

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

FILED SENATE
May 26, 2022
S.B. 852
PRINCIPAL CLERK

S

D

SENATE BILL DRS45542-NIF-28

Short Title: Tax Relief on Essentials for Working Families. (Public)

Sponsors: Senators Mohammed, Murdock, and Mayfield (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO EXEMPT FEMININE HYGIENE PRODUCTS, DIAPERS, AND GROCERIES
3 FROM SALES TAX.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 105-164.3 is amended by adding two new subdivisions to read:

6 "(88) Feminine hygiene products. – Tampons, panty liners, menstrual cups, sanitary
7 napkins, and other similar tangible personal property designed for feminine
8 hygiene in connection with the human menstrual cycle but does not include
9 "grooming and hygiene products."

10 ...

11 (94) Grooming and hygiene products. – Soaps and cleaning solutions, shampoo,
12 toothpaste, mouthwash, antiperspirants, suntan lotions, and sunscreens,
13 regardless of whether the items meet the definition of "over-the-counter
14 drugs."

15 **SECTION 2.** G.S. 105-164.13 reads as rewritten:

16 "§ 105-164.13. Retail sales and use tax.

17 ...

18 (13d) Sales of children or adult diapers or incontinence ~~underpads on prescription~~
19 ~~by an enrolled State Medicaid/Health Choice provider for use by beneficiaries~~
20 ~~of the State Medicaid program when the provider is reimbursed by the State~~
21 ~~Medicaid program or a Medicaid managed care organization, as defined in 42~~
22 ~~U.S.C. § 1396b(m).~~ underpads.

23 (13e) Feminine hygiene products.

24"

25 **SECTION 3.** G.S. 105-164.13B reads as rewritten:

26 "§ 105-164.13B. Food exempt from tax.

27 (a) State Exemption. – Food is exempt from the taxes imposed by this Article unless the
28 food is included in one of the subdivisions in this subsection. The following food items are
29 subject to tax:

30 (1) Repealed by Session Laws 2005-276, s. 33.10, effective October 1, 2005.

31 (2) Dietary supplements.

32 (3) Food sold through a vending machine.

33 (4) Prepared food, other than bakery items sold without eating utensils by an
34 artisan bakery. The term "bakery item" includes bread, rolls, buns, biscuits,
35 bagels, croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins,



bars, cookies, and tortillas. An artisan bakery is a bakery that meets all of the following requirements:

- a. It derives over eighty percent (80%) of its gross receipts from bakery items.
- b. Its annual gross receipts, combined with the gross receipts of all related persons, do not exceed one million eight hundred thousand dollars (\$1,800,000). For purposes of this subdivision, the term "related person" means a person described in one of the relationships set forth in section 267(b) or 707(b) of the Code.

(5) Soft drinks.

(6) Repealed by Session Laws 2003-284, s. 45.6B, effective January 1, 2004.

(7) Candy.

~~(b) Administration of Local Food Tax.—The Secretary must administer local sales and use taxes imposed on food as if they were imposed under this Article. This applies to local taxes on food imposed under Subchapter VIII of this Chapter and under Chapter 1096 of the 1967 Session Laws."~~

SECTION 4. G.S. 105-467 reads as rewritten:

"§ 105-467. Scope of sales tax.

(a) Sales Tax. – The sales tax that may be imposed under this Article is limited to a tax at the rate of one percent (1%) of the following:

...

~~(5) The sales price of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but is exempt from the State sales and use tax pursuant to G.S. 105-164.13B.~~

~~(5a) The sales price of a bundled transaction that includes food subject to tax under subdivision (5) of this subsection, if the price of the food exceeds ten percent (10%) of the price of the bundle. A retailer must determine the price of food in a bundled transaction in accordance with G.S. 105-164.4D.~~

...

(b) Exemptions and Refunds. – The State exemptions and exclusions contained in Article 5 of Subchapter I of this Chapter, ~~except for including~~ the exemption for food in G.S. 105-164.13B, apply to the local sales and use tax authorized to be levied and imposed under this Article. The State refund provisions contained in G.S. 105-164.14 and G.S. 105-164.14A apply to the local sales and use tax authorized to be levied and imposed under this Article. A refund of an excessive or erroneous State sales tax collection allowed under G.S. 105-164.11 and a refund of State sales tax paid on a rescinded sale or cancelled service contract under G.S. 105-164.11A apply to the local sales and use tax authorized to be levied and imposed under this Article. The aggregate annual local refund amount allowed an entity under G.S. 105-164.14(b) for the State's fiscal year may not exceed thirteen million three hundred thousand dollars (\$13,300,000).

Except as provided in this subsection, a taxing county may not allow an exemption, exclusion, or refund that is not allowed under the State sales and use tax. A local school administrative unit and a joint agency created by interlocal agreement among local school administrative units pursuant to G.S. 160A-462 to jointly purchase food service-related materials, supplies, and equipment on their behalf is allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases of items. Sales and use tax liability indirectly incurred by the entity as part of a real property contract for real property that is owned or leased by the entity and is a capital improvement for use by the entity is considered a sales or use tax liability incurred on direct purchases by the entity for the purpose of this subsection. The refund allowed under this subsection does not apply to purchases of electricity, telecommunications service, ancillary service, piped natural gas, video programming, or a prepaid meal plan. A request for a refund is

1 due in the same time and manner as provided in G.S. 105-164.14(c). Refunds applied for more
2 than three years after the due date are barred.

3"

4 **SECTION 5.** G.S. 105-164.3(15) reads as rewritten:

5 "(15) Amenity. – A feature that increases the value or attractiveness of an
6 entertainment activity that allows a person access to items that are not subject
7 to tax under this Article and that are not available with the purchase of
8 admission to the same event without the feature. The term includes parking
9 privileges, special entrances, access to areas other than general admission,
10 mascot visits, and merchandise discounts. The term does not include any
11 charge for ~~food, prepared food, and~~ food or alcoholic beverages subject to tax
12 under this Article."

13 **SECTION 6.** This act becomes effective October 1, 2022, and applies to sales made
14 on or after that date.