

Thank you Mr. Chairman. My name is Andy Ellen and I am General Counsel for the North Carolina Retail Merchants Association.

At the November 19th meeting of this committee, Chris McLaughlin of the UNC School of Government, presented information on North Carolina's archaic form of state and local privilege license taxes. Mr. McLaughlin gave you a detailed overview of the inconsistencies both in how and to whom these taxes are applied at the local government level. Some businesses are specifically exempted from local privilege license taxes, some businesses are subject to limited or capped local privilege licenses and some business because they are not specifically referenced in a law repealed in the late 1990s carry the large portion of the local privilege license tax burden. The NC Supreme Court Library may be the only place in Raleigh you can actually find the law setting out which businesses are specifically exempted from local privilege license taxes and which businesses are subject to limited local privilege license taxes.

Let me read to you a telling quote from the UNC Institute of Government's 54-page *North Carolina City and County Privilege License Tax Book*. "Those who administer the privilege license tax must resign themselves to its many inequities and trust that the General Assembly will either remedy its shortcomings or replace the tax with another source of local revenue." I do not know if the quote is more profound or the fact that it takes 54-pages to explain how to implement a local privilege license tax.

In many instances municipalities are imposing gross receipts taxes upon some businesses but not other businesses operating within their borders due to the exemptions previously referenced. Some towns levy a reasonable flat privilege license tax. In the case of Dunn, a business is subject to a \$30 local privilege license tax. Some cities cap their local privilege license taxes. For example, Charlotte caps its local privilege license tax at \$10,000. Other cities, such as Durham, have no cap on the gross receipt tax which can be imposed upon local businesses.

But let me put this in perspective, in any Charlotte strip center a grocery store could pay \$10,000 in local privilege license taxes based upon its gross receipts. A neighboring dentist or chiropractic office in the same shopping center would pay no local privilege license taxes because these businesses are specifically exempted from local privilege license taxes and a neighboring Check-Cashing Business would pay a maximum of \$100 in local privilege license taxes as capped by state statute. Ironically, the only one of these three businesses that is collecting local sales tax for Charlotte and Mecklenburg County for free is also the business carrying the heaviest burden of the local privilege license taxes even though they likely use no more city services than the other two businesses.

Looking deeper at many of the proposed or adopted gross receipt taxes you see further inequity. In Mooresville the proposed gross receipts tax was to be applied to all retail businesses except those located in the downtown area. In Sanford, the gross receipts tax that did not apply to restaurants was pushed by a city councilman that owned a restaurant.

Another inequity is how the gross receipts privilege license taxes are calculated. Any retailer will tell you that there is a great difference between gross receipt and gross margin. Any one of us that made a trip to the mall over the holidays noticed that while retailers may have been making a fair amount of sales they were selling goods at prices that did not provide much profit margin. Some retailers like a grocery store have high sales volume because their shelves turn so often but they operate on a one to two percent margin. These local privilege license taxes take another chunk out of these small margins.

Another example - pharmacies receive \$10 and \$25 co-pays from customers all day long. However, while these co-pays are gross receipts for purposes of local privilege license taxes, these co-pays are merely passed-through to the insurance company because the insurance company ultimately subtracts these co-pays from the pharmacy's reimbursement. It is an "in and out transaction" but I pay this gross receipts tax on the \$25 I do not get to keep. I also pay a gross receipts tax on the sales tax that I am collecting for the state and local governments – in other words, retailers are being taxed on the taxes they collect for free. Speaking of sales tax, if you open up the General Statutes, the sales and use tax is actually a privilege license on the retailer so the retailer is subject to multiple sales and use tax.

The local privilege license is definitely in need of being restructured and maybe should be scrapped altogether and replaced with a uniform system of privilege license taxes just like has been done with sales and use tax and property taxes. Let me read that quote to you once more time that I read earlier, "Those who administer the privilege license tax must resign themselves to its many inequities and trust that the General Assembly will either remedy its shortcomings..." Now is the time for the remedy.