credit taken  
11 under this subsection except that if the area is redesignated to a higher-numbered  
12 enterprise tier or loses its development zone designation after the year the letter of  
13 commitment was signed, the credit is allowed based on the area's enterprise tier and  
14 development zone designation for the year the letter was signed. If the taxpayer does not  
15 hire the employees within the ~~two-year~~applicable period, the taxpayer does not qualify  
16 for the credit. However, if the taxpayer qualifies for a credit under subsection (a) in the  
17 year any new employees are hired, the taxpayer may take the credit under that  
18 subsection."

19           **SECTION 7.** G.S. 105-129.9(e) reads as rewritten:

20           "(e) Planned Expansion. – A taxpayer that signs a letter of commitment with the  
21 Department of Commerce to place specific eligible machinery and equipment in service  
22 in an area within two years after the date the letter is signed may, in the year the eligible  
23 machinery and equipment are placed in service in that area, calculate the credit for  
24 which the taxpayer qualifies based on the area's enterprise tier and development zone  
25 designation for the year the letter was signed. In the case of an interstate air courier that  
26 has or is constructing a hub in this State, the applicable time period is seven years. All  
27 other conditions apply to the credit, but if the area has been redesignated to a  
28 higher-numbered enterprise tier or has lost its development zone designation after the  
29 year the letter of commitment was signed, the credit is allowed based on the area's  
30 enterprise tier and development zone designation for the year the letter was signed. If  
31 the taxpayer does not place part or all of the specified eligible machinery and equipment  
32 in service within the ~~two-year~~applicable period, the taxpayer does not qualify for the  
33 benefit of this subsection with respect to the machinery and equipment not placed in  
34 service within the ~~two-year~~applicable period. However, if the taxpayer qualifies for a  
35 credit in the year the eligible machinery and equipment are placed in service, the  
36 taxpayer may take the credit for that year as if no letter of commitment had been signed  
37 pursuant to this subsection."

38           **SECTION 8.** Section 22 of S.L. 1998-55, as amended by Section 16(a) of  
39 S.L. 2001-476, reads as rewritten:

40           "Section 22. Section 10 of this act is effective for taxes imposed for taxable years  
41 beginning on or after July 1, 2001. Section 11 of this act becomes effective January 1,  
42 1999, and expires January 1, ~~2008~~2010. The remainder of Part III of this act becomes  
43 effective January 1, 2001, and applies to sales made on or after that date."

1           **SECTION 9.** It is the intent of the General Assembly that the provisions of  
2 this act not be expanded. If a court of competent jurisdiction holds any provision of this  
3 act invalid, the section containing that provision is repealed. The repeal of a section of  
4 this act under this section does not affect other provisions of this act that may be given  
5 affect without the invalid provision.

6           **SECTION 10.** Section 1 of this act becomes effective October 1, 2002, and  
7 applies to sales made on or after that date. Sections 8 and 9 of this act are effective  
8 when it becomes law. The remainder of this act is effective for taxable years that begin  
9 on or after January 1, 2002.