

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 316
Committee Substitute Favorable 4/3/19

Short Title: Meals Tax for Rockingham Speedway.

(Local)

Sponsors:

Referred to:

March 11, 2019

A BILL TO BE ENTITLED

AN ACT TO CREATE A SPECIAL TAXING DISTRICT CONSISTING OF THE PROPERTY OCCUPIED BY THE ROCKINGHAM SPEEDWAY AND TO AUTHORIZE THE DISTRICT TO LEVY A PREPARED FOOD AND BEVERAGES TAX OF UP TO TEN PERCENT FOR THE PURPOSE OF IMPROVING AND PROMOTING THE SPEEDWAY AND FOR TOURISM DEVELOPMENT IN THE DISTRICT.

The General Assembly of North Carolina enacts:

SECTION 1.(a) District R Created. – Richmond County District R is created as a taxing district. Its jurisdiction consists of the property occupied by the Rockingham Speedway. Richmond County District R is a body politic and corporate and has the power to carry out the provisions of this act. The Richmond County Board of Commissioners shall serve ex officio as the governing body of the district and the officers of the board of commissioners shall serve as the officers of the governing body of the district. A simple majority of the governing body constitutes a quorum and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present.

SECTION 1.(b) Prepared Food and Beverages Tax. – Authorization and Scope. – The governing body of Richmond County District R may, by resolution and after not less than 10 days' public notice and a public hearing, levy a prepared food and beverages tax of up to ten percent (10%) of the sales price of prepared food and beverages sold within the district at retail for consumption on or off the premises by a retailer subject to sales tax under G.S. 105-164.4(a)(1). For purposes of catering, the tax applies to food served in the district without regard to the residency of the caterer. This tax is in addition to State and local sales tax.

SECTION 1.(c) Definitions. – The definitions in G.S. 105-164.3 apply to this act to the extent they are not inconsistent with the provisions of this act. In addition, the following definitions apply in this act:

- (1) Net proceeds. – Gross proceeds less the cost to the governing body of the district of administering and collecting the tax.
- (2) Prepared food and beverages. – The term includes the following:
 - a. Prepared food, as defined in G.S. 105-164.3.
 - b. An alcoholic beverage, as defined in G.S. 18B-101.

SECTION 1.(d) Exemptions. – The tax levied under this act does not apply to the following sales of prepared food and beverages:

- (1) Prepared food and beverages served to residents in boardinghouses and sold together on a periodic basis with rental of a sleeping room or lodging.
- (2) Retail sales exempt from taxation under G.S. 105-164.13.
- (3) Retail sales through or by means of vending machines.



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

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

20 **SECTION 1.(f)** Administration. – The governing body of the district shall administer
21 a tax levied under this act. A tax levied under this act is due and payable to the finance officer of
22 the governing body of the district in monthly installments on or before the twentieth day of the
23 month following the month in which the tax accrues. Every retailer liable for the tax shall, on or
24 before the twentieth day of each month, prepare and render a return on a form prescribed by the
25 governing body of the district. The return shall show the total gross receipts derived in the
26 preceding month from sales to which the tax applies.

27 A return filed under this act is not a public record and may not be disclosed except in
28 accordance with G.S. 153A-148.1.

29 The provisions of Article 5 and Article 9 of Chapter 105 of the General Statutes apply
30 to this act to the extent they are not inconsistent with the provisions of this act. The uniform
31 meals tax penalty provisions of G.S. 153A-154.1 apply to a tax levied under this act as if
32 Richmond County District R were a county.

33 **SECTION 1.(g)** Refunds. – The county shall refund to a nonprofit or governmental
34 entity the prepared food and beverages tax paid by the entity on eligible purchases of prepared
35 food and beverages. A nonprofit or governmental entity's purchase of prepared food and
36 beverages is eligible for a refund under this subsection if the entity is entitled to a refund under
37 G.S. 105-164.14(b) or (c) of local sales and use tax paid on the purchase or if the sale is exempt
38 under G.S. 105-164.13. The time limitations, application requirements, penalties, and restrictions
39 provided in G.S. 105-164.14(b), (d), and (d1) apply to refunds to nonprofit entities; the time,
40 limitations, application requirements, penalties, and restrictions provided in G.S. 105-164.14(c),
41 (d), and (d1) apply to refunds to governmental entities. When an entity applies for a refund of the
42 prepared food and beverages tax paid by it on purchases, it shall attach to its application a copy
43 of the application submitted to the Department of Revenue under G.S. 105-164.14 for a refund
44 of the sales and use tax on the same purchases or a written statement that the purchases were
45 exempt from the tax. An applicant for a refund under this subsection shall provide any
46 information required by the governing body of the district to substantiate the claim.

47 **SECTION 1.(h)** Use of Proceeds. – The proceeds of a tax levied under this act shall
48 be used as provided in this subsection. The governing body of the district may deduct from the
49 gross proceeds of the taxes collected under this act an amount not to exceed three percent (3%)
50 of the gross proceeds to pay for the direct cost of administering and collecting the taxes. The

1 remaining proceeds shall be used to improve, maintain, finance, operate, market, and promote
2 the Rockingham Speedway and to promote travel and tourism in the district.

3 **SECTION 1.(i)** Effective Date of Levy. – A tax levied under this act shall become
4 effective on the date specified in the resolution levying the tax. The date shall be the first day of
5 a calendar month and may not be before the first day of the fourth month after the date the
6 resolution is adopted.

7 **SECTION 1.(j)** Repeal. – A tax levied under this act may be repealed or reduced by
8 a resolution adopted by the governing body of the district. Any repeal or reduction shall become
9 effective on the first day of a month and may not become effective until the end of the fiscal year
10 in which the repeal resolution is adopted. Repeal or reduction of a tax levied under this act does
11 not affect a liability for a tax that attached before the effective date of the repeal or reduction, nor
12 does it affect a right to a refund of a tax that accrued before the effective date of the repeal or
13 reduction.

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