

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1993**

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SENATE BILL 501

Short Title: Avery Occupancy Tax.

(Local)

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Sponsors: Senators Kincaid and Simpson.

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Referred to: Economic Development.

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March 17, 1993

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE AVERY COUNTY TO LEVY A ROOM OCCUPANCY  
2 AND TOURISM DEVELOPMENT TAX ON BUSINESSES IN THE COUNTY  
3 THAT ARE NOT SUBJECT TO A MUNICIPAL OCCUPANCY TAX.  
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5 The General Assembly of North Carolina enacts:

6 Section 1. Occupancy tax. (a) Authorization and scope. The Avery County Board  
7 of Commissioners may by resolution, after not less than 10 days' public notice and after  
8 a public hearing held pursuant thereto, levy a room occupancy tax of up to three percent  
9 (3%) of the gross receipts derived from the rental of any room, lodging, or  
10 accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within  
11 the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3)  
12 and is not subject to a room occupancy tax levied by a municipality. This tax is in  
13 addition to any State or local sales tax. This tax does not apply to accommodations  
14 furnished by nonprofit charitable, educational, or religious organizations.

15 (b) Collection. Every operator of a business subject to the tax levied under this  
16 section shall, on and after the effective date of the levy of the tax, collect the tax. This  
17 tax shall be collected as part of the charge for furnishing a taxable accommodation. The  
18 tax shall be stated and charged separately from the sales records, and shall be paid by  
19 the purchaser to the operator of the business as trustee for and on account of the county.  
20 The tax shall be added to the sales price and shall be passed on to the purchaser instead  
21 of being borne by the operator of the business. The county shall design, print, and  
22 furnish to all appropriate businesses and persons in the county the necessary forms for  
23 filing returns and instructions to ensure the full collection of the tax. An operator of a

1 business who collects the occupancy tax levied under this section may deduct from the  
2 amount remitted to the county a discount of three percent (3%) of the amount collected.

3 (c) Administration. The county shall administer a tax levied under this section.  
4 A tax levied under this section is due and payable to the county finance officer in  
5 monthly installments on or before the 15th day of the month following the month in  
6 which the tax accrues. Every person, firm, corporation, or association liable for the tax  
7 shall, on or before the 15th day of each month, prepare and render a return on a form  
8 prescribed by the county. The return shall state the total gross receipts derived in the  
9 preceding month from rentals upon which the tax is levied.

10 A return filed with the county finance officer under this section is not a public  
11 record as defined by G.S. 132-1 and may not be disclosed except as required by law.

12 (d) Penalties. A person, firm, corporation, or association who fails or refuses to  
13 file the return required by this section shall pay a penalty of ten dollars (\$10.00) for  
14 each day's omission. In case of failure or refusal to file the return or pay the tax for a  
15 period of 30 days after the time required for filing the return or for paying the tax, there  
16 shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to  
17 any other penalty, with an additional tax of five percent (5%) for each additional month  
18 or fraction thereof until the tax is paid. The board of commissioners may, for good  
19 cause shown, compromise or forgive the additional tax penalties imposed by this  
20 subsection.

21 Any person who willfully attempts in any manner to evade a tax imposed  
22 under this section or who willfully fails to pay the tax or make and file a return shall, in  
23 addition to all other penalties provided by law, be guilty of a misdemeanor and shall be  
24 punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to  
25 exceed six months, or both.

26 (e) Distribution and use of tax revenue. As used in this subsection, "net  
27 proceeds" means gross proceeds less the cost to the county of administering and  
28 collecting the tax, as determined by the finance officer. Avery County shall expend at  
29 least fifty percent (50%) of the net proceeds of the occupancy tax only to further the  
30 development of travel, tourism, conventions, and convention facilities in the county.  
31 The county may expend the remaining net proceeds of the occupancy tax for any public  
32 purpose.

33 (f) Effective date of levy. A tax levied under this section shall become  
34 effective on the date specified in the resolution levying the tax. That date must be the  
35 first day of a calendar month, however, and may not be earlier than the first day of the  
36 second month after the date the resolution is adopted.

37 (g) Repeal. A tax levied under this section may be repealed by a resolution  
38 adopted by the Avery County Board of Commissioners. Repeal of a tax levied under  
39 this section shall become effective on the first day of a month and may not become  
40 effective until the end of the fiscal year in which the repeal resolution was adopted.  
41 Repeal of a tax levied under this section does not affect a liability for a tax that was  
42 attached before the effective date of the repeal, nor does it affect a right to a refund of a  
43 tax that accrued before the effective date of the repeal.

44 Sec. 2. This act is effective upon ratification.