

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1285

Short Title: Highway Fund Restored.

(Public)

Sponsors: Representatives L. Etheridge, Huffman, Pope, and Sizemore.

Referred to: Infrastructure.

April 12, 1989

A BILL TO BE ENTITLED

AN ACT TO RESTORE ALL HIGHWAY-RELATED TAXES AND FEES TO THE HIGHWAY FUND IN ORDER TO PROVIDE INCREASED REVENUES FOR HIGHWAY CONSTRUCTION AND MAINTENANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-194(a) reads as rewritten:

"(a) All expenses incurred in carrying out the provisions of this Article shall be paid out of the ~~highway fund.~~ General Fund."

Sec. 2. G.S. 105-164.2 reads as rewritten:

"§ 105-164.2. Purpose.

The taxes ~~herein imposed~~ levied by this Article shall be in addition to all other license, privilege or excise ~~taxes.~~ taxes and the ~~The taxes levied by this Article on motor vehicles and on motor vehicle parts, accessories, and lubricants are to provide revenue for the Highway Fund.~~ All other taxes levied by this Article are to provide revenue for the support of the public school system of this State and for other necessary uses and purposes of the government and State of North Carolina."

Sec. 3. G.S. 105-164.4(1) reads as rewritten:

"(1) At the rate of three percent (3%) of the sales price of each item or article of tangible property when sold at retail in this State, the tax to be computed on total net taxable sales as defined herein but for the purpose of computing the amount due the State each and every taxable retail sale, or retail sales upon which the tax has been collected, or the amount of tax actually collected, whichever be greater and whether or not erroneously collected, shall be included in the computation of tax

1 due the State. Provided, however, that in the case of the sale of any
2 aircraft, railway locomotive, railway car or the sale of any motor
3 vehicle or boat, the tax shall be only at the rate of two percent (2%) of
4 the sales ~~price. price, but at no time shall the maximum tax with respect to~~
5 ~~any one such aircraft, railway locomotive, railway car or motor vehicle or~~
6 ~~boat, including all accessories attached thereto at the time of delivery thereof~~
7 ~~to the purchaser, be in excess of three hundred dollars (\$300.00).~~

8 The separate sale of a new motor vehicle chassis and a new motor
9 vehicle body to be installed thereon, whether by the same retailer or by
10 different retailers shall be subject only to the tax herein prescribed with
11 respect to a single motor vehicle. No tax shall be imposed upon a body
12 mounted on the chassis of a motor vehicle which temporarily enters
13 the State for the purpose of having such body mounted thereon by the
14 manufacturer thereof.

15 ~~Notwithstanding G.S. 105-164.3(16) and regardless whether the~~
16 ~~seller is a retailer of motor vehicles, the sales price of a motor vehicle~~
17 ~~is the gross sales price of the motor vehicle less any allowance given~~
18 ~~for a motor vehicle taken in trade as part of the consideration for the~~
19 ~~purchased motor vehicle.~~

20 The tax levied under this section applies to all retail sales of motor
21 vehicles regardless whether the seller is engaged in business as a
22 retailer of motor vehicles or whether a tax on the sale of the vehicle
23 has previously been paid under this Article. A purchaser of a motor
24 vehicle from a retailer shall pay the tax imposed under this Article to
25 the retailer, who is liable for collecting and remitting the tax to the
26 Secretary. A purchaser of a motor vehicle is liable for payment of the
27 tax imposed by this Article if the seller is not a retailer. The purchaser
28 shall pay the tax to the Commissioner of Motor Vehicles when
29 applying for a certificate of title for the vehicle. When property is
30 transferred by an individual to a partnership or corporation, and no
31 gain or loss arises as provided by Section 351 or Section 721 of the
32 Code, such transfer is not a sale for the purpose of this subdivision if
33 the transfer is incident to the organization of the partnership or
34 corporation.

35 When applying for a certificate of title, a purchaser of a motor
36 vehicle from a seller who is not a retailer shall certify in writing the
37 sales price of the purchased motor vehicle. A purchaser who
38 knowingly makes a false certification of the sales price is guilty of a
39 misdemeanor.

40 The Commissioner of Motor Vehicles may not issue a certificate of
41 title for a motor vehicle sold by a seller who is not a retailer unless the
42 tax imposed by this section is paid when the purchaser of the vehicle
43 applies for a certificate of title. The Commissioner shall remit taxes
44 collected by him under this subsection to the Secretary.

1 Persons who lease or rent motor vehicles shall collect and remit the
2 tax imposed by this Article on the separate retail sale of a motor
3 vehicle in addition to the tax imposed on the proceeds from the lease
4 or rental of the motor vehicle.

5 Provided further, the tax shall be only at the rate of one percent
6 (1%) of the sales price on the following items:

- 7 a. Horses or mules by whomsoever sold.
8 b. Semen to be used in the artificial insemination of animals.
9 c. Sales of fuel, other than electricity or piped natural gas, to
10 farmers to be used by them for any farm purposes other than
11 preparing food, heating dwellings and other household
12 purposes. The quantity of fuel purchased or used at any one
13 time shall not in any manner be a determinative factor as to
14 whether any sale or use of fuel is or is not subject to the one
15 percent (1%) rate of tax imposed herein.
16 d. Sales of fuel, other than electricity or piped natural gas, to
17 manufacturing industries and manufacturing plants for use in
18 connection with the operation of such industries and plants
19 other than sales of fuels to be used for residential heating
20 purposes. The quantity of fuel purchased or used at any one
21 time shall not in any manner be a determinative factor as to
22 whether any sale or use of fuel is or is not subject to the one
23 percent (1%) rate of tax imposed herein.
24 e. Sales of fuel, other than electricity or piped natural gas, to
25 commercial laundries or to pressing and dry-cleaning
26 establishments for use in machinery used in the direct
27 performance of the laundering or the pressing and cleaning
28 service.
29 f. Sales to freezer locker plants of wrapping paper, cartons and
30 supplies consumed directly in the operation of such plant.

31 Provided further, the tax shall be only at the rate of one
32 percent (1%) of the sales price, subject to a maximum tax of
33 eighty dollars (\$80.00) per article, on the following items:

- 34 g. Sales of machines and machinery, whether animal or motor drawn
35 or operated, and parts and accessories for such machines and
36 machinery to farmers for use by them in the planting, cultivating,
37 harvesting or curing of farm crops, and sales of machines and
38 machinery and parts and accessories for such machines and machinery
39 to dairy operators, poultry farmers, egg producers, and livestock
40 farmers for use by them in the production of dairy products, poultry,
41 eggs or livestock, except such machines, machinery, equipment, parts,
42 and accessories that come within the provisions of G.S. 105-
43 164.13(4c).

1 The term 'machines and machinery' as used in this
2 subdivision is defined as follows:

3 The term shall include all vehicular implements, designed
4 and sold for any use defined in this subdivision, which are
5 operated, drawn or propelled by motor or animal power, but
6 shall not include vehicular implements which are operated
7 wholly by hand, and shall not include any motor vehicles
8 required to be registered under Chapter 20 of the General
9 Statutes.

10 The term shall include all nonvehicular implements and
11 mechanical devices designed and sold for any use defined in
12 this subdivision, which have moving parts, or which require the
13 use of any motor or animal power, fuel, or electricity in their
14 operation but shall not include nonvehicular implements which
15 have no moving parts and are operated wholly by hand.

16 The term shall also include metal flues sold for use in curing
17 tobacco, whether such flues are attached to handfired furnaces
18 or used in connection with mechanical burners.

19 h. Sales of mill machinery or mill machinery parts and accessories to
20 manufacturing industries and plants, and sales to contractors and
21 subcontractors purchasing mill machinery or mill machinery parts and
22 accessories for use by them in the performance of contracts with
23 manufacturing industries and plants, and sales to subcontractors
24 purchasing mill machinery or mill machinery parts and accessories for
25 use by them in the performance of contracts with general contractors
26 who have contracts with manufacturing industries and plants. As used
27 in this paragraph, the term 'manufacturing industries and plants' does
28 not include delicatessens, cafes, cafeterias, restaurants, and other
29 similar retailers that are principally engaged in the retail sale of foods
30 prepared by them for consumption on or off their premises.

31 i. Sales of central office equipment and switchboard and private
32 branch exchange equipment to telephone companies regularly engaged
33 in providing telephone service to subscribers on a commercial basis,
34 and sales to these companies of prewritten computer programs used in
35 providing telephone service to their subscribers.

36 j. Sales to commercial laundries or to pressing and dry cleaning
37 establishments of machinery used in the direct performance of the
38 laundering or the pressing and cleaning service and of parts and
39 accessories thereto.

40 k. Sales to freezer locker plants of machinery used in
41 the direct operation of said freezer locker plant and of parts
42 and accessories thereto.

43 l. Sales of broadcasting equipment and parts and accessories thereto
44 and towers to commercial radio and television companies which are

1 under the regulation and supervision of the Federal Communications
2 Commission.

3 m. Sales to farmers of bulk tobacco barns and racks and all parts
4 and accessories thereto and similar apparatus used for the
5 curing and drying of any farm produce.

6 n. Repealed by Session Laws 1987, c. 800, s. 2.

7 o. Sales to farmers of grain, feed or soybean storage facilities and
8 accessories thereto, whether or not dryers are attached, and all similar
9 apparatus and accessories thereto for the storage of grain, feed or
10 soybeans.

11 p. Repealed by Session Laws 1983, c. 805, s. 2, effective July 1,
12 1983.

13 q. Sales of containers to farmers or producers for use in the planting,
14 producing, harvesting, curing, marketing, packaging, sale, or
15 transporting or delivery of their products when such containers do not
16 go with and become part of the sale of their products at wholesale or
17 retail."

18 Sec. 4. G.S. 105-164.6(3a) reads as rewritten:

19 "(3a) Every person, firm, or corporation that purchases or acquires a motor
20 vehicle shall pay a tax at the rate of two percent (2%) of the sales price
21 of the vehicle, ~~not to exceed three hundred dollars (\$300.00) per vehicle.~~
22 This tax shall be paid to the Commissioner of Motor Vehicles when
23 applying for a certificate of title or registration plate for the vehicle. A
24 purchaser who furnishes to the Commissioner of Motor Vehicles a
25 certificate from a retailer of motor vehicles engaged in business in this
26 State stating that the purchaser has paid the tax levied on the vehicle
27 by this Article to the retailer is relieved of liability for the tax. No
28 certificate of title, or registration and license plate or plates shall be
29 issued for any motor vehicle purchased or acquired for use on the
30 streets and highways of this State unless and until the tax provided for
31 under this Article on motor vehicles has been paid. Nothing herein is
32 intended to relieve any retailer of motor vehicles engaged in business
33 in this State from his liability for collecting and remitting sales or use
34 tax on his sales of motor vehicles for use by the purchasers thereof in
35 this State and no retailer shall be absolved of this liability for his
36 failure to collect the tax from such purchasers. The Commissioner of
37 Motor Vehicles shall remit use taxes collected by him under this
38 subdivision to the Secretary.

39 The tax levied under this section applies to all owners of motor vehicles, regardless
40 whether the owner purchased or acquired the vehicle from a retailer of motor vehicles
41 and regardless whether a tax has previously been paid under this Article with respect to
42 the vehicle.

43 An owner of a motor vehicle acquired from a seller who is not a retailer shall certify
44 the sales price of the vehicle as provided in G.S. 105-164.4(1).

1 Persons who lease or rent motor vehicles shall collect and remit the tax imposed by
2 this Article on the separate retail sale of a motor vehicle in addition to the tax imposed
3 on the proceeds from the lease or rental of the motor vehicle."

4 Sec. 5. Article 5 of Chapter 105 of the General Statutes is amended by
5 adding a new section following G.S. 105-164.44C to read:

6 **"§ 105-164.44D. Tax on motor vehicles deposited in General Fund.**

7 In collecting the State sales and use taxes under this Article, the Secretary of
8 Revenue shall identify the net collections attributable to sales and use of motor vehicles
9 and shall deposit those collections directly into the Highway Fund."

10 Sec. 6. G.S. 105-164.44A reads as rewritten:

11 **"§ 105-164.44A. Tax on motor vehicle parts, accessories, and lubricants; transfer to**

12 Highway Fund.

13 ~~Sales and use taxes collected on motor vehicle items and accessories shall be~~
14 ~~transferred from the general fund to the Highway Fund as follows:~~

15 ~~On a quarterly basis during the fiscal year ending June 30, 1984, the State Treasurer~~
16 ~~shall transfer from the general fund to the Highway Fund the amount of twenty five~~
17 ~~million eight hundred thousand dollars (\$25,800,000), which represents fifteen percent~~
18 ~~(15%) of the estimated 1983-84 fiscal year sales and use tax collections from motor~~
19 ~~vehicles, motor vehicle parts, supplies, and accessories, and other transportation items.~~
20 ~~The quarterly transfers required by this section shall be made during September,~~
21 ~~December, March, and June of the fiscal year.~~

22 **"§ 105-164.44A. Tax on motor vehicle parts, accessories, and lubricants; transfer to**
23 **Highway Fund.**

24 The sales and use tax collected on motor vehicle parts, accessories, and lubricants
25 for the 1988-89 fiscal year is estimated to be seventy-three million dollars
26 (\$73,000,000), which amount shall be used to determine the amount of sales and use
27 taxes to be transferred under this section from the General Fund to the Highway Fund.

28 Sales and use taxes collected on motor vehicle parts, accessories, and lubricants shall
29 be transferred from the General Fund to the Highway Fund in the following amounts.
30 These transfers shall be made in quarterly installments within 30 days after the end of
31 each quarter.

32 (1) During the fiscal year ending June 30, 1990, the State Treasurer shall
33 transfer from the General Fund to the Highway Fund the estimated
34 amount of new General Fund revenues enacted during the 1989-90
35 legislative session, not to exceed seventy-three million dollars
36 (\$73,000,000).

37 (2) During the fiscal year ending June 30, 1991, the State Treasurer shall
38 transfer from the General Fund to the Highway Fund that portion of
39 the sum of seventy-three million dollars (\$73,000,000) which equals
40 the annualized amount transferred during the year ending June 30,
41 1990, plus any annualized estimated new revenues enacted by the
42 1989-90 legislative session and not previously transferred, plus or
43 minus the percentage of this amount by which the total collections of
sales and use tax increased or decreased over the previous year.

1 (3) During each fiscal year beginning on or after July 1, 1991, the State
2 Treasurer shall transfer from the General Fund to the Highway Fund
3 the amount transferred during the year ending June 30, 1991, plus or
4 minus the percentage of that amount by which the total collection of
5 sales or use tax increased or decreased over the previous year."

6 Sec. 7. This act shall become effective July 1, 1989.