

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2003**

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**HOUSE BILL 1348**  
**Senate Finance Committee Substitute Adopted 7/12/04**

Short Title: Camden Occupancy / Hyde Meals Taxes.

(Local)

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Sponsors:

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Referred to:

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May 10, 2004

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE CAMDEN COUNTY TO LEVY A ROOM OCCUPANCY  
2 AND TOURISM DEVELOPMENT TAX AND TO AUTHORIZE HYDE  
3 COUNTY TO LEVY A PREPARED FOOD TAX.  
4

5 The General Assembly of North Carolina enacts:

6 **PART I. CAMDEN COUNTY OCCUPANCY TAX**

7 **SECTION 1.** Occupancy tax. (a) Authorization and Scope. – The Camden  
8 County Board of Commissioners may levy a room occupancy tax of up to six percent  
9 (6%) 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 This tax is in addition to any State or local sales tax. This tax does not apply to  
13 accommodations furnished by nonprofit charitable, educational, or religious  
14 organizations when furnished in furtherance of their nonprofit purpose.

15 **SECTION 1.(b)** Administration. – A tax levied under this section shall be  
16 levied, administered, collected, and repealed as provided in G.S. 153A-155. The  
17 penalties provided in G.S. 153A-155 apply to a tax levied under this section.

18 **SECTION 1.(c)** Distribution and Use of Tax Revenue. – Camden County  
19 shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Camden  
20 Tourism Development Authority. The Authority shall use at least two-thirds of the  
21 funds remitted to it under this subsection to promote travel and tourism in Camden  
22 County and shall use the remainder for tourism-related expenditures.

23 The following definitions apply in this subsection:

- 24 (1) Net proceeds. – Gross proceeds less the cost to the county of  
25 administering and collecting the tax, as determined by the finance  
26 officer, not to exceed three percent (3%) of the first five hundred  
27 thousand dollars (\$500,000) of gross proceeds collected each year and  
28 one percent (1%) of the remaining gross receipts collected each year.

1 (2) Promote travel and tourism. – To advertise or market an area or  
2 activity, publish and distribute pamphlets and other materials, conduct  
3 market research, or engage in similar promotional activities that attract  
4 tourists or business travelers to the area; the term includes  
5 administrative expenses incurred in engaging in these activities.

6 (3) Tourism-related expenditures. – Expenditures that, in the judgment of  
7 the Camden Tourism Development Authority, are designed to increase  
8 the use of lodging facilities, meeting facilities, and convention  
9 facilities in a county by attracting tourists or business travelers to the  
10 county. The term includes tourism-related capital expenditures.

11 **SECTION 2.** Tourism Development Authority. – (a) Appointment and  
12 Membership. – When the board of commissioners adopts a resolution levying a room  
13 occupancy tax under this act, it shall also adopt a resolution creating a county Tourism  
14 Development Authority, which shall be a public authority under the Local Government  
15 Budget and Fiscal Control Act. The resolution shall provide for the membership of the  
16 Authority including the members' terms of office, and for the filling of vacancies on the  
17 Authority. At least one-third of the members must be individuals who are affiliated with  
18 businesses that collect the tax in the county and at least three-fourths of the members  
19 must be individuals who are currently active in the promotion of travel and tourism in  
20 the county. The board of commissioners shall designate one member of the Authority as  
21 chair and shall determine the compensation, if any, to be paid to members of the  
22 Authority.

23 The Authority shall meet at the call of the chair and shall adopt rules of  
24 procedure to govern its meetings. The Finance Officer for Camden County shall be the  
25 ex officio finance officer of the Authority.

26 **SECTION 2.(b)** Duties. – The Authority shall expend the net proceeds of  
27 the tax levied under this act for the purposes provided in Section 1 of this act. The  
28 Authority shall promote travel, tourism, and conventions in the county, sponsor  
29 tourist-related events and activities in the county, and finance tourist-related capital  
30 projects in the county.

31 **SECTION 2.(c)** Reports. – The Authority shall report quarterly and at the  
32 close of the fiscal year to the board of commissioners on its receipts and expenditures  
33 for the preceding quarter and for the year in such detail as the board may require.

34 **SECTION 3.** G.S. 153A-155(g) reads as rewritten:

35 "(g) This section applies only to Anson, Brunswick, Buncombe, Cabarrus,  
36 Camden, Carteret, Craven, Cumberland, Currituck, Dare, Davie, Durham, Granville,  
37 Madison, Montgomery, Nash, New Hanover, Pender, Person, Randolph, Richmond,  
38 Rowan, Scotland, Stanly, Transylvania, Tyrrell, Vance, and Washington Counties, and  
39 to the Township of Averasboro in Harnett County."

#### 40 **PART II. HYDE COUNTY MEALS TAX**

41 **SECTION 4.** Authorization. – The Hyde County Board of Commissioners  
42 may, by resolution, levy a prepared food tax of up to one percent (1%) of the sales price  
43 of prepared food sold within the county at retail for consumption on or off the premises  
44 by a retailer subject to sales tax under G.S. 105-164.4(a)(1). This tax is in addition to

1 State and local sales tax. Before adopting a resolution under this section, the board of  
2 commissioners must give at least 10 days' public notice of its intent to adopt the  
3 resolution and must hold a public hearing on the issue of adopting the resolution.

4 **SECTION 5.** Definitions. – The definitions in G.S. 105-164.3 apply in this  
5 act. In addition, the term "net proceeds" means gross proceeds less the cost to the county  
6 of administering and collecting the tax.

7 **SECTION 6.** Exemptions. – The prepared food tax does not apply to the  
8 following sales of prepared food:

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

23 **SECTION 7.** Collection. – Every retailer subject to the tax levied under this  
24 act shall, on and after the effective date of the levy of the tax, collect the tax. This tax  
25 shall be collected as part of the charge for furnishing prepared food. The tax shall be  
26 stated separately on the sale document and shall be paid by the purchaser to the retailer  
27 as trustee for and on account of the county. The tax shall be added to the sales price and  
28 passed on to the purchaser instead of being borne by the retailer. The county shall  
29 design, print, and furnish to all appropriate businesses and persons in the county the  
30 necessary forms for filing returns and instructions to ensure the full collection of the tax.

31 For the convenience of retailers, the county shall determine the amount to be  
32 added to the sales price of sales subject to the prepared food tax. The amounts shall be  
33 set forth in a bracket system and distributed to each retailer responsible for collecting  
34 the prepared food tax. The use of the bracket system does not relieve the retailer from  
35 the duty of collecting and remitting an amount equal to the prepared food tax.

36 **SECTION 8.** Administration. – The county shall administer a tax levied  
37 under this Part. A tax levied under this Part is due and payable to the county finance  
38 officer in monthly installments on or before the 20th day of the month following the  
39 month in which the tax accrues. Every person, firm, corporation, or association liable  
40 for the tax shall, on or before the 20th day of each month, prepare and render a return on  
41 a form prescribed by the county. The return shall state the total gross receipts derived in  
42 the preceding month from sales upon which the tax is levied.

43 A return filed with the county finance officer under this Part is not a public  
44 record and may not be disclosed except in accordance with G.S. 153A-148.1.

1           **SECTION 9.** Refunds. – The county shall refund to a nonprofit or  
2 governmental entity the prepared food tax paid by the entity on eligible purchases of  
3 prepared food. A nonprofit or governmental entity's purchase of prepared food is  
4 eligible for a refund under this section if the entity is entitled to a refund under  
5 G.S. 105-164.14 of the sales and use tax paid on the purchase. The time limitations,  
6 application requirements, penalties, and restrictions provided in G.S. 105-164.14(b) and  
7 (d) apply to refunds to nonprofit entities; the time, limitations, application requirements,  
8 penalties, and restrictions provided in G.S. 105-164.14(c), (d), and (e) apply to refunds  
9 to governmental entities. When an entity applies for a refund of the prepared food tax  
10 paid by it on purchases, it must attach to its application a copy of the application  
11 submitted to the Department of Revenue under G.S. 105-164.14 for a refund of the sales  
12 and use tax on the same purchases. An applicant for a refund under this section shall  
13 provide any information required by the county to substantiate the claim.

14           **SECTION 10.** Penalties. – The uniform meals tax penalty provisions of  
15 G.S. 153A-154.1 apply to a tax levied under this Part.

16           **SECTION 11.** Effective Date of Levy. – A tax levied under this Part shall  
17 become effective on the date specified in the resolution levying the tax. The date must  
18 be the first day of a calendar month and may not be before the first day of the second  
19 month after the date the resolution is adopted.

20           **SECTION 12.** Repeal. – A tax levied under this Part may be repealed by a  
21 resolution adopted by the Hyde County Board of Commissioners. Repeal of a tax levied  
22 under this Part shall become effective on the first day of a month and may not become  
23 effective until the end of the fiscal year in which the repeal resolution is adopted. Repeal  
24 of a tax levied under this Part does not affect a liability for a tax that attached before the  
25 effective date of the repeal, nor does it affect a right to a refund of a tax that accrued  
26 before the effective date of the repeal.

27 **PART III. EFFECTIVE DATE**

28           **SECTION 13.** This act is effective when it becomes law.