

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1911*

Short Title: Modernize Adm. Tax/Restore Amen. Exclusion. (Public)

Sponsors: Representatives Gibson; Carney, Hill, Howard, McGee, Wainwright, and Womble.

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

May 20, 2010

1 A BILL TO BE ENTITLED
2 AN ACT TO MODERNIZE AND EQUALIZE THE ADMISSIONS TAX BY EXTENDING
3 IT TO INTERNET TICKET RESELLERS, TO APPLY THE TAX ONLY TO THE
4 CHARGE FOR ADMISSION TO AN EVENT AND NOT TO EXTRA AMENITIES,
5 AND TO REQUIRE THE SECRETARY OF REVENUE TO PROVIDE ADVANCE
6 NOTICE OF CERTAIN REVISED INTERPRETATIONS OF THE DEPARTMENT.

7 The General Assembly of North Carolina enacts:

8 SECTION 1. G.S. 105-37.1 reads as rewritten:

9 "**§ 105-37.1. ~~Dances, athletic events, shows, exhibitions, and other entertainments.~~Live**
10 **entertainment and ticket resales.**

11 (a) Scope. – A privilege tax is imposed on the ~~gross receipts of a person who is engaged~~
12 ~~in any of the following:~~

13 (1) ~~Giving, offering, or managing a dance or an athletic contest for which an~~
14 ~~admission fee in excess of fifty cents (50¢) is charged.~~The gross admissions
15 receipts of a person who is engaged in providing admission to live
16 entertainment of any kind. Gross admissions receipts under this subdivision
17 do not include charges for amenities. If charges for amenities are not
18 separately stated on the face of an admission ticket, then the charge for
19 admission is considered to be equal to the admission charge for a ticket to
20 the same event that does not include amenities and is for a seat located
21 directly in front of or closest to a seat that includes amenities.

22 (2) ~~Giving, offering, or managing a form of amusement or entertainment that is~~
23 ~~not taxed by another provision of this Article and for which an admission fee~~
24 ~~is charged.~~The gross admissions receipts of a person who is engaged in the
25 business of reselling on the Internet under G.S. 14-344.1 an admission ticket
26 that is taxable under subdivision (1) of this subsection. If the price of an
27 admission ticket is printed on the face of the ticket, gross receipts under this
28 subdivision exclude the face price. If the price of an admission ticket is not
29 printed on the face of the ticket, the tax under this subdivision applies to the
30 difference between the amount the reseller paid for the ticket and the amount
31 the reseller charges for the ticket.

32 (3) ~~Exhibiting a performance, show, or exhibition, such as a circus or dog show,~~
33 ~~that is not taxed by another provision of this Article.~~

34 (b) Rate and Payment. – The rate of the privilege tax imposed by this section is three
35 percent (3%) ~~of the gross receipts from the activities described in subsection (a) of this~~



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1 ~~section-(3%)~~. The tax is due when a return is due. A return is due by the 10th day after the end
2 of each month and covers the gross receipts received during the previous month.

3 (c) Advance Report. – A person who owns or controls a ~~performance, show, or~~
4 ~~exhibition~~ live entertainment performance subject to the tax imposed by this section and who
5 plans to bring the performance to this State from outside the State must file a statement with the
6 Secretary that lists the dates, times, and places of the ~~performance, show, or exhibition.~~
7 performance. The statement must be filed no less than five days before the first ~~performance,~~
8 ~~show, or exhibition~~ performance in this State.

9 (d) Local Taxes. – Cities may levy a license tax on a person taxed under subdivision
10 (a)(1) ~~or (a)(2)~~ of this section; however, the tax may not exceed twenty-five dollars ~~(\$25.00).~~
11 ~~Cities may levy a license tax on a person taxed under subdivision (a)(3) of this section;~~
12 ~~however, the tax may not exceed twenty-five dollars (\$25.00) for each day or part of a day the~~
13 ~~performance, show, or exhibition~~ live entertainment is given performed at each location. Cities
14 may not levy a license tax on a person taxed under subdivision (a)(2) of this section.

15 Counties may not levy a license tax on a person taxed under ~~subdivision (a)(1) or (a)(2)~~ of
16 this section. ~~Counties may levy a license tax on a person taxed under subdivision (a)(3) to the~~
17 ~~same extent as a city."~~

18 **SECTION 2.** G.S. 14-344.1(e) is repealed.

19 **SECTION 3.** If any provision of this act is declared by a court to violate the
20 Internet Tax Freedom Act, Pub. L. 105-277, §§ 1100-1104, as amended, or is otherwise found
21 to be invalid, then G.S. 14-344.1 is repealed.

22 **SECTION 4.** G.S. 105-264(c) reads as rewritten:

23 "(c) Revised Interpretations. – This section does not prevent the Secretary from changing
24 an ~~interpretation~~ interpretation, and it does not prevent a change in an interpretation from
25 applying on and after the effective date of the change. An interpretation that revises a prior
26 interpretation by expanding the scope of a tax or otherwise increasing the amount of tax due
27 may not become effective sooner than the following:

28 (1) For a tax that is payable on a monthly or quarterly basis, the first day of a
29 month that is at least 90 days after the date the revised interpretation is
30 issued.

31 (2) For a tax that is payable on an annual basis, the first day of a tax year that
32 begins after the date the revised interpretation is issued."

33 **SECTION 5.** G.S. 105-37.1(a)(2), as amended by Section 1 of this act, becomes
34 effective January 1, 2011, and applies to admission tickets sold on or after that date. The
35 remainder of Section 1 of this act and Section 2 of this act become effective August 1, 2010.
36 G.S. 105-37.1(a)(1), as amended by Section 1 of this act, applies to charges for admission
37 received on or after August 1, 2010. The remainder of this act is effective when it becomes
38 law.