

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 689

Short Title: Monroe Meals Tax.

(Local)

Sponsors: Representative Gibson.

Referred to: Finance.

March 17, 2005

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE CITY OF MONROE TO LEVY A PREPARED
2 FOOD TAX.

3
4 The General Assembly of North Carolina enacts:

5 **SECTION 1.(a)** Authority; Vote. – If the majority of those voting on the
6 question pursuant to this section vote for the levy of the tax, the Monroe City Council
7 may, by ordinance, levy a prepared food tax of up to one percent (1%) of the sales price
8 of prepared food sold within the City of Monroe at retail for consumption on or off the
9 premises by a retailer subject to sales tax under G.S. 105-164(a)(1). This tax is in
10 addition to State and local sales tax.

11 The Monroe City Council may direct the county board of elections to submit
12 to the qualified voters of the city at the 2006 municipal election the question of whether
13 to levy a local prepared food tax of one percent (1%) as provided in this section. The
14 election must be held on a date jointly agreed upon by the boards and held in
15 accordance with the procedures of G.S. 163-287. The question to be used in the voting
16 systems and ballots shall be:

17 style="text-align:center">"[] FOR [] AGAINST

18 One percent (1%) local prepared food and beverage tax, in addition to the
19 current local sales and use taxes, to be used for the Civic Center Project for the City of
20 Monroe."

21 **SECTION 1.(b)** Definitions; Sales and Use Tax Statutes. – The definitions
22 in G.S. 105-164.3 apply to this section to the extent they are not inconsistent with the
23 provisions of this section. The provisions of Article 5 and Article 9 of Chapter 105 of
24 the General Statutes apply to this section to the extent they are not inconsistent with the
25 provisions of this section.

26 **SECTION 1.(c)** Exemptions. – The prepared food tax does not apply to the
27 following sales of prepared food:

- 28 (1) Prepared food served to residents in boarding houses and sold together
29 on a periodic basis with rental of a sleeping room or lodging.

- 1 (2) Retail sales exempt from taxation under G.S. 105-164.13.
- 2 (3) Retail sales through or by means of vending machines.
- 3 (4) Prepared food served by a retailer subject to the local occupancy tax if
- 4 the charge for the meals or prepared food or drink is included in a
- 5 single, nonitemized sales price together with the charge for rental of a
- 6 room, lodging, or accommodation furnished by the retailer.
- 7 (5) Prepared food furnished without charge by an employer to an
- 8 employee.
- 9 (6) Retail sales by grocers or by grocery sections of supermarkets or other
- 10 diversified retail establishments, other than sales of prepared food in
- 11 the delicatessen or similar department of the grocer or grocery section.
- 12 (7) Prepared food served on a federal military reservation.

13 **SECTION 1.(d)** Collection. – Every retailer subject to the tax levied under
14 this section shall, on and after the effective date of the levy of the tax, collect the tax.
15 This tax shall be collected as part of the charge for furnishing prepared food. The tax
16 shall be stated separately on the sale document and shall be paid by the purchaser to the
17 retailer as trustee for and on account of the city. The tax shall be added to the sales
18 price and shall be passed on to the purchaser instead of being borne by the retailer. The
19 city shall design, print, and furnish to all appropriate businesses and persons in the city
20 the necessary forms for filing returns and instructions to ensure the full collection of the
21 tax.

22 **SECTION 1.(e)** Administration. – The city shall administer a tax levied
23 under this section. A tax levied under this section is due and payable to the city's
24 director of finance and administration in monthly installments on or before the 15th day
25 of the month following the month in which the tax accrues. Every retailer liable for the
26 tax shall, on or before the 15th day of each month, prepare and render a return on a form
27 prescribed by the city. The return shall show the total gross receipts derived in the
28 preceding month from sales to which the tax applies.

29 A return filed with the city's director of finance and administration under this
30 section is not a public record and may not be disclosed except in accordance with
31 G.S. 160A-208.1.

32 **SECTION 1.(f)** Refunds. – The city shall refund to a nonprofit or
33 governmental entity the prepared food tax paid by the entity on eligible purchases of
34 prepared food. A nonprofit or governmental entity's purchase of prepared food is
35 eligible for a refund under this subsection if the entity is entitled to a refund under
36 G.S. 105-164.14(b) or (c) of local sales and use tax paid on the purchase or if the sale is
37 exempt under G.S. 105-164.13. The time limitations, application requirements,
38 penalties, and restrictions provided in G.S. 105-164.14(b) and (d) apply to refunds to
39 nonprofit entities; the time, limitations, application requirements, penalties, and
40 restrictions provided in G.S. 105-164.14(c) and (d) apply to refunds to governmental
41 entities. When an entity applies for a refund of the prepared food tax paid by it on
42 purchases, it must attach to its application a copy of the application submitted to the
43 Department of Revenue under G.S. 105-164.14 for a refund of the sales and use tax on
44 the same purchases or a written statement that the purchases were exempt from the tax.

1 An applicant for a refund under this subsection must provide any information required
2 by the city to substantiate the claim.

3 **SECTION 1.(g)** Penalties. – A person, firm, corporation, or association who
4 fails or refuses to file the return or pay the tax required by this section is subject to the
5 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 Monroe City Council has the same authority to waive the
7 penalties for a tax levied under this section that the Secretary of Revenue has to waive
8 the penalties for State sales and use taxes.

9 **SECTION 1.(h)** Use of Proceeds. – The City of Monroe must use the
10 proceeds of a tax levied under this section for the construction, operation, and
11 maintenance of a civic center.

12 **SECTION 1.(i)** Effective Date of Levy. – A tax levied under this section
13 shall become effective on the date specified in the ordinance levying the tax. The date
14 must be the first day of a calendar month and may not be before the first day of the
15 fourth month after the date the ordinance is adopted.

16 **SECTION 1.(j)** Repeal. – A tax levied under this section may be repealed by
17 an ordinance adopted by the Monroe City Council. Any repeal shall become effective
18 on the first day of a month and may not become effective until the end of the fiscal year
19 in which the repeal ordinance is adopted. Repeal of a tax levied under this section does
20 not affect a liability for a tax that attached before the effective date of the repeal, nor
21 does it affect a right to a refund of a tax that accrued before the effective date of the
22 repeal.

23 **SECTION 2.** This act is effective when it becomes law.