

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1286

Short Title: Raise Tobacco Tax/Referendum.

(Public)

Sponsors: Representatives Stamey; and Easterling.

Referred to: Courts, Justice, Constitutional Amendments & Referenda.

May 10, 1991

A BILL TO BE ENTITLED
AN ACT TO INCREASE TAXES ON TOBACCO TO PROVIDE FUNDS FOR
EDUCATION, SUBJECT TO APPROVAL BY THE VOTERS OF THE STATE.

The General Assembly of North Carolina enacts:

PART I.

INCREASE CIGARETTE TAX

Section 1. G.S. 105-113.5 reads as rewritten:

"§ 105-113.5. Privilege tax levied.

In addition to all other taxes and fees, a tax is hereby levied upon the sale or possession for sale within this State, by distributors, of all cigarettes at the rate of ~~one mill~~ six mills per individual cigarette.

The tax hereby levied shall not apply to free distribution of sample cigarettes in packages containing five or fewer cigarettes nor to any package of cigarettes customarily donated free of charge by manufacturers of cigarettes to employees in factories where cigarettes are manufactured in this State where such packages of cigarettes are not taxed by the federal government."

PART II.

CIGARETTE MANUFACTURER'S TAX

Sec. 2. Article 2 of Chapter 105 of the General Statutes is amended by inserting a new section before G.S. 105-103 to read:

"§ 105-102.6. Cigarette manufacturers.

(a) Tax. Every person engaged in the business of manufacturing cigarettes shall apply for and obtain from the Secretary of Revenue a license for the privilege of doing business in this State. The manufacturer shall pay a tax of five dollars (\$5.00) for this

1 license. In addition, the manufacturer shall, within 10 days after the last day of each
2 month, report to the Secretary the number of cigarettes made by the manufacturer
3 during the month and pay a tax at the rate of one mill for each cigarette manufactured.
4 This additional tax is due when the report is filed. No county, city, or town may impose
5 a license tax on the business taxed under this section.

6 (b) Cigarette Defined. As used in this section, 'cigarette' means:

7 (1) A roll of tobacco wrapped in paper or another substance that does not
8 contain tobacco.

9 (2) A roll of tobacco wrapped in a substance that contains tobacco and
10 that, because of its appearance, the type of tobacco used in the filler, or
11 its packaging or labeling, is likely to be offered to or purchased by a
12 consumer as a cigarette described in subdivision (1)."

13 Sec. 3. G.S. 105-109.1 reads as rewritten:

14 **"§ 105-109.1. Interest.**

15 ~~With respect to the~~ The taxes on gross receipts levied in G.S. 105-37.1(a), 105-38(f),
16 and 105-65.1(b)(2), and the tax on installment paper dealers levied in G.S. 105-83(b),
17 and the tax on cigarette manufacturers levied in G.S. 105-102.6 all such taxes, including
18 assessments of taxes or additional taxes, shall bear interest at the rate established under
19 G.S. 105-241.1(i) from the time the taxes were due until the taxes are paid. such taxes
20 were due to have been paid until paid, at rates established pursuant to G.S. 105-241.1(i)."

21 Sec. 4. Article 2A of Chapter 105 of the General Statutes is repealed.

22 Sec. 5. The Secretary of Revenue shall redeem any unused or mutilated but
23 identifiable tax stamps purchased pursuant to Article 2A of Chapter 105 of the General
24 Statutes that a taxpayer presents for redemption and shall refund the face value of the
25 stamps, less the discount allowed at the time of the purchase of the stamps by the
26 taxpayer.

27 **PART III.**

28 **TOBACCO SEVERANCE TAX**

29 Sec. 6. Article 2 of Chapter 105 of the General Statutes is amended by
30 inserting a new section before G.S. 105-103 to read:

31 **"§ 105-102.6. Tobacco growers.**

32 (a) Tax. Every person engaged in the business of growing tobacco in this State
33 shall apply for and obtain from the Secretary of Revenue a license for the privilege of
34 doing business in this State. The grower shall pay a tax of five dollars (\$5.00) for this
35 license. In addition, the grower shall, on or before September 1 of each year, report to
36 the Secretary the number of pounds of tobacco severed by the grower during the
37 preceding year and pay a tax at the rate of one dollar for each hundred pounds of
38 tobacco severed. This additional tax is due when the report is filed. No county, city, or
39 town may impose a license tax on the business taxed under this section.

40 (b) Definitions. The following definitions apply in this section:

41 (1) Severed. Removed from the soil or removed from a plant that is in the
42 soil.

43 (2) Tobacco. Bright, flue-cured tobacco."

44 Sec. 7. G.S. 105-109.1 reads as rewritten:

1 **"§ 105-109.1. Interest.**

2 ~~With respect to the~~ The taxes on gross receipts levied in G.S. 105-37.1(a), 105-38(f),
 3 and 105-65.1(b)(2), ~~and the tax on installment paper dealers levied in G.S. 105-83(b),~~
 4 and the tax on tobacco growers levied in G.S. 105-102.6 all such taxes, including
 5 assessments of taxes or additional taxes, shall bear interest at the rate established under
 6 G.S. 105-241.1(i) from the time the taxes were due until the taxes are paid. such taxes
 7 were due to have been paid until paid, at rates established pursuant to G.S. 105-241.1(i)."

8 **PART IV.**9 **USE OF TAX PROCEEDS**

10 Sec. 8. The purpose of the additional taxes levied in this act is to provide
 11 revenue for education. Any additional revenue generated by this act shall be
 12 appropriated annually only for public schools, community colleges, and The University
 13 of North Carolina system.

14 **PART V.**15 **REFERENDUM**

16 Sec. 9. The questions of (i) whether taxes on tobacco shall be increased to
 17 provide funds for education and, if so, (ii) whether the tax increase set forth in Part I,
 18 Part II, or Part III of this act shall be enacted, shall be submitted to the qualified voters
 19 of the State at an election on November 5, 1991, which shall be conducted under the
 20 laws then governing elections in the State.

21 Sec. 10. At that election, the form of the ballot shall be:

22 **QUESTION ONE:**

23 FOR increase in cigarette or tobacco tax to provide funds that shall be
 24 used only for public schools, community colleges, and The University
 25 of North Carolina system.

26 AGAINST increase in cigarette or tobacco tax to provide funds that
 27 shall be used only for public schools, community colleges, and The
 28 University of North Carolina system."
 29

30 **QUESTION TWO:**

31 If there is to be an increase in cigarette or tobacco tax to provide funds
 32 that shall be used only for public schools, community colleges, and The
 33 University of North Carolina system, shall the increase be: [CHOOSE
 34 ONLY ONE]

35 An increase in the tax on cigarettes sold in this State from two cents
 36 (2¢) per pack to twelve cents (12¢) per pack.

37 A tax of two cents (2¢) per pack on each pack of cigarettes
 38 manufactured in this State, in lieu of the current tax of two cents (2¢)
 39 per pack on each pack of cigarettes sold in this State.

40 A tax on tobacco growers of one dollar (\$1.00) per one hundred
 41 pounds of tobacco grown in this State."

42 Sec. 11. If a majority of the votes cast on question one are opposed to the
 43 cigarette or tobacco tax increase proposed in that question, then the provisions of Parts
 44 I, II, and III of this act do not become effective. If a majority of the votes cast on

1 question one are in favor of the cigarette or tobacco tax increase proposed in that
2 question, and one of the options set forth in question two receives more votes than the
3 other two options, than the Part of this act that corresponds to that option becomes
4 effective January 1, 1992. For the purpose of this section, the first option in question
5 two corresponds to Part I of this act, the second option in question two corresponds to
6 Part II of this act, and the third option in question two corresponds to Part III of this act.
7 If a majority of the votes cast on question one are in favor of the cigarette or tobacco tax
8 increase proposed in that question, there is a tie between two or more of the options set
9 forth in question two, and the tying options receive no less than the number of votes of
10 the other option, then the Parts of this act corresponding to the options that received a
11 tie vote become effective January 1, 1992, except that the tax rate in each Part shall be
12 divided by the number of options that received a tie vote.

13 **PART VI.**

14 **EFFECTIVE DATES**

15 Sec. 12. This act is effective upon ratification. The first monthly report
16 required by G.S. 105-102.6(a), if enacted by Part I of this act, is due on or before
17 February 10, 1992.

18 Sec. 13. This act does not affect the rights or liabilities of the State, a
19 taxpayer, or another person arising under a statute repealed by this act before its repeal;
20 nor does it affect the right to any refund or credit of a tax that would otherwise have
21 been available under the repealed statute before its repeal. Prosecutions for offenses
22 committed before the effective date of this act are not abated or affected by this act, and
23 the statutes that would be applicable but for this act remain applicable to those
24 prosecutions.