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SENATE BILL DRS45170-MC~~x~~-98 (03/03)

Short Title: Caswell County Meals Tax. (Local)

Sponsors: Senator Woodard (Primary Sponsor).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CASWELL COUNTY TO LEVY A PREPARED FOOD AND BEVERAGES TAX.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Authority. – The Board of Commissioners of Caswell County may, by resolution and after not less than 10 days' public notice and a public hearing, levy a prepared food and beverages tax of up to one percent (1%) of the sales price of prepared food and beverages sold within Caswell County at retail for consumption on or off the premises by a retailer subject to sales tax under G.S. 105-164.4(a)(1). For purposes of catering, the tax applies to food served in the county without regard to the residency of the caterer. This tax is in addition to State and local sales tax.

SECTION 1.(b) Definitions. – The definitions in G.S. 105-164.3 apply to this section to the extent they are not inconsistent with the provisions of this section. In addition, the following definitions apply in this act:

- (1) County. – Defined in G.S. 153A-1.
- (2) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax.
- (3) Prepared food and beverages. – The term includes the following:
 - a. Prepared food, as defined in G.S. 105-164.3.
 - b. An alcoholic beverage, as defined in G.S. 18B-101.

SECTION 1.(c) Exemptions. – The prepared food and beverages tax does not apply to the following sales of prepared food and beverages:

- (1) Prepared food and beverages served to residents in boardinghouses and sold together on a periodic basis with rental of a sleeping room or lodging.
- (2) Retail sales exempt from taxation under G.S. 105-164.13.
- (3) Retail sales through or by means of vending machines.
- (4) Prepared food and beverages served by a retailer subject to the local occupancy tax if the charge for the prepared food and beverages is included in a single, nonitemized sales price together with the charge for rental of a room, lodging, or accommodation furnished by the retailer.
- (5) Prepared food and beverages furnished without charge by an employer to an employee.
- (6) Retail sales by grocers or by grocery sections of supermarkets or other diversified retail establishments, other than sales of prepared food and beverages in the delicatessen or similar department of the grocer or grocery section.



1 (7) Prepared food and beverages served on a federal military reservation.

2 **SECTION 1.(d)** Collection. – Every retailer subject to the tax levied under this
3 section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be
4 collected as part of the charge for furnishing prepared food and beverages. The tax shall be stated
5 separately on the sales document and shall be paid by the purchaser to the retailer as trustee for
6 and on account of the county. The tax shall be added to the sales price and shall be passed on to
7 the purchaser instead of being borne by the retailer. The entity collecting the tax shall design,
8 print, and furnish to all appropriate businesses and persons in the county the necessary forms for
9 filing returns and instructions to ensure the full collection of the tax.

10 **SECTION 1.(e)** Administration. – The county shall administer the tax levied under
11 this section. A tax levied under this section is due and payable to the local finance officer in
12 monthly installments on or before the twentieth day of the month following the month in which
13 the tax accrues. Every retailer liable for the tax shall, on or before the twentieth day of each
14 month, prepare and render a return on a form prescribed by the county. The return shall show the
15 total gross receipts derived in the preceding month from sales to which the tax applies.

16 A return filed under this section is not a public record and may not be disclosed except
17 in accordance with G.S. 153A-148.1.

18 The provisions of Article 5 and Article 9 of Chapter 105 of the General Statutes apply
19 to this section to the extent they are not inconsistent with the provisions of this section. The
20 uniform meals tax penalty provisions of G.S. 153A-154.1 apply to a tax levied under this section.

21 **SECTION 1.(f)** Refunds. – The county shall refund to a nonprofit or governmental
22 entity the prepared food and beverages tax paid by the entity on eligible purchases of prepared
23 food and beverages. A nonprofit or governmental entity's purchase of prepared food and beverages
24 is eligible for a refund under this subsection if the entity is entitled to a refund under
25 G.S. 105-164.14(b) or (c) of local sales and use tax paid on the purchase or if the sale is exempt
26 under G.S. 105-164.13. The time limitations, application requirements, penalties, and restrictions
27 provided in G.S. 105-164.14(b), (d), and (d1) apply to refunds to nonprofit entities; the time,
28 limitations, application requirements, penalties, and restrictions provided in G.S. 105-164.14(c),
29 (d), and (d1) apply to refunds to governmental entities. When an entity applies for a refund of the
30 prepared food and beverages tax paid by it on purchases, it shall attach to its application a copy of
31 the application submitted to the Department of Revenue under G.S. 105-164.14 for a refund of the
32 sales and use tax on the same purchases or a written statement that the purchases were exempt
33 from the tax. An applicant for a refund under this subsection shall provide any information
34 required by the county to substantiate the claim.

35 **SECTION 1.(g)** Use of Proceeds. – The proceeds of a tax levied under this section
36 shall be used as provided in this subsection. The county may deduct from the gross proceeds of the
37 taxes collected under this act an amount not to exceed three percent (3%) of the gross proceeds to
38 pay for the direct cost of administering and collecting the taxes. The remaining proceeds shall be
39 used for any lawful purpose.

40 **SECTION 1.(h)** Effective Date of Levy. – A tax levied under this section shall
41 become effective on the date specified in the resolution levying the tax. The date shall be the first
42 day of a calendar month and may not be before the first day of the fourth month after the date the
43 resolution is adopted.

44 **SECTION 1.(i)** Repeal. – A tax levied under this section may be repealed or reduced
45 by a resolution adopted by the Caswell County Board of Commissioners. Any repeal or reduction
46 shall become effective on the first day of a month and may not become effective until the end of
47 the fiscal year in which the repeal resolution is adopted. Repeal or reduction of a tax levied under
48 this section does not affect a liability for a tax that attached before the effective date of the repeal
49 or reduction, nor does it affect a right to a refund of a tax that accrued before the effective date of
50 the repeal or reduction.

51 **SECTION 2.** This act is effective when it becomes law.