

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 511
Committee Substitute Favorable 6/14/95

Short Title: Late Video Return/Sales Tax.

(Public)

Sponsors:

Referred to:

March 21, 1995

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 VIDEO CASSETTE TAPE.

The General Assembly of North Carolina enacts:

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

"g. The term 'sales price' includes an extra day charge as defined in G.S. 66-67.4 and any other late charge for the late return of leased or rented personal property unless 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."

Sec. 2. Article 13 of Chapter 66 is amended by adding a new section to read:

1 **"§ 66-67.4. Remedies for failure to pay extra day charges for late return of video.**

2 (a) The following definitions apply in this section:

3 (1) Extra day charge. – A charge for the late return of a rented video
4 cassette at the same rate as the daily rental charge rate or the regular per
5 day rental charge rate.

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

9 (3) Video rental store. – Any entity whose principal business is the rental of
10 video cassette tapes for noncommercial use.

11 (b) A member of record who fails to pay the extra day charges assessed for the late
12 return of a video cassette within 30 days after written demand for its return is liable to the
13 video rental store for a minimum amount of fifty dollars (\$50.00) or three times the
14 amount of the extra day charges, whichever is greater.

15 (c) The written demand shall be mailed by certified mail to the member of record's
16 last known address.

17 (d) The damages provided for in this section do not apply unless at the time of the
18 rental of the video cassette tape the video rental store conspicuously displayed in the
19 vicinity of the checkout counter a sign that displays the following warnings in block
20 letters not less than one inch in height:

21 'STATE LAW PROVIDES THAT FAILURE TO PAY THE LATE
22 RETURN, EXTRA DAY CHARGES DUE ON ANY RENTED VIDEO
23 CASSETTE TAPE MAY RESULT IN DAMAGES OF TRIPLE THE
24 AMOUNT OF THE LATE CHARGES, WITH A MINIMUM OF \$50.00.
25 (G.S. 66-67.4).'

26 (e) The presiding judge or magistrate may award the prevailing party, as part of
27 the court costs payable, a reasonable attorney's fee for the licensed attorney representing
28 the prevailing party in an action under this section.

29 (f) Nothing contained in this section shall prohibit recovery upon any other theory of
30 law."

31 Sec. 3. Section 1 of this act becomes effective July 1, 1995, and applies to
32 rentals of video cassette tapes occurring on or after that date. The remainder of this act
33 becomes effective October 1, 1995, and applies to rentals of video cassette tapes
34 occurring on or after that date.