

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 1668
Senate Finance Committee Substitute Adopted 9/24/02

Short Title: Southport Occ. Tax/Bald Head Vehicle Fees.

(Local)

Sponsors:

Referred to:

June 13, 2002

A BILL TO BE ENTITLED

1
2 AN ACT TO MODIFY THE SOUTHPORT OCCUPANCY TAX AND TO CLARIFY
3 THAT THE REGULATION OF MOTOR VEHICLES ON BALD HEAD ISLAND
4 INCLUDES THE ABILITY TO CHARGE FEES FOR THEIR USE ON THE
5 ISLAND.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** Section 1 of Chapter 639 of the 1989 Session Laws reads as
8 rewritten:

9 **"Section 1.** Occupancy tax. (a) Authorization and scope. – The Southport Board of
10 Aldermen may ~~by resolution, after not less than 10 days' public notice and after a public~~
11 ~~hearing held pursuant thereto,~~ levy a room occupancy tax of no more than three percent
12 (3%) of the gross receipts derived from the rental of any room, lodging, or similar
13 accommodation furnished by a hotel, motel, inn, or similar place within the City of
14 Southport that is subject to sales tax imposed by the State under G.S. ~~105-164.4(3)~~
15 105-164.4(a)(3) and on the rental of all private residences and cottages, regardless of
16 whether the residence or cottage is rented for less than 15 days. This tax is in addition to
17 any State or local sales tax. This tax does not apply to accommodations furnished by
18 nonprofit charitable, educational, or religious organizations.

19 (a1) Authorization of additional tax. – In addition to the tax authorized by
20 subsection (a) of this section, the Southport Board of Aldermen may levy an additional
21 room occupancy tax of up to two percent (2%) of the gross receipts derived from the
22 rental of accommodations taxable under subsection (a). The levy, collection,
23 administration, and repeal of the tax authorized by this subsection shall be in accordance
24 with the provisions of this section. The City of Southport may not levy a tax under this
25 subsection unless it also levies the tax authorized under subsection (a) of this section.

26 (b) Administration. – A tax levied under this section shall be levied,
27 administered, collected, and repealed as provided in G.S. 160A-215. The penalties
28 provided in G.S. 160A-215 apply to a tax levied under this section.

1 ~~Collection. Every operator of a business subject to the tax levied under this section~~
2 ~~shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall~~
3 ~~be collected as part of the charge for furnishing a taxable accommodation. The tax shall~~
4 ~~be stated and charged separately from the sales records, and shall be paid by the~~
5 ~~purchaser to the operator of the business as trustee for and on account of the city. The~~
6 ~~tax shall be added to the sales price and shall be passed on to the purchaser instead of~~
7 ~~being borne by the operator of the business. The city shall design, print, and furnish to~~
8 ~~all appropriate businesses and persons in the city the necessary forms for filing returns~~
9 ~~and instructions to ensure the full collection of the tax.~~

10 ~~(e) Administration. The city shall administer a tax levied under this section. A~~
11 ~~tax levied under this section is due and payable to the Southport tax collector in monthly~~
12 ~~installments on or before the 15th day of the month following the month in which the~~
13 ~~tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or~~
14 ~~before the 15th day of each month, prepare and render a return on a form prescribed by~~
15 ~~the city. The return shall state the total gross receipts derived in the preceding month~~
16 ~~from rentals upon which the tax is levied. A return filed with the tax collector under this~~
17 ~~section is not a public record as defined by G.S. 132-1 and may not be disclosed except~~
18 ~~as required by law.~~

19 ~~The tax collector may collect any unpaid taxes levied under this act through the use~~
20 ~~of attachment and garnishment proceedings as provided in G.S. 105-368 for collection~~
21 ~~of property taxes. The tax collector has the same enforcement powers concerning the tax~~
22 ~~imposed by this act as does the Secretary of Revenue in enforcing the State sales tax~~
23 ~~under G.S. 105-164.30.~~

24 ~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to~~
25 ~~file the return required by this section shall pay a penalty of ten dollars (\$10.00) for~~
26 ~~each day's omission. In case of failure or refusal to file the return or pay the tax for a~~
27 ~~period of 30 days after the time required for filing the return or for paying the tax, there~~
28 ~~shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to~~
29 ~~any other penalty, with an additional tax of five percent (5%) for each additional month~~
30 ~~or fraction thereof until the tax is paid. The Southport Board of Aldermen may, for good~~
31 ~~cause shown, compromise or forgive the additional tax penalties imposed by this~~
32 ~~subsection.~~

33 ~~Any person who willfully attempts in any manner to evade a tax imposed under this~~
34 ~~section or who willfully fails to pay the tax or make and file a return shall, in addition to~~
35 ~~all other penalties provided by law, be guilty of a misdemeanor and shall be punishable~~
36 ~~by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six~~
37 ~~months, or both.~~

38 ~~(e) Distribution and use of tax revenue. — The tax collector shall remit the~~
39 ~~proceeds of this tax to the city on a monthly basis. The funds received by the city~~
40 ~~pursuant to this act shall be used to promote tourism and economic development, for~~
41 ~~waterfront development, and for other public purposes. The City of Southport shall, on a~~
42 ~~quarterly basis, remit the net proceeds of the occupancy tax to the Southport Tourism~~
43 ~~Development Authority. The Authority shall use at least two-thirds of the funds~~

1 remitted to it under this subsection to promote travel and tourism in Southport and shall
2 use the remainder for tourism-related expenditures.

3 The following definitions apply in this subsection:

4 (1) Net proceeds. – Gross proceeds less the cost to the city of
5 administering and collecting the tax, as determined by the finance
6 officer, not to exceed three percent (3%) of the first five hundred
7 thousand dollars (\$500,000) of gross proceeds collected each year and
8 one percent (1%) of the remaining gross receipts collected each year.

9 (2) Promote travel and tourism. – To advertise or market an area or
10 activity, publish and distribute pamphlets and other materials, conduct
11 market research, or engage in similar promotional activities that attract
12 tourists or business travelers to the area. The term includes
13 administrative expenses incurred in engaging in the listed activities.

14 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
15 the Tourism Development Authority, are designed to increase the use
16 of lodging facilities, meeting facilities, or convention facilities in a city
17 or to attract tourists or business travelers to the city. The term includes
18 tourism-related capital expenditures.

19 ~~(f) Effective date of levy. A tax levied under this section shall become effective~~
20 ~~on the date specified in the resolution levying the tax. That date must be the first day of~~
21 ~~a calendar month, however, and may not be earlier than two weeks after the date the~~
22 ~~resolution is adopted.~~

23 ~~(g) Repeal. A tax levied under this section may be repealed by a resolution~~
24 ~~adopted by the Southport Board of Aldermen. Repeal of a tax levied under this section~~
25 ~~shall become effective on the first day of a month and may not become effective until~~
26 ~~the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax~~
27 ~~levied under this section does not affect a liability for a tax that was attached before the~~
28 ~~effective date of the repeal, nor does it affect a right to a refund of a tax that accrued~~
29 ~~before the effective date of the repeal."~~

30 **SECTION 2.** Chapter 639 of the 1989 Session Laws is amended by adding a
31 new section to read:

32 "Sec. 1.2. Southport Tourism Development Authority. – When the Southport Board
33 of Aldermen adopts a resolution levying a room occupancy tax under this act, it shall
34 also adopt a resolution creating a city Tourism Development Authority, which shall be a
35 public authority under the Local Government Budget and Fiscal Control Act. The
36 resolution shall provide for the membership of the Authority, including the members'
37 terms of office, and for the filling of vacancies on the Authority. At least one-third of
38 the members must be individuals who are affiliated with businesses that collect the tax
39 in the city, and at least three-fourths of the members must be individuals who are
40 currently active in the promotion of travel and tourism in the city. The Board of
41 Aldermen shall designate one member of the Authority as chair and shall determine the
42 compensation, if any, to be paid to members of the Authority.

1 The Authority shall meet at the call of the chair and shall adopt rules of procedure to
2 govern its meetings. The Finance Officer for Southport shall be the ex officio finance
3 officer of the Authority.

4 "Sec. 1.3. Duties. – The Authority shall expend the net proceeds of the tax levied
5 under this act for the purposes provided in this act. The Authority shall promote travel,
6 tourism, and conventions in the city, sponsor tourist-related events and activities in the
7 city, and finance tourist-related capital projects in the city.

8 "Sec. 1.4. Reports. – The Authority shall report quarterly and at the close of the
9 fiscal year to the Southport Board of Aldermen on its receipts and expenditures for the
10 preceding quarter and for the year in such detail as the Board may require."

11 **SECTION 3.** ARTICLE X of S.L. 1997-324 reads as rewritten:

12 **"ARTICLE X. MOTOR VEHICLE REGULATION.**

13 "Section 10.1. **Motor Vehicle Regulation.** The Village may by ordinance exempt
14 from the provisions of Articles 3, 3A, 11, and 13 of Chapter 20 of the General Statutes,
15 in whole or in part, the registration, licensing, regulation, inspection, or equipping of
16 motor vehicles and may regulate the use, operation, possession, and ownership of motor
17 vehicles within the jurisdiction of the Village of Bald Head Island. Additionally,
18 notwithstanding the provisions of Chapter 20 of the General Statutes or any other
19 statute, and in addition to those powers now or hereafter conferred by law, the Village
20 shall have the authority to regulate motor vehicles and other means of transportation
21 within the jurisdiction of the Village, including the following:

22 (1) Regulation of the use and operation of all vehicles, as defined in G.S.
23 20-4.01(49). The Village may impose a fee on the use of vehicles within the Village's
24 jurisdiction. The amount of the fee may vary based on criteria that bear upon the
25 Village's costs arising from the operation of that vehicle on the Village's streets, roads,
26 and rights-of-way. Such criteria may include gross weight, length, number of axles, and
27 motor or engine characteristics.

28 (2) Regulation of all electrically powered vehicles or vehicles powered by fossil
29 fuel or internal combustion engines.

30 (3) Regulation of the size, weight, lighting, safety standards, and engine or motor
31 size or power characteristics of all vehicles or other means of transportation within the
32 jurisdiction of the Village.

33 "Section 10.2. **Street Regulation.** In order to establish and preserve the unique
34 character and aesthetics of Bald Head Island, the Village may adopt, by ordinance, such
35 standards for the establishment and maintenance of streets and roads within the
36 jurisdiction of the Village as it deems appropriate. The fees collected under Section 10.1
37 of this Article shall be used by the Village to finance the establishment and maintenance
38 of the Village's streets, roads, and rights-of-way. The streets and roads within the
39 jurisdiction of the Village shall not be under the authority of the Department of
40 Transportation. The provisions of Articles 2 and 2A of Chapter 136 of the General
41 Statutes shall not apply within the jurisdiction of the Village. The Village shall be
42 exempt from the provisions of G.S. 136-66.2."

43 **SECTION 4.** Section 3 of this act is effective retroactively to July 24, 1997.
44 The remainder of this act is effective when it becomes law.