

**PRIVILEGE LICENSE TAX
SCHEDULE "B" LICENSES
HOKE COUNTY ORDINANCE**

AMENDED

AMENDED

DIVISION 1. GENERAL:

***State law references:** Authority to levy, G.S. 160A-211.

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1.1 PURPOSE.

(A) The intent of this chapter is to raise funds for general municipal purposes. Therefore, it should be construed to require payment of the maximum tax permitted for the privilege of carrying on a business, trade, profession, calling or occupation within the County of Hoke.

(B) A license issued pursuant to this chapter reflects that the appropriate tax has been paid. Issuance of a license does not constitute regulatory approval and does not excuse a licensee from compliance with any other applicable ordinance, regulation, or statute. By issuing a license, the County of Hoke has not determined that the recipient is in compliance with any applicable local, state or federal regulation or law or that the

recipient is otherwise engaged in a legal activity or operating a business in a legal manner.

(C) This chapter does not prevent the County of Hoke from imposing license taxes on additional businesses, from increasing or decreasing the amount of any license tax or from regulating any business taxed.

1.2 DEFINITIONS.

Whenever used in this Ordinance (unless the context requires a different meaning):

AGENT means a person authorized to promote, represent, and/or sell for an agency or business.

BUSINESS includes each trade, occupation, profession, business and franchise or other activity engaged in by any person for gain, profit, benefit or advantage, taxed under this Ordinance.

FISCAL YEAR means the period beginning with July 1 and ending on June 30.

GROSS RECEIPTS of the business means total receipts from sales or services as indicated on the federal or state income tax return for that business.

LICENSEE means a person who has paid the privilege license tax levied by this Ordinance and obtained a privilege license.

PERSON includes any individual, trustee, executor, other fiduciary, corporation, unincorporated association, partnership, sole proprietorship, company, firm or other legal entity.

TAX COLLECTION CLERK means the individual(s) in the office of the Tax Collections Department who is charged with the responsibility of administering this Ordinance.

COUNTY means County of Hoke

2. LEVY

2.1 LEVY.

Levy of tax. An annual privilege license tax is hereby levied on each business conducted within this County, in the amounts set forth in this ordinance. Additionally, every license issued under this chapter shall be a personal privilege and shall not be transferable.

2.2 WHO MUST PAY A PRIVILEGE LICENSE TAX.

Each person who conducts a business within the County of Hoke is subject to this ordinance.

(A) A person “conducts a business” when he engages in one act of any business. (B) A person conducts a business “within the County”, if he maintains a business location within the County, or if, either personally or through agents, he: (1) Solicits business within the County, or (2) Picks up or delivers goods or services within the County.

2.3 LICENSE REQUIRED.

It shall be unlawful for any person or his agent to engage in or carry on a business in this County for which there is required a license. A violation, of this ordinance, shall constitute a misdemeanor, and each day, that such person shall engage in or carry on such business, shall be construed to be a separate offense. A conviction under this section does

not relieve a person of his liability for the license tax or taxes imposed by this ordinance.

2.4 EXEMPTIONS.

(A) *Generally.* Except as otherwise provided in this section or by state law, no person is exempt from the payment of a privilege license tax levied by this ordinance.

(B) *Charitable organizations.* A person, who operates a business for a religious, educational, civic, patriotic, charitable or fraternal purpose, when the entire gross income of the business is used for such a purpose, is exempt from paying any privilege license tax levied by this ordinance.

2.5 NOTICE TO TAXPAYER PRESUMED.

Each person who conducts a business may be subject to a business license. It is the duty of the taxpayer to verify what his requirements are. If licenses are not paid, the proceedings allowed by law may be taken against such business. This notice shall be conclusively presumed, whether or not such persons have actual notice.

2.6 PERIOD; DUE DATE.

Unless otherwise specified, the license issued pursuant to this chapter is valid for the 12-month period beginning July 1 and ending June 30.

(A) The tax is due June 1 and payable no later than June 30 of each year.

(B) However, if a person begins a business after June 1 of a year, the tax for that year shall be due and payable before the business is begun.

(C) A person may not commence a business conducted within the County of Hoke which is taxed pursuant to this ordinance, until the privilege license tax due is paid, and may not continue such business beyond the period for which the license is issued.

(D) The provisions of this section shall not be applicable to beer and wine licenses, which shall be as provided by state law.

2.7 PRORATION OF TAX.

If a business begins after November 30 and before June 1 the amount of tax due is half the amount otherwise due unless otherwise provided. **However, beer and wine licenses are never prorated.**

3. LICENSES

Privilege License Tax requirements as provided, before the license shall be issued:

3.1 APPLICATION.

(A) A person shall apply to the Tax Collection Clerk for each license required by this ordinance no less than thirty (30) days before the date the tax is due. The application, which shall be submitted on forms provided by the Tax Collection Clerk, shall contain:

(1) The start date in which the business began in County, along with the application date.

(2) The name of the applicant and whether the applicant is an individual, a partnership, a corporation, or some other entity.

(3) Where the business is conducted.

(4) All telephone numbers applicable to the business.

(5) The nature of the business.

(6) An address where notices and statements may be mailed to as required by this ordinance.

(7) Any other information the Tax Collection Clerk determines to be necessary to compute the amount of tax due.

3.2 TAX BASED ON GROSS RECEIPTS.

(A) *Requirement.* Except as provided in subsection (D) of this section if a license tax required by this ordinance is based upon the gross receipts, an applicant for a business privilege license shall be required to submit the exact amount of its gross receipts as reported on their most recent completed federal tax return, in such detail and in such manner as the office of the Tax Collection Clerk may require.

(B) *Procedures.* When a license tax required under this ordinance is based on gross receipts, the licensee will compute its license tax by applying all gross receipts per location to the rate established in this section and purchase a license per location. The licensee, however, may be subject to additional license taxes which the state authorizes the County of Hoke to levy, depending on the licensee's business, and for which a separate license must be purchased. If the licensee is required to obtain multiple licenses, these revenues may be excluded from the total gross receipts. New businesses and/or businesses that have not been in business 12 months must give a good-faith 12-month projection of their gross receipts. If necessary, the Tax Collection Clerk shall estimate gross receipts for the business on the basis of gross receipts of comparable businesses, or any other information that the Tax Collection Clerk considers useful.

(C) *Definitions.* The term "gross receipts," as used in this section, shall mean all earnings, receipts, fees, rentals, commissions, broker's charges and income whatsoever arising from or growing out of the conduct of the business, occupation or profession licensed under this ordinance during the tax year immediately preceding the license tax year for which the tax is being computed, without any deduction whatsoever, unless otherwise expressly provided.

(D) *Exception.* Any business that pays the maximum annual tax on its gross receipts shall not be required to submit the amount of its gross receipts in order to purchase a license.

(E) *Confidentiality of information.* All information regarding gross receipts or other information furnished or secured under the authority of this ordinance shall be kept in strict confidence by the office of the Tax Collector, its officials and employees, and shall not be subject or open to public inspection, except as provided in this ordinance. The aforementioned shall be utilized solely by the Tax Collector, its officials and employees for administering the provisions of this ordinance. However, summaries of such information may be shared with appropriate Hoke County officials and employees for purposes of research and analysis.

3.3 CHANGE IN THE BUSINESS DURING THE TAX YEAR; FEE FOR RE-ISSUANCE OF LICENSE.

(A) A licensee under this ordinance shall report a change in the information contained in the license application to the Tax Collection Clerk within ten days after the change occurs. If information shown on the license itself is affected thereby, the licensee shall surrender the license to the Tax Collection Clerk when reporting the change. The Tax

Collection Clerk shall reissue a license reflecting the change upon payment of \$5.00. The license shall be subject to cancellation for failure to comply with this section.

(B) *Duplicate copy.* Upon satisfactory proof that a license has been lost or destroyed, the Tax Collection Clerk shall furnish a duplicate upon payment of \$5.00. Any other duplication of a license shall constitute a misdemeanor, and is punishable by law.

3.4 DUTY TO DETERMINE WHETHER TAX DUE.

(A) Each person has the duty to determine whether the business he conducts is taxed under this ordinance, and if so, whether that tax has been paid for the current tax year.

(B) No license shall be transferable or assignable.

(C) A separate license is required and a separate privilege license tax must be paid for each place of business unless two or more places of business under common ownership are contiguous to each other, communicate directly with and open into each other and are operated as a unit.

3.5 REFUNDS FOR DISCONTINUED BUSINESS.

(A) Except as otherwise provided, there shall be no refund or abatement of any part of the license taxes where the licensee discontinues his business before the end of the period for which such license was issued.

(B) Any licensee under this ordinance who enters the armed forces of the United States and as a result thereof, the operation of the business for which the license was issued ceases and terminates and who, within 30 days after an induction into the armed forces, makes an application to the Tax Collection Clerk of the County of Hoke for same, shall be entitled to a refund of the license fee in proportion to the number of full months remaining in the license period.

3.6 FREE LICENSES PROHIBITED; EXCEPTION.

No free license under this ordinance shall be granted except to disabled veterans for peddling, provided such peddling is done on foot and not from any vehicle. Any such person must be approved by the County Director of Veteran's Affairs in order for the license to be granted.

4. DUTIES, ENFORCEMENTS AND COLLECTIONS

4.1 TAX COLLECTION CLERK'S AUTHORITY; DUTIES OF BUSINESS OPERATORS.

(A) *Investigations by the Tax Collection Clerk.* If the Tax Collection Clerk has reason to believe that a person is conducting a business in the County of Hoke in violation of this ordinance, the Tax Collection Clerk shall conduct an investigation to determine the person's tax liability.

(B) *Duty to permit inspection.* Each person who conducts business in the County of Hoke shall permit the Tax Collection Clerk or his/her designee to inspect the business premises during normal business hours to determine the nature of the business conducted there and to examine the books and records to determine the nature and amount of business transacted.

(C) *Duty to keep books.* Each person who conducts a business taxed under this ordinance shall keep all records and books necessary to compute the tax liability. If a person fails to keep books and records as required, the Tax Collection Clerk shall make a determination of that person's tax liability from the information available.

(D) *Ability to produce additional facts.* If the Tax Collection Clerk requires additional proof before rendering a determination of a person's tax liability, the Tax Collection Clerk may require a sworn statement of sales or other proof as needed prior to making that decision.

4.2 DUTY TO POST.

(A) A licensee under this ordinance shall post the license conspicuously in the place of business licensed. Failure to post this license shall raise the presumption of not being a licensed business.

(B) If there is no regular place of business, the license must be kept where it may be inspected at all times by the proper County of Hoke officials.

4.3 REASONS FOR REFUSAL OR REVOCATION.

The Tax Collection Clerk shall refuse to issue or shall revoke a license required by this chapter for any of the following reasons:

(A) The applicant misrepresents a fact relevant to the amount of tax due or the qualifications for a license.

(B) The applicant refuses to provide information necessary to compute the amount of tax due.

(C) The applicant fails or refuses to provide all information required in the application.

(D) Upon the revocation of any license, it shall be unlawful for the person to whom such license was granted to continue to conduct such business.

4.4 PENALTIES

(A) All license taxes imposed by this ordinance shall be due June 1 and payable in advance by June 30. If any person conducts any business without first paying such tax and obtaining a license by that date, there shall be assessed an additional tax equal to five percent (5%) of the amount prescribed for the license per month or fraction thereof until paid, not to exceed 25 percent (25%) of the amount so prescribed, but in any event shall not be less than five dollars (\$5.00).

(B) No license shall be granted until the license tax plus the additional tax assessed has been paid.

(C) All licenses imposed on businesses shall be paid prior to the beginning of such business. If not paid within 30 days, the penalties provided in subsections (a) and (b) of this section shall apply from the date such business began.

4.5 PROVIDING NOTICE TO AN APPLICANT OR LICENSEE.

Whenever this ordinance requires the Tax Collection Clerk to give a written statement or notice to an applicant or a licensee, he may do so in any one of three ways:

(A) By personally delivering the statement or notice to the applicant or licensee.

(B) By mailing the statement or notice by registered or certified mail, return receipt requested, to the address specified for that purpose in the licensee application or to the last known address.

(C) By causing the statement or notice to be served on the applicant or licensee in accordance with the procedures for service or process under Rule 4, North Carolina Rules of Civil Procedure.

4.6 ENFORCEMENT ACTIONS.

(A) *Equitable remedies.* In addition to the criminal remedies set forth in subsection (A) of this section, pursuant to **G.S. 160A-175(d)**, the County of Hoke may seek an injunction against any person conducting a business in violation of this ordinance.

(B) *Garnishment and levy remedies.* The Tax Collection Clerk may set forth the sale of tangible personal property (levy) or attach wages, rents, bank deposit and other compensation (garnish) to eliminate any delinquent license tax in accordance with **G.S. 105-368 and G.S. 160A-207.**

(C) *Criminal remedies.* Conducting business within the County of Hoke without having paid the license tax imposed, or without a valid license issued pursuant to this ordinance, or without posting a license pursuant to Section **110.42**, is a misdemeanor, punishable as provided in Section **10.99**. Payment of a fine imposed in criminal proceedings pursuant to this section does not relieve a person of his liability for taxes imposed under this ordinance.

(D) *Use of remedies.* The County of Hoke may maintain an action or procedure to enforce any remedy provided by law for the collection of privilege license tax within three (3) years from the date the taxes became due.

DIVISION 2. LICENSE TAX SCHEDULES

Schedule A

Privilege License Taxes Based on Gross Sales/Receipts/Income:

Businesses that are taxed under this schedule will use the formula below to calculate the tax amount due. In addition to paying on a gross receipts tax there may be other tax classifications required listed in Schedule B and Schedule C.

(101) All businesses, trades, professions, game devices or other undertaking, prosecuted for profit or gain, \$0.20 per \$1,000.00 of annual gross receipts: \$50.00 minimum, \$2,000.00, maximum.

Schedule B

Privilege License Taxes Limited under North Carolina General Statutes:

Listed below are classifications of business activities governed within the North Carolina Revenue Laws, pursuant to G.S. 160A-211. Businesses conducting these activities are taxed under this schedule in addition to Schedule A and Schedule C, if applicable.

G.S. 105-89 Automobile Dealers..... \$25.00

Activities. Engaging in the business of buying, selling, distributing, servicing storing, or exchanging motor vehicles, trailers, semitrailers, tires tools, batteries, electrical equipment, lubricants, or automotive equipment, radios designed for exclusive use in automobiles, and supplies.

G.S. 105-102.5 (b)(6) Bowling Alleys..... \$10.00 each alley

Activities. Operating a bowling alley or alleys of like kind.

G.S. 105-37.1 Circuses and Animal Shows.....\$25.00

Activities. Exhibiting performances, such as a circus or dog show, or any other similar show, exhibition, or performance not taxed in other sections of Schedule B.

G.S. 105-88 Check-Cashing Business..... \$100.00

Activities. Engaging in the business of check cashing, as regulated under Article 22 of Chapter 53 of the General Statues. This is the business of cashing checks, drafts, or money orders for a fee.

G.S. 105-80 Dealers in Firearms\$50.00

Activities. Engaging in the business of selling or offering for sale firearms.

G.S. 105-80 Other Weapons.....\$200.00

Engaging in the business of selling or offering for sale bowie knives, dirks, daggers, leaded canes, iron or metallic knuckles, or similar weapons.

G.S. 105-66.1 Electronic Video Games.....\$5.00 per machine

Activities. Owning or operating machines that play electronic video games when a coin or other thing of value is deposited in the machine.

G.S.105-90 Emigrant and Employment Agents..... \$100.00

Activities. Engaging in the business of soliciting, hiring, and contracting with laborers for employment out of state; or engaging in the business of securing employment for a person or persons and charging a fee, commission, or other compensation.

G.S. 105-58 Fortune-tellers.....\$100.00

Activities. Engaging in the business of telling or pretending to tell fortunes, practicing the art of palmistry, clairvoyance, and other crafts of a similar kind for a reward.

G.S. 105-55 Installing Elevators and Sprinkler Systems.....\$100.00

Activities. Engaging in the business of selling or installing elevators or automatic sprinkler systems.

G.S. 105-53 Itinerant Merchants.....\$100.00

Activities. Engaging in the business of itinerant merchant, defined as “a merchant, other than a merchant with an established retail store in the county, who transports an inventory of goods to a building, vacant lot, or other location in the county and who, at that location, displays the goods for sale and sells the good at retail or offers the good for sale

at retail.” “A merchant who sells goods, other than farm products, in a county for less than six consecutive months is considered an itinerant merchant unless he stopped selling goods in that county because of his death or disablement, the insolvency of his business, or destruction of his inventory by fire or other catastrophe.”

G.S. 105-88 Loan Agencies.....\$100.00

Activities. Engaging in the regular business of making loans or leading money, accepting liens on or contracts of assignment of salaries, wages, or any part thereof, or other security or evidence of debt for repayment of such loans in installment payment or otherwise; and maintaining in connection with such activity any office or established place for the conduct, negotiation, or transaction of such business, or advertising or soliciting such business in any manner.

G.S. 105-89 Motorcycle Dealers \$12.50

Activities. Engaging in the business of buying, selling, servicing, distributing or exchanging motorcycles, motorcycle supplies or any of such commodities.

G.S. 105-65 Music Machines.....\$5 per machine

Activities. Operating, maintaining, or placing on location any machine or machines that play records or produce music.

G.S. 105-88 Pawnbrokers.....\$275.00

Activities. Engaging in the business of pawnbroker, as regulated by Chapter 91A of the General Statutes.

G.S. 105-53 Peddlers.....

Peddler of farm products only \$25.00

Peddler on foot \$10.00

Peddler with vehicle \$25.00

Activities. Engaging in the business of peddler, defined as “a person who travels from place to place with an inventory of goods, who sells the goods at retail or offers the goods for sale at retail, and who delivers the identical goods he carries with him.”

Farmers selling their own produce are exempt. Sellers of crafts or goods they or their household produced are exempt.

G.S. 105-102.5 (b)(8) Pinball Machines and Similar Amusements.....\$25.00

Activities. Operating a bagatelle table; merry-go-round or other riding device; hobbyhorse; switchback railway; shooting gallery; swimming pool; skating rink; other amusements of a like kind; or a place for other games or play with or without name at a permanent location.

G.S. 105-102.5 (b)(5) Pool Tables.....\$25 each location.

Activities. Operating billiard or pool tables, whether by slot (coin) or otherwise.

G.S. 105-89 Service Stations..... \$12.50

Activities. Engaging in the business of servicing, storing, painting, repairing, welding, or upholstering motor vehicles, trailers, and semitrailers; or retail selling or delivering of any tiers, tools, batteries, electrical equipment, automotive accessories, radios designed for exclusive use in automobiles, supplies, motor fuels, lubricants, or any such commodities.

G.S. 105-89 Wholesale Supply Dealers.....\$37.50

Activities. Engaging in the business of buying, selling, distributing, exchanging, or delivering automotive accessories, including radios designed for exclusive use in automobiles, parts, tires, tools, batteries, other automotive equipment or supplies, or any such commodities at wholesale.

DIVISION 3. ABC LICENSES

G.S. 105-113.78 Beer licenses - from July 1 to June 30, *not prorated*

(A) On-premises **\$25.00**

(B) Off premises **\$5.00**

G.S. 105-113.78 Wine license - from July 1 to June 30, *not prorated*

(A) On-premises **\$25.00**

(B) Off-premises **\$25.00**

(Ord. March 19, 1979 effective July 1, 1979)

(Amended August 6, 1984)

(Amended May 16, 2011 effective July 1, 2011)

This amended ordinance adopted May 16, 2011

Tony Hunt, Chairman

Linda Revels, Clerk to the Board