



HOUSE BILL 17: Local Option Meals Tax/Brunswick Co. Munis.

2019-2020 General Assembly

Committee:	House Finance. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	July 11, 2019
Introduced by:	Reps. Iler, Butler	Prepared by:	Trina Griffin
Analysis of:	PCS to Second Edition H17-CSSVxf-33		Committee Co-Counsel

OVERVIEW: House Bill 17 would authorize the municipalities in Brunswick County to levy a prepared food and beverages tax of one-half percent (0.5%) if the majority of the voters approve the tax in a referendum. The PCS removes the option to implement the tax by resolution.

BILL ANALYSIS: House Bill 17 would authorize the municipalities in Brunswick County to levy a prepared food and beverages tax of one-half percent (0.5%) subject to a referendum. There are over a dozen municipalities in Brunswick County. This tax would be in addition to the State and local sales tax. The bill also has administrative provisions to address the collection, administration, authority to repeal, and refunds of the tax. Applicable penalties would be addressed by existing general statutes, which state that generally the same civil and criminal penalties that apply to sales and use taxes also apply to local meals taxes.¹ The net proceeds of the tax could only be used by the municipality for beach nourishment or to construct and improve public infrastructure and facilities, or both.

CURRENT LAW: Under current law, Cumberland County, Dare County, Mecklenburg County², Wake County, and the Town of Hillsborough are authorized to levy a prepared food and beverages tax of 1%.

"Prepared food"³ is defined as food that meets at least one of the following conditions:

- a. It is sold in a heated state or it is heated by the retailer.
- b. It consists of two or more foods mixed or combined by the retailer for sale as a single item. This does not include foods containing raw eggs, fish, meat, or poultry that require cooking by the consumer as recommended by the Food and Drug Administration to prevent food borne illnesses.
- c. It is sold with eating utensils provided by the retailer, such as plates, knives, forks, spoons, glasses, cups, napkins, and straws. A plate does not include a container or packaging used to transport the food.

Prepared food does not include food the retailer sliced, repackaged, or pasteurized but did not heat, mix, or sell with eating utensils.

¹ G.S. 160A-214.1 and 153A-154.1.

² Mecklenburg County and the City of Charlotte were each concurrently given authority to levy a 1% prepared food and beverage tax, but each authorization was contingent on the other not being enacted or being enacted at less than 1%. Mecklenburg County enacted the tax first at the 1% rate, which effectively means that the City of Charlotte cannot levy its own tax. However, several towns in the county receive a portion of the prepared food and beverage tax proceeds.

³ G.S. 105-164.3(28).

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Director



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The term "**beverage**"⁴ refers to an alcoholic beverage that contains at least one half of one percent (0.5%) alcohol by volume, including malt beverages, unfortified wine, fortified wine, spirituous liquor, and mixed beverages.

EFFECTIVE DATE: This act would be effective when it becomes law.

BACKGROUND: Below is a chart listing the existing local meal tax acts.

Local Meals Tax Acts⁵

Jurisdiction	Session Laws
Cumberland County	S.L. 1993-413, as amended by Section 2.19 of S.L. 2001-347
Dare County	S.L. 1991-177, as amended by Section 2.20 of S.L. 2001-347 and by Section 9 of S.L. 2002-141.
Mecklenburg County	S.L. 1989-821, as amended by Section 2.18 of S.L. 2001-347, by S.L. 2001-402, and by S.L. 2011-160.
Wake County	S.L. 1991-594, as amended by S.L. 1995-458 and by Section 2.22 of S.L. 2001-347
Town of Hillsborough	S.L. 1993-449, as amended by S.L. 1999-304 and by Section 2.21 of S.L. 2001-347
City of Monroe	S.L. 2005-261, as amended by Section 9 of S.L. 2006-171, w/referendum in 2006 or 2007 ⁶
Durham County	S.L. 2008-116, w/ referendum ⁷

⁴ G.S. 18B-101(4).

⁵Subject to exemptions, each municipality and county that levies the tax charges a 1% tax on the sales price of prepared food and beverage sold at retail within their corporate limits.

⁶ A proposed prepared food and beverages tax was defeated in a Union County Board of Elections referendum on October 9, 2007, with 37.18% of the voters voting for the tax and 62.82% voting against the tax.

⁷ A proposed prepared food and beverages tax was defeated in the Durham County General Election on November 4, 2008, with 28.22% of the voters voting for the tax and 71.78% voting against the tax.