

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 221
HOUSE BILL 11

AN ACT TO APPLY THE TIRE TAX, USED TO PAY FOR THE DISPOSAL OF
SCRAP TIRES, TO NEW TIRES FOR ROAD CONSTRUCTION EQUIPMENT
AND OTHER NEW VEHICLE TIRES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 105 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 5B.

"Scrap Tire Disposal Tax.

"§ 105-187.15. Definitions.

The definitions in G.S. 105-164.3 apply to this Article, except that the term 'sale' does not include lease or rental, and the following definitions apply to this Article:

- (1) Scrap tire. A tire that is no longer suitable for its original, intended purpose because of wear, damage, or defect.
- (2) Tire. A continuous solid or pneumatic rubber covering encircling a wheel.

"§ 105-187.16. Tax imposed.

A privilege tax is imposed on a tire retailer at the rate of one percent (1%) of the sales price of each new tire sold at retail by the retailer. A privilege tax is imposed on a tire retailer and on a tire wholesale merchant at the rate of one percent (1%) of the sales price of each new tire sold by the retailer or wholesale merchant to a wholesale merchant or retailer for placement on a vehicle offered for sale, lease, or rental by the retailer or wholesale merchant. An excise tax is imposed on a new tire purchased for storage, use, or consumption in this State or for placement in this State on a vehicle offered for sale, lease, or rental. This excise tax is at the rate of one percent (1%) of the cost price of the tire. These taxes are in addition to all other taxes.

"§ 105-187.17. Administration.

The privilege tax this Article imposes on a tire retailer who sells new tires at retail is an additional State sales tax and the excise tax this Article imposes on the storage, use, or consumption of a new tire in this State is an additional State use tax. Except as otherwise provided in this Article, these taxes shall be collected and administered in the same manner as the State sales and use taxes imposed by Article 5 of this Chapter. As under Article 5 of this Chapter, the additional State sales tax paid when a new tire is sold is a credit against the additional State use tax imposed on the storage, use, or consumption of the same tire.

The privilege tax this Article imposes on a tire retailer and on a tire wholesale merchant who sell new tires for placement in this State on a vehicle offered for sale, lease, or rental is a tax on the wholesale sale of the tires. This tax and the excise tax this Article imposes on a new tire purchased for placement in this State on a vehicle offered for sale, lease, or rental shall, to the extent practical, be collected and administered as if they were additional State sales and use taxes. The privilege tax paid when a new tire is sold for placement on a vehicle offered for sale, lease, or rental is a credit against the use tax imposed on the purchase of the same tire for placement in this State on a vehicle offered for sale, lease, or rental.

"§ 105-187.18. Exemptions.

The taxes imposed by this Article do not apply to:

- (1) Bicycle tires and other tires for vehicles propelled by human power.
- (2) Recapped tires.

The exemptions in G.S. 105-164.13 and the refunds allowed in G.S. 105-164.14 do not apply to the taxes imposed by this Article.

"§ 105-187.19. Use of tax proceeds.

The Secretary shall distribute the taxes collected under this Article, less the cost of collecting the taxes, in accordance with this section. The Secretary shall retain the cost of collection as reimbursement to the Department of Revenue.

Each quarter, the Secretary shall credit ten percent (10%) of the net tax proceeds to the Solid Waste Management Trust Fund and shall distribute ninety percent (90%) of the net tax proceeds among the counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the Office of State Budget and Management. A county may use funds distributed to it under this section only as provided in G.S. 130A-309.54."

Sec. 2. G.S. 130A-309.53(7) reads as rewritten:

- "(7) 'Tire' means a continuous solid or pneumatic rubber covering encircling that encircles the wheel of a motor vehicle as defined in G.S. 20-4.01(23), and is subject to the tax imposed by Article 5B of Chapter 105."

Sec. 3. G.S. 130A-309.54 reads as rewritten:

"§ 130A-309.54. Scrap tire disposal fee. Use of scrap tire tax proceeds.

(a) A fee is imposed on the privilege of selling or using new motor vehicle tires in this State. This fee is in addition to all other taxes and fees imposed.

(b) The definitions in G.S. 105-164.3 apply to G.S. 130A-309.55 and G.S. 130A-309.56, except the term "sale" does not include a lease or rental.

(c) The fees imposed by G.S. 130A-55 and G.S. 130A-56 shall be used by each Article 5B of Chapter 105 imposes a tax on new tires to provide funds for the disposal of scrap tires. A county may use proceeds of the tax distributed to it under that Article only for the disposal of scrap tires pursuant to the provisions of this Part or for the abatement of a nuisance pursuant to G.S. 130A-309.60.

(d) The fees imposed by G.S. 130A-55 and G.S. 130A-56 shall be administered in the same manner as the tax imposed by Article 5 of Chapter 105 of the General Statutes. All other provisions of Article 5 and Article 9 of Chapter 105 of the General

~~Statutes shall apply to this Part to the extent they are not inconsistent with the provisions of this Part. However, the exemptions and exclusions under G.S. 105-164.13 and G.S. 105-164.3(19) and the lower rates of tax imposed have no effect on the scrap tire disposal fee. The refund provisions under G.S. 105-164.14(a), (b), and (c) do not apply. The Secretary of Revenue may administer, enforce, collect and distribute the scrap tire disposal fee. The administrative interpretation made by the Secretary of Revenue with respect to the North Carolina Sales and Use Tax Act applies to the scrap tire disposal fee to the extent they are not inconsistent."~~

Sec. 4. G.S. 130A-309.55 and G.S. 130A-309.56 are repealed.

Sec. 5. G.S. 130A-309.58(e) reads as rewritten:

"(e) A county shall provide, directly or by contract with another unit of local government or private entity, at least one site for scrap tire disposal for that county. The unit of local government or contracting party may charge a disposal fee for the disposal of ~~in-county scrap tires and such disposal fees shall be assessed only to the extent that the cost per tire of disposal exceeds the scrap tire disposal fees amount~~ received by the county under G.S. 105-187.19 during the preceding 12-month period, divided by the number of tires disposed of within the county according to the tire disposal procedures during that period. The unit of local government or contracting party may charge a disposal fee for the disposal of scrap tires ~~from tire manufacturers, retreaders not engaged in the retail sale of new tires, and any others subject to the scrap tire disposal fee, regardless of where such scrap tires originated, and such fees shall not exceed the cost of disposal for such tires.~~ The unit of local government or contracting party also ~~may charge a disposal fee for the disposal of out-of-county and out-of-State scrap tires at the county's site, regardless of whether a tax has been paid on the tire under Article 5B of Chapter 105 and regardless of the tire's place of origin."~~

Sec. 6. This act becomes effective July 1, 1991.

In the General Assembly read three times and ratified this the 5th day of June, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives