

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1758*

Short Title: Raise Averagesboro Room Tax.

(Local)

Sponsors: Representatives Davis and Cox.

Referred to: Rules, Calendar, and Operations of the House.

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE HARNETT COUNTY TO INCREASE THE OCCUPANCY TAX IN AVERASBORO TOWNSHIP.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 142 of the 1987 Session Laws reads as rewritten:

"Section 1. Occupancy Tax. (a) Authorization and scope. The Harnett County Board of Commissioners may by resolution, after not less than ten (10) days' public notice and after a public hearing held pursuant thereto, levy a room occupancy tax in an amount not to exceed three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within Averagesboro Township that is subject to sales tax imposed by the State under G.S. ~~105-164.4(3)~~-105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious institutions or organizations.

(a1) Authorization of additional tax. In addition to the tax authorized by subsection (a) of this section, the Harnett County Board of Commissioners may levy an additional room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) in Averagesboro Township. The levy, collection, administration, and repeal of the tax authorized by this subsection shall

1 be in accordance with the provisions of this section. Harnett County may not levy a tax
2 under this subsection unless it also levies the tax authorized under subsection (a) of this
3 section.

4 (b) Collection. Every operator of a business subject to the tax levied under this act
5 shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall
6 be collected as part of the charge for furnishing a taxable accommodation. The tax shall
7 be stated and charged separately from the sales records, and shall be paid by the
8 purchaser to the operator of the business as trustee for and on account of the township.
9 The tax shall be added to the sales price and shall be passed on to the purchaser instead of
10 being borne by the operator of the business. ~~As compensation for collecting a tax levied~~
11 ~~under this act, the operator of a business subject to the tax may retain three percent (3%) of the~~
12 ~~total tax collected by the operator each month.~~ An operator of a business who collects a tax
13 levied under this act may deduct from the amount remitted to the taxing county a
14 discount equal to the discount the State allows the operator for State sales and use tax.

15 (c) Administration. For the purpose of levying and administering the tax
16 authorized by this act, Averagesboro Township shall be a body politic and corporate and
17 shall have the power to carry out the provisions of this act. The Harnett County Board of
18 Commissioners shall serve, ex officio, as the governing body of the Township, and the
19 officers of the board of commissioners shall serve as the officers of the governing body
20 of the township. A simple majority of the governing body constitutes a quorum, and
21 approval by a majority of those present is sufficient to determine any matter before the
22 governing body, if a quorum is present.

23 The Harnett County Board of Commissioners, as the governing body of Averagesboro
24 Township, shall administer a tax levied under this act. A tax levied under this act is due
25 and payable to the county finance officer in monthly installments on or before the 15th
26 day of the month following the month in which the tax accrues. The township shall
27 design, print, and furnish to all appropriate businesses and persons in the township the
28 necessary forms for filing returns and instructions to ensure the full collection of the tax.
29 Every person, firm, corporation, or association liable for the tax shall, on or before the
30 15th day of each month, prepare and render a return on a form prescribed by the
31 township. The return shall state the total gross receipts derived in the preceding month
32 from rentals upon which the tax is levied.

33 A return filed with the county finance officer under this act is not a public record as
34 defined by G.S. 132-1 and ~~may not be disclosed except as required by law.~~ and may not be
35 disclosed except in accordance with G.S. 153A-148.1.

36 (d) Penalties. A person, firm, corporation, or association who fails or refuses to
37 file the return required by this act ~~shall pay a penalty of ten dollars (\$10.00) for each~~
38 ~~day's omission. In case of failure or refusal to file the return or pay the tax for a period of~~
39 ~~thirty (30) days after the time required for filing the return or for paying the tax, there~~
40 ~~shall be an additional tax, as a penalty, of five percent (5%) of the tax due for each~~
41 ~~additional month or fraction thereof until the tax is paid.~~

42 ~~Any person who willfully attempts in any manner to evade a tax imposed under this~~
43 ~~act or who willfully fails to pay the tax or make and file a return shall, in addition to all~~

1 ~~other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a~~
2 ~~fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six months,~~
3 ~~or both. The board of commissioners may, for good cause shown, compromise or forgive~~
4 ~~the penalties imposed by this subsection, or pay the tax as required by law is subject to~~
5 ~~the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for~~
6 ~~State sales and use taxes. The Board of Commissioners of Harnett County has the same~~
7 ~~authority to waive the penalties for a tax levied under this section that the Secretary of~~
8 ~~Revenue has to waive the penalties for State sales and use taxes.~~

9 (e) Distribution and use of tax revenue. The township shall, on a quarterly basis,
10 remit the net proceeds of the occupancy tax to the Averasboro Township Tourism
11 Development Authority. The Authority may spend funds remitted to it under this
12 subsection only to develop, promote, and advertise travel and tourism in Averasboro
13 Township, to sponsor tourist-oriented events and activities for Averasboro Township, to
14 operate and maintain museums and historic sites throughout Averasboro Township, and
15 to purchase, operate, and maintain a convention facility for Averasboro Township. As
16 used in this subsection, 'net proceeds' means gross proceeds less the cost to the township
17 of administering and collecting the tax, as determined by the finance officer.

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

22 (g) Repeal. A tax levied under this act may be repealed by a resolution adopted by
23 the Harnett County Board of Commissioners. Repeal of a tax levied under this act does
24 not affect a liability for a tax that attached before the effective date of the repeal, nor does
25 it affect a right to a refund of a tax that accrued before the effective date of the repeal."

26 Section 2. This act is effective when it becomes law.