

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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SENATE BILL 1195

Short Title: Seven Devils Occupancy Tax.

(Local)

Sponsors: Senators Foxx; Berger, Garwood, and Moore.

Referred to: Finance.

June 5, 2002

A BILL TO BE ENTITLED

1
2 AN ACT TO CREATE AN OCCUPANCY TAX DISTRICT IN THE TOWN OF
3 SEVEN DEVILS, AND TO AUTHORIZE THE SEVEN DEVILS TAX DISTRICT
4 TO LEVY AN OCCUPANCY TAX.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.(a)** District W Created. – Seven Devils District W is created as
7 a taxing district. Its jurisdiction consists of that part of the Town of Seven Devils that is
8 located in Watauga County. Seven Devils District W is a body politic and corporate and
9 has the power to carry out the provisions of this section. The Seven Devils Board of
10 Aldermen shall serve ex officio as the governing body of the district, and the officers of
11 the board of aldermen shall serve as the officers of the governing body of the district. A
12 simple majority of the governing body constitutes a quorum, and approval by a majority
13 of those present is sufficient to determine any matter before the governing body, if a
14 quorum is present.

15 **SECTION 1.(b)** Authorization and Scope. – The governing body of Seven
16 Devils District W may levy a room occupancy tax of up to three percent (3%) of the
17 gross receipts derived from the rental of any room, lodging, or accommodation
18 furnished by a hotel, motel, inn, tourist camp, or similar place within the district that is
19 subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in
20 addition to any State or local sales or room occupancy tax. This tax does not apply to
21 accommodations furnished by charitable, educational, or religious institutions or
22 nonprofit organizations when furnished in furtherance of their nonprofit purpose.

23 **SECTION 1.(c)** Administration. – A tax levied under this section shall be
24 levied, administered, collected, and repealed as provided in G.S. 160A-215 as if Seven
25 Devils District W were a town. The penalties provided in G.S. 160A-215 apply to a tax
26 levied under this section.

27 All persons, firms, corporations, and associations who rent either their own
28 dwelling or dwellings or rooms for other persons are required to submit to the district a
29 list of all rental properties. This list must include the owner's name, current address, and

1 location of rental property. The list must be submitted semiannually on or before
2 November 30 and May 30. Failure to file this list subjects the person, firm, corporation,
3 or association to a civil penalty.

4 **SECTION 1.(d)** Distribution and Use of Tax Revenue. – Seven Devils
5 District W shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the
6 Seven Devils Tourism Development Authority created in accordance with Part XVI of
7 S.L. 2001-439. The Seven Devils Tourism Development Authority shall use the tax
8 proceeds remitted to it under this act for the purposes provided in Part XVI of
9 S.L. 2001-439. In accordance with the North Carolina Constitution and the United
10 States Constitution, the tax proceeds may be used only for the direct benefit of the
11 jurisdiction of Seven Devils District W.

12 For the purposes of this section, "net proceeds" means gross proceeds less the
13 cost to the district of administering and collecting the tax, as determined by the finance
14 officer, not to exceed three percent (3%) of the first five hundred thousand dollars
15 (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining
16 gross receipts collected each year.

17 **SECTION 2.** G.S. 160A-215 reads as rewritten:

18 **"§ 160A-215. Uniform provisions for room occupancy taxes.**

19 (a) Scope. – This section applies only to municipalities the General Assembly
20 has authorized to levy room occupancy taxes. For the purpose of this section, the term
21 "city" means a municipality.

22 (b) Levy. – A room occupancy tax may be levied only by resolution, after not
23 less than 10 days' public notice and after a public hearing held pursuant thereto. A room
24 occupancy tax shall become effective on the date specified in the resolution levying the
25 tax. That date must be the first day of a calendar month, however, and may not be
26 earlier than the first day of the second month after the date the resolution is adopted.

27 (c) Collection. – Every operator of a business subject to a room occupancy tax
28 shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall
29 be collected as part of the charge for furnishing a taxable accommodation. The tax shall
30 be stated and charged separately from the sales records and shall be paid by the
31 purchaser to the operator of the business as trustee for and on account of the taxing city.
32 The tax shall be added to the sales price and shall be passed on to the purchaser instead
33 of being borne by the operator of the business. The taxing city shall design, print, and
34 furnish to all appropriate businesses and persons in the city the necessary forms for
35 filing returns and instructions to ensure the full collection of the tax. An operator of a
36 business who collects a room occupancy tax may deduct from the amount remitted to
37 the taxing city a discount equal to the discount the State allows the operator for State
38 sales and use tax.

39 (d) Administration. – The taxing city shall administer a room occupancy tax it
40 levies. A room occupancy tax is due and payable to the city finance officer in monthly
41 installments on or before the fifteenth day of the month following the month in which
42 the tax accrues. Every person, firm, corporation, or association liable for the tax shall,
43 on or before the fifteenth day of each month, prepare and render a return on a form
44 prescribed by the taxing city. The return shall state the total gross receipts derived in the

1 preceding month from rentals upon which the tax is levied. A room occupancy tax
2 return filed with the city finance officer is not a public record and may not be disclosed
3 except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

4 (e) Penalties. – A person, firm, corporation, or association who fails or refuses to
5 file a room occupancy tax return or pay a room occupancy tax as required by law is
6 subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a
7 return for State sales and use taxes. The governing board of the taxing city has the same
8 authority to waive the penalties for a room occupancy tax that the Secretary of Revenue
9 has to waive the penalties for State sales and use taxes.

10 (f) Repeal or Reduction. – A room occupancy tax levied by a city may be
11 repealed or reduced by a resolution adopted by the governing body of the city. Repeal or
12 reduction of a room occupancy tax shall become effective on the first day of a month
13 and may not become effective until the end of the fiscal year in which the resolution
14 was adopted. Repeal or reduction of a room occupancy tax does not affect a liability for
15 a tax that was attached before the effective date of the repeal or reduction, nor does it
16 affect a right to a refund of a tax that accrued before the effective date of the repeal or
17 reduction.

18 (g) This section applies only to Beech Mountain District ~~W~~, W and Seven Devils
19 District W, to the Cities of Gastonia, Goldsboro, Greensboro, High Point, Kings
20 Mountain, Lexington, Lincolnton, Lumberton, Monroe, Mount Airy, Shelby, Statesville,
21 and Washington, to the Towns of Beech Mountain, Carrboro, Mooresville, North
22 Topsail Beach, Selma, Smithfield, St. Pauls, and Wilkesboro, and to the municipalities
23 in Avery and Brunswick Counties."

24 **SECTION 3.** This act is effective when it becomes law.