



HOUSE BILL 458: Henderson Meals Tax.

2019-2020 General Assembly

Committee: House State and Local Government. If **Date:** May 7, 2019
favorable, re-refer to Finance. If favorable, re-
refer to Rules, Calendar, and Operations of the
House

Introduced by: Rep. Garrison

Prepared by: Nicholas Giddings

Analysis of: First Edition

Staff Attorney

OVERVIEW: House Bill 458 would authorize the City of Henderson, by resolution, to levy a prepared food and beverages tax of up to one percent (1%).

BILL ANALYSIS: House Bill 458 would authorize the Henderson City Council to pass a resolution, after not less than 10 days' public notice and a public hearing, to levy a prepared food and beverages tax of up to 1%. 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 for the promotion of travel and tourism as well as tourism related expenditures in the City.

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

"Prepared food" is defined as food that meets at least one of the following conditions:²

- 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.

The term **"beverage"** 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.³

¹ G.S. 160A-214.1 and 153A-154.1.

² G.S. 105-164.3(28).

³ G.S. 18B-101(4).

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Director



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

BACKGROUND: Below is a summary of all prior local meal tax acts.

Local Meals Tax Acts⁴

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 and City of Charlotte	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 ⁵
Durham County	S.L. 2008-116, w/ referendum ⁶

⁴Subject 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.

⁵ 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.

⁶ 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.