

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 136
Committee Substitute Favorable 2/26/97
Committee Substitute #2 Favorable 3/11/97
Fourth Edition Engrossed 3/17/97
Senate Finance Committee Substitute Adopted 6/19/97

Short Title: Late Video Return/Sales Tax.

(Public)

Sponsors:

Referred to:

February 13, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CERTAIN LATE CHARGES FOR THE LATE RETURN OF RENTED PROPERTY ARE SUBJECT TO SALES TAX AND TO PROVIDE FOR TREBLE DAMAGES IN A CIVIL ACTION TO ENFORCE PAYMENT OF CERTAIN LATE CHARGES FOR THE LATE RETURN OF A RENTED VIDEOCASSETTE TAPE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.3(16) is amended by adding a new sub-subdivision to read:

"(16) g. The term 'sales price' includes a late charge for the late return of leased or rented personal property, except that the term does not include the excess of the late charge for the late period over the rental charge for an equivalent period if the following conditions are met:

1. The late charge is imposed only if the lessee violates the terms of the lease or rental agreement by failing to return the property on time.

2. The late charge is charged and accounted for separately from the charge for leasing or renting the property."

1 Section 2. Article 13 of Chapter 66 of the General Statutes is amended by
2 adding a new section to read:

3 **"§ 66-67.4. Remedies for failure to pay extra-day charges for late return of video.**

4 (a) Definitions. – The following definitions apply in this section:

5 (1) Extra-day charge. – A charge for the late return of a rented
6 videocassette at a rate that does not exceed the daily rental charge rate
7 or the regular per-day rental charge rate.

8 (2) Member of record. – A person in whose name a video rental store
9 membership is held and on whose membership a videocassette is
10 rented.

11 (3) Videocassette. – The term includes video cartridges.

12 (4) Video rental store. – An entity that rents videocassettes for
13 noncommercial use.

14 (b) Damages. – If a member of record fails to pay the extra-day charges assessed
15 for the late return of a videocassette within 30 days after receiving written demand for
16 payment of the charges, the member is liable to the video rental store for a minimum
17 amount of thirty dollars (\$30.00) or three times the amount of the extra-day charges,
18 whichever is greater, subject to a maximum amount of one hundred dollars (\$100.00)
19 per videocassette. A video rental store may recover these damages only by civil action.
20 If, before the video rental store files the civil action, the member tenders the full amount
21 of extra-day charges assessed, the member is not liable for these damages.

22 (c) Demand Letter. – The written demand shall be mailed by certified mail,
23 return receipt requested, to the member of record's last known address. The demand
24 shall include a statement that the member of record may avoid the damages by paying
25 the extra-day charges in full within 30 days or before a civil action is filed.

26 (d) Notice Sign. – The damages provided for in this section do not apply unless,
27 at the time the member of record rented the videocassette, the video rental store
28 conspicuously displayed in the vicinity of the checkout counter a sign at least 8 by 11
29 inches in size with the following warning printed in at least 48-point, boldface type:

30 **'State law provides that failure to pay the late return, extra-day charges**
31 **due on any rented videocassette tape may result in damages of triple the amount of**
32 **the late charges, with a minimum of \$30.00 and a maximum of \$100.00 per tape.**
33 **(G.S. 66-67.4).'**

34 (e) Remedy Additional. – This section does not prohibit recovery upon any other
35 theory of law."

36 Section 3. This act becomes effective October 1, 1997, and applies to rentals
37 occurring on or after that date.