

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 982

Short Title: Tax Vehicle Only Upon Sale.

(Public)

Sponsors: Representatives Hardy; Hall, Davis, Gulley, Morris, Starnes, and Hill.

Referred to: Transportation, if favorable, Finance.

April 17, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE HIGHWAY USE TAX ON MOTOR VEHICLES APPLIES ONLY WHEN THE CERTIFICATE OF TITLE IS ISSUED BECAUSE OF A SALE OF THE MOTOR VEHICLE.

The General Assembly of North Carolina enacts:

Section 1. Article 5A of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 5A.

"NORTH CAROLINA HIGHWAY USE TAX.

"§ 105-187.1. Definitions.

The following definitions and the definitions in G.S. 105-164.3 apply to this Article:

- (1) ~~'Commissioner' means the~~ Commissioner. – The Commissioner of Motor Vehicles.
- (2) ~~'Division' means the~~ Division. – The Division of Motor Vehicles, Department of Transportation.
- (3) ~~'Long-term lease or rental' means a~~ Long-term lease or rental. – A lease or rental made under a written agreement to lease or rent property to the same person for a period of at least 365 continuous days.
- (4) ~~'Short-term lease or rental' means a~~ Short-term lease or rental. – A lease or rental that is not a long-term lease or rental.

1 **"§ 105-187.2. Highway use tax imposed.**

2 A tax is imposed on the privilege of using the highways of this State. This tax is in
3 addition to all other taxes and fees imposed. The tax applies to the issuance of a
4 certificate of title because of the sale of a motor vehicle.

5 **"§ 105-187.3. Rate of tax.**

6 (a) Amount. – The rate of the use tax imposed by this Article is three percent (3%)
7 of the retail value of a motor vehicle for which a certificate of title is ~~issued.~~ issued
8 because of a sale. The tax is payable as provided in G.S. 105-187.4. The tax may not be
9 more than one thousand dollars (\$1,000) for each certificate of title issued for a Class A
10 or Class B motor vehicle that is a commercial motor vehicle, as defined in G.S. 20-4.01.
11 The tax may not be more than one thousand five hundred dollars (\$1,500) for each
12 certificate of title issued for any other motor vehicle.

13 (b) Retail Value. – The retail value of a motor vehicle for which a certificate of
14 title is issued because of a sale of the motor vehicle by a retailer is the sales price of the
15 motor vehicle, including all accessories attached to the vehicle when it is delivered to the
16 purchaser, less the amount of any allowance given by the retailer for a motor vehicle
17 taken in trade as a full or partial payment for the purchased motor vehicle. The retail
18 value of a motor vehicle for which a certificate of title is issued because of a sale of the
19 motor vehicle by a seller who is not a retailer is the market value of the vehicle, less the
20 amount of any allowance given by the seller for a motor vehicle taken in trade as a full or
21 partial payment for the purchased motor vehicle. A transaction in which two parties
22 exchange motor vehicles is considered a sale regardless of whether either party gives
23 additional consideration as part of the transaction. ~~The retail value of a motor vehicle for~~
24 ~~which a certificate of title is issued because of a reason other than the sale of the motor vehicle is~~
25 ~~the market value of the vehicle. The market value of a vehicle is presumed to be the value of the~~
26 ~~vehicle set in a schedule of values adopted by the Commissioner.~~

27 (c) Schedules. ~~In adopting a schedule of values for motor vehicles, the~~
28 ~~Commissioner shall adopt a schedule whose values do not exceed the wholesale values of~~
29 ~~motor vehicles as published in a recognized automotive reference manual.~~

30 **"§ 105-187.4. Payment of tax.**

31 (a) Method. The tax imposed by this Article must be paid to the Commissioner
32 when applying for a certificate of title for a motor vehicle. The Commissioner may not
33 issue a certificate of title for a vehicle that has been sold until the tax imposed by this
34 Article has been paid. The tax may be paid in cash or by check.

35 (b) Sale by Retailer. When a certificate of title for a motor vehicle is issued
36 because of a sale of the motor vehicle by a retailer, the applicant for the certificate of title
37 must attach a copy of the bill of sale for the motor vehicle to the application. A retailer
38 who sells a motor vehicle may collect from the purchaser of the vehicle the tax payable
39 upon the issuance of a certificate of title for the vehicle, apply for a certificate of title on
40 behalf of the purchaser, and remit the tax due on behalf of the purchaser. If a check
41 submitted by a retailer in payment of taxes collected under this section is not honored by
42 the financial institution upon which it is drawn because the retailer's account did not have
43 sufficient funds to pay the check or the retailer did not have an account at the institution,

1 the Division may suspend or revoke the license issued to the retailer under Article 12 of
2 Chapter 20 of the General Statutes.

3 **"§ 105-187.5. Alternate tax for those who rent or lease motor vehicles.**

4 (a) Election. – A retailer who is engaged in the business of leasing or renting
5 motor vehicles may elect not to pay the tax imposed by this Article at the rate set in G.S.
6 105-187.3 when applying for a certificate of title for a motor vehicle purchased by the
7 retailer for lease or rental. A retailer who makes this election shall pay a tax on the gross
8 receipts of the lease or rental of the vehicle. Like the tax imposed by G.S. 105-187.3, this
9 alternate tax is a tax on the privilege of using the highways of this State. The tax is
10 imposed on a retailer, but is to be added to the lease or rental price of a motor vehicle and
11 thereby be paid by the person who leases or rents the vehicle.

12 (b) Rate. – The tax rate on the gross receipts from the short-term lease or rental of
13 a motor vehicle is eight percent (8%) and the tax rate on the gross receipts from the long-
14 term lease or rental of a motor vehicle is three percent (3%). Gross receipts does not
15 include the amount of any allowance given for a motor vehicle taken in trade as a partial
16 payment on the lease or rental price. The maximum tax in G.S. 105-187.3(a) applies to a
17 continuous lease or rental of a motor vehicle to the same person.

18 (c) Method. – A retailer who elects to pay tax on the gross receipts of the lease or
19 rental of a motor vehicle shall make this election when applying for a certificate of title
20 for the vehicle. To make the election, the retailer shall complete a form provided by the
21 Division giving information needed to collect the alternate tax based on gross receipts.
22 Once made, an election is irrevocable.

23 (d) Administration. – The Division shall notify the Secretary of Revenue of a
24 retailer who makes the election under this section. A retailer who makes this election
25 shall report and remit to the Secretary the tax on the gross receipts of the lease or rental of
26 the motor vehicle. The Secretary shall administer the tax imposed by this section on gross
27 receipts in the same manner as the tax levied under G.S. 105-164.4(a)(2). The
28 administrative provisions and powers of the Secretary that apply to the tax levied under
29 G.S. 105-164.4(a)(2) apply to the tax imposed by this section. In addition, the Division
30 may request the Secretary to audit a retailer who elects to pay tax on gross receipts under
31 this section. When the Secretary conducts an audit at the request of the Division, the
32 Division shall reimburse the Secretary for the cost of the audit, as determined by the
33 Secretary. In conducting an audit of a retailer under this section, the Secretary may audit
34 any sales of motor vehicles made by the retailer.

35 **"§ 105-187.6. Exemptions from highway use tax.**

36 (a) Full Exemptions. – The tax imposed by this Article does not apply when a
37 certificate of title is issued as the result of a transfer of a motor vehicle:

- 38 (1) To the insurer of the motor vehicle under G.S. 20-109.1 because the
39 vehicle is a salvage vehicle.
- 40 (2) To either a manufacturer, as defined in G.S. 20-286, or a motor vehicle
41 retailer for the purpose of resale.
- 42 (3) ~~That is not a sale. To the same owner to reflect a change or correction in~~
43 ~~the owner's name.~~

- 1 (4) ~~By will or intestacy.~~
2 (5) ~~By a gift between a husband and wife, a parent and child, or a~~
3 ~~stepparent and a stepchild.~~
4 (6) ~~By a distribution of marital property as a result of a divorce.~~
5 (7) To a handicapped person from the Department of Human Resources
6 after the vehicle has been equipped by the Department for use by the
7 handicapped.
8 (8) To a local board of education for use in the driver education program of
9 a public school when the motor vehicle is transferred:
10 a. By a retailer and is to be transferred back to the retailer within
11 300 days after the transfer to the local board.
12 b. By a local board of education.
- 13 (b) Partial Exemptions. – A maximum tax of forty dollars (\$40.00) applies when a
14 certificate of title is issued as the result of a transfer of a motor vehicle:
- 15 (1) To a secured party who has a perfected security interest in the motor
16 vehicle.
17 (2) To a partnership or corporation as an incident to the formation of the
18 partnership or corporation and no gain or loss arises on the transfer
19 under section 351 or section 721 of the Internal Revenue Code, or to a
20 corporation by merger or consolidation in accordance with G.S. 55-11-
21 06.
- 22 (c) ~~Out of state Vehicles. – A maximum tax of one hundred fifty dollars (\$150.00)~~
23 ~~applies when a certificate of title is issued for a motor vehicle that, at the time of applying~~
24 ~~for a certificate of title, is and has been titled in another state for at least 90 days.~~

25 "~~§ 105-187.7. Credits.~~

26 (a) ~~Tax Paid in Another State. – A person who, within 90 days before applying for~~
27 ~~a certificate of title for a motor vehicle on which the tax imposed by this Article is due,~~
28 ~~has paid a sales tax, an excise tax, or a tax substantially equivalent to the tax imposed by~~
29 ~~this Article on the vehicle to a taxing jurisdiction outside this State is allowed a credit~~
30 ~~against the tax due under this Article for the amount of tax paid to the other jurisdiction.~~

31 (b) ~~Tax Paid Within One Year. – A person who applies for a certificate of title for~~
32 ~~a motor vehicle that is titled in another state but was formerly titled in this State is~~
33 ~~allowed a credit against the tax due under this Article for the amount of tax paid under~~
34 ~~this Article by that person on the same vehicle within one year before the application for~~
35 ~~a certificate of title.~~

36 "**§ 105-187.8. Refund for return of purchased motor vehicle.**

37 When a purchaser of a motor vehicle returns the motor vehicle to the seller of the
38 motor vehicle within 90 days after the purchase and receives a vehicle replacement for
39 the returned vehicle or a refund of the price paid the seller, whether from the seller or the
40 manufacturer of the vehicle, the purchaser may obtain a refund of the privilege tax paid
41 on the certificate of title issued for the returned motor vehicle.

42 To obtain a refund, the purchaser must apply to the Division for a refund within 30
43 days after receiving the replacement vehicle or refund of the purchase price. The

1 application must be made on a form prescribed by the Commission and must be
2 supported by documentation from the seller of the returned vehicle.

3 **"§ 105-187.9. Disposition of tax proceeds.**

4 Taxes collected under this Article at the rate of eight percent (8%) shall be credited to
5 the General Fund. Taxes collected under this Article at the rate of three percent (3%)
6 shall be credited to the North Carolina Highway Trust Fund. In each fiscal year the State
7 Treasurer shall transfer the sum of one hundred seventy million dollars (\$170,000,000) of
8 the taxes deposited in the Trust Fund to the General Fund. The transfer of funds
9 authorized by this section may be made by transferring one-fourth of the amount at the
10 end of each quarter in the fiscal year or by transferring the full amount annually on July 1
11 of each fiscal year, subject to the availability of revenue.

12 **"§ 105-187.10. Penalties and remedies.**

13 (a) Penalties. The penalty for bad checks in G.S. 105-236(1) applies to a check
14 offered in payment of the tax imposed by this Article. In addition, if a check offered to
15 the Division in payment of the tax imposed by this Article is returned unpaid and the tax
16 for which the check was offered, plus the penalty imposed under G.S. 105-236(1), is not
17 paid within 30 days after the Commissioner demands its payment, the Commissioner may
18 revoke the registration plate of the vehicle for which a certificate of title was issued when
19 the check was offered.

20 (b) Unpaid Taxes. The remedies for collection of taxes in G.S. 20-99 apply to the
21 taxes levied by this Article and collected by the Commissioner.

22 ~~(c) Appeals. A taxpayer who disagrees with the presumed value of a motor
23 vehicle must pay the tax based on the presumed value, but may appeal the value to the
24 Commissioner. A taxpayer who appeals the value must provide two estimates of the
25 value of the vehicle to the Commissioner. If the Commissioner finds that the value of the
26 vehicle is less than the presumed value of the vehicle, the Commissioner shall refund any
27 overpayment of tax made by the taxpayer with interest at the rate specified in G.S. 105-
28 241.1 from the date of the overpayment.~~

29 **"§ 105-187.11. Transition from sales tax to highway use tax for lessors and renters
30 of motor vehicles.**

31 A tax at the rate set in G.S. 105-187.5(b) is levied on the gross receipts derived by
32 a retailer from the lease or rental of a motor vehicle owned by the retailer before October
33 1, 1989, and leased or rented on or after that date. A retailer subject to this tax may elect
34 to pay highway use tax at the rate set in G.S. 105-187.3(a) on a motor vehicle owned by
35 the retailer before October 1, 1989, and leased or rented on or after that date. The retail
36 value of a motor vehicle for which a retailer makes an election under this section is the
37 value of the motor vehicle that would apply under G.S. 105-187.3(b) if the retailer
38 received the vehicle because of a reason other than the sale of the motor vehicle on the
39 date the retailer makes the election.

40 To make the election allowed by this section, a retailer shall complete a form
41 provided by the Division, pay the tax due, and pay the fee set in G.S. 20-85(a)(9). A
42 retailer who makes this election may not receive credit for any tax paid on the motor
43 vehicle under Article 5 of this Chapter or for any tax on gross receipts paid under this

1 Article. The Division shall notify the Secretary of Revenue of a retailer who makes an
2 election under this section. Notwithstanding G.S. 105-187.9, the taxes collected under
3 this section shall be credited to the General Fund.”

4 Section 2. This act becomes effective January 1, 1998, and applies to
5 certificates of title issued on or after that date.