

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 36

Short Title: Uniform Tax on Piped Natural Gas.

(Public)

Sponsors: Senators Kerr, Cochrane, Cooper, Shaw of Cumberland, Soles; Foxx and Hoyle.

Referred to: Finance.

February 3, 1997

A BILL TO BE ENTITLED

1 AN ACT TO ESTABLISH A UNIFORM TAX ON PIPED NATURAL GAS BY
2 CONVERTING THE SALES TAX AND GROSS RECEIPTS TAX ON PIPED
3 NATURAL GAS INTO A TAX BASED ON VOLUME OF THERMS.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 105-116 reads as rewritten:

6 **"§ 105-116. Franchise or privilege tax on electric power, ~~natural gas,~~ water, and**
7 **sewerage companies.**

8 (a) Tax. – An annual franchise or privilege tax is imposed on a person, firm, or
9 corporation, other than a municipal corporation, that is:

10 (1) An electric power company engaged in the business of furnishing
11 electricity, electric lights, current, or power.

12 (2) ~~A natural gas company engaged in the business of furnishing piped~~
13 ~~natural gas.~~

14 (3) A water company engaged in owning or operating a water system
15 subject to regulation by the North Carolina Utilities Commission.

16 (4) A public sewerage company engaged in owning or operating a public
17 sewerage system.
18

1 The tax on an electric power company is three and twenty-two hundredths percent
2 (3.22%) of the company's taxable gross receipts from the business of furnishing
3 electricity, electric lights, current, or power. ~~The tax on a natural gas company is three and~~
4 ~~twenty-two hundredths percent (3.22%) of the company's taxable gross receipts from the~~
5 ~~business of furnishing piped natural gas.~~ The tax on a water company is four percent (4%) of
6 the company's taxable gross receipts from owning or operating a water system subject to
7 regulation by the North Carolina Utilities Commission. The tax on a public sewerage
8 company is six percent (6%) of the company's taxable gross receipts from owning or
9 operating a public sewerage company. A company's taxable gross receipts are its gross
10 receipts from business inside the State less the amount of gross receipts from sales
11 reported under subdivision (b)(2). A company that engages in more than one business
12 taxed under this section shall pay tax on each business. A company is allowed a credit
13 against the tax imposed by this section for the company's investments in certain entities
14 in accordance with Division V of Article 4 of this Chapter.

15 (b) Report and Payment. – The tax imposed by this section is payable monthly or
16 quarterly as specified in this subsection. A report is due quarterly. An electric power
17 company ~~or a natural gas company~~ shall pay tax monthly. A monthly tax payment is due by
18 the last day of the month that follows the month in which the tax accrues, except the
19 payment for tax that accrues in May. The payment for tax that accrues in May is due by
20 June 25. An electric power company ~~or a natural gas company~~ is not subject to interest on
21 or penalties for an underpayment of a monthly amount due if the company timely pays at
22 least ninety-five percent (95%) of the amount due and includes the underpayment with
23 the next report the company files. A water company or a public sewerage company shall
24 pay tax quarterly when filing a report.

25 A quarterly report covers a calendar quarter and is due by the last day of the month
26 that follows the quarter covered by the report. A company shall submit a report on a form
27 provided by the Secretary. The report shall include the company's gross receipts from all
28 property it owned or operated during the reporting period in connection with its business
29 taxed under this section and shall contain the following information:

- 30 (1) The company's gross receipts for the reporting period from business
31 inside and outside this State, stated separately.
- 32 (2) The company's gross receipts from commodities or services described in
33 subsection (a) that are sold to a vendee subject to the tax levied by this
34 section or to a joint agency established under ~~G.S. Chapter 159B~~ Chapter
35 159B of the General Statutes or a municipality having an ownership
36 share in a project established under that Chapter.
- 37 (3) The amount of and price paid by the company for commodities or
38 services described in subsection (a) that are purchased from others
39 engaged in business in this State and the name of each vendor.
- 40 (4) For an electric power ~~company or a natural gas company~~, the company's
41 gross receipts from the sale within each municipality of the
42 commodities and services described in subsection (a).

43 A company shall report its gross receipts on an accrual basis.

1 (e) ~~Gas Special Charges.~~—Gross receipts of a natural gas company do not include
2 the following:

3 (1) ~~Special charges collected within this State by the company pursuant to~~
4 ~~drilling and exploration surcharges approved by the North Carolina~~
5 ~~Utilities Commission, if the surcharges are segregated from the other~~
6 ~~receipts of the company and are devoted to drilling, exploration, and~~
7 ~~other means to acquire additional supplies of natural gas for the account~~
8 ~~of natural gas customers in North Carolina and the beneficial interest in~~
9 ~~the surcharge collections is preserved for the natural gas customers~~
10 ~~paying the surcharges under rules established by the Commission.~~

11 (2) ~~Natural gas expansion surcharges imposed under G.S. 62-158.~~

12 (d) Distribution. – For the purpose of this subsection, the term 'distribution
13 amount' means three and nine hundredths percent (3.09%) of the taxable gross receipts
14 derived during a period by an electric power company ~~and a natural gas company~~ from
15 sales within a municipality of the commodities and services described in subsection (a) of
16 this section. The Secretary shall distribute to each municipality the distribution amount
17 for that municipality for the preceding calendar quarter less ~~an amount equal to the~~
18 'holdback amount' for the municipality. The 'holdback amount' for a municipality equals
19 one-fourth of the excess of the electric power distribution amount for that municipality
20 for the period April 1, 1994, to March 31, 1995, over the electric power distribution
21 amount for that municipality for the period April 1, 1990, to March 31, 1991, as certified
22 by the Secretary. The Secretary shall distribute the revenue within 75 days after the end
23 of each quarter. If a company's report does not state the company's taxable gross receipts
24 derived within a municipality, the Secretary shall determine a practical method of
25 allocating part of the company's taxable gross receipts to the municipality.

26 As used in this subsection, the term 'municipality' includes an urban service district
27 defined by the governing board of a consolidated city-county. The amount due an urban
28 service district shall be distributed to the governing board of the consolidated city-county.

29 (e) Local Tax. – So long as there is a distribution to municipalities of the amount
30 herein provided from the tax imposed by this section, no municipality shall impose or
31 collect any greater franchise, privilege or license taxes, in the aggregate, on the
32 businesses taxed under this section, than was imposed and collected on or before January
33 1, 1947. If any municipality shall have collected any privilege, license or franchise tax
34 between January 1, 1947, and April 1, 1949, in excess of the tax collected by it prior to
35 January 1, 1947, then upon distribution of the taxes imposed by this section to
36 municipalities, the amount distributable to any municipality shall be credited with such
37 excess payment."

38 Section 2. G.S. 105-164.3(25) reads as rewritten:

39 "(25) 'Utility' means an electric power ~~company, a gas company, company~~
40 or a telephone company that is subject to a privilege tax based on
41 gross receipts under G.S. 105-116 or 105-120, a business entity that
42 provides local, toll, or private telecommunications service as defined
43 by G.S. ~~105-120(e)~~ 105-120(e), or a municipality that sells electric

1 power, other than a municipality whose only wholesale supplier of
2 electric power is a federal agency and who is required by a contract
3 with that federal agency to make payments in lieu of taxes."

4 Section 3. G.S. 105-164.4(a) reads as rewritten:

5 "(a) A privilege tax is imposed on a retailer at the following percentage rates of the
6 retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four
7 percent (4%).

8 (1) The general rate of tax applies to the sales price of each item or
9 article of tangible personal property that is sold at retail and is not
10 subject to tax under another subdivision in this section.

11 (1a) The rate of two percent (2%) applies to the sales price of each
12 manufactured home sold at retail, including all accessories attached
13 to the manufactured home when it is delivered to the purchaser. The
14 maximum tax is three hundred dollars (\$300.00) per article. Each
15 section of a manufactured home that is transported separately to the
16 site where it is to be erected is a separate article.

17 (1b) The rate of three percent (3%) applies to the sales price of each
18 aircraft, boat, railway car, or locomotive sold at retail, including all
19 accessories attached to the item when it is delivered to the purchaser.
20 The maximum tax is one thousand five hundred dollars (\$1,500) per
21 article.

22 (1c) The rate of one percent (1%) applies to the sales price of the
23 following articles:

24 a. Horses or mules by whomsoever sold.

25 b. Semen to be used in the artificial insemination of animals.

26 c. Sales of fuel, other than ~~electricity or piped natural gas, electricity,~~
27 to farmers to be used by them for any farm purposes other than
28 preparing food, heating ~~dwellings-dwellings,~~ and other household
29 purposes. The quantity of fuel purchased or used at any one time
30 shall not in any manner be a determinative factor as to whether
31 any sale or use of fuel is or is not subject to the one percent (1%)
32 rate of tax imposed ~~herein~~ by this subdivision.

33 d. Sales of fuel, other than ~~electricity or piped natural gas, electricity,~~
34 to manufacturing industries and manufacturing plants for use in
35 connection with the operation of such industries and plants other
36 than sales of fuels to be used for residential heating purposes.
37 The quantity of fuel purchased or used at any one time shall not
38 in any manner be a determinative factor as to whether any sale or
39 use of fuel is or is not subject to the rate of tax provided in this
40 subdivision.

41 e. Sales of fuel, other than ~~electricity or piped natural gas, electricity,~~
42 to commercial laundries or to pressing and dry-cleaning
43 establishments for use in machinery used in the direct

1 performance of the laundering or the pressing and cleaning
2 service.

3 f. Sales to freezer locker plants of wrapping paper, cartons and
4 supplies consumed directly in the operation of such plant.

5 (1d) The rate of one percent (1%) applies to the sales price of the
6 following articles. The maximum tax is eighty dollars (\$80.00) per
7 article.

8 a. Sales to a farmer of machines and machinery, and parts and
9 accessories for these machines and machinery, for use by the
10 farmer in the planting, cultivating, harvesting, or curing of farm
11 crops or in the production of dairy products, eggs, or animals. A
12 'farmer' includes a dairy operator, a poultry farmer, an egg
13 producer, a livestock farmer, a farmer of crops, and a farmer of
14 an aquatic species, as defined in G.S. 106-758. Items that are
15 exempt from tax under G.S. 105-164.13(4c) are not subject to tax
16 under this section.

17 The term 'machines and machinery' as used in this
18 subdivision is defined as follows:

19 The term shall include all vehicular implements, designed and
20 sold for any use defined in this subdivision, which are operated,
21 drawn or propelled by motor or animal power, but shall not
22 include vehicular implements which are operated wholly by
23 hand, and shall not include any motor vehicles required to be
24 registered under Chapter 20 of the General Statutes.

25 The term shall include all nonvehicular implements and
26 mechanical devices designed and sold for any use defined in this
27 subdivision, which have moving parts, or which require the use
28 of any motor or animal power, fuel, or electricity in their
29 operation but shall not include nonvehicular implements which
30 have no moving parts and are operated wholly by hand.

31 The term shall also include metal flues sold for use in curing
32 tobacco, whether such flues are attached to handfired furnaces or
33 used in connection with mechanical burners.

34 b. Sales of mill machinery or mill machinery parts and accessories
35 to manufacturing industries and plants, and sales to contractors
36 and subcontractors purchasing mill machinery or mill machinery
37 parts and accessories for use by them in the performance of
38 contracts with manufacturing industries and plants, and sales to
39 subcontractors purchasing mill machinery or mill machinery
40 parts and accessories for use by them in the performance of
41 contracts with general contractors who have contracts with
42 manufacturing industries and plants. As used in this paragraph,
43 the term 'manufacturing industries and plants' does not include

- 1 delicatessens, cafes, cafeterias, restaurants, and other similar
2 retailers that are principally engaged in the retail sale of foods
3 prepared by them for consumption on or off their premises.
- 4 c. Sales of central office equipment and switchboard and private
5 branch exchange equipment to telephone companies regularly
6 engaged in providing telephone service to subscribers on a
7 commercial basis, and sales to these companies of prewritten
8 computer programs used in providing telephone service to their
9 subscribers.
- 10 d. Sales to commercial laundries or to pressing and dry cleaning
11 establishments of machinery used in the direct performance of
12 the laundering or the pressing and cleaning service and of parts
13 and accessories thereto.
- 14 e. Sales to freezer locker plants of machinery used in the direct
15 operation of said freezer locker plant and of parts and accessories
16 thereto.
- 17 f. Sales of broadcasting equipment and parts and accessories
18 thereto and towers to commercial radio and television companies
19 which are under the regulation and supervision of the Federal
20 Communications Commission.
- 21 g. Sales to farmers of bulk tobacco barns and racks and all parts and
22 accessories thereto and similar apparatus used for the curing and
23 drying of any farm produce.
- 24 h. Sales to farmers of grain, feed or soybean storage facilities and
25 accessories thereto, whether or not dryers are attached, and all
26 similar apparatus and accessories thereto for the storage of grain,
27 feed or soybeans.
- 28 i. Sales of containers to farmers or producers for use in the
29 planting, producing, harvesting, curing, marketing, packaging,
30 sale, or transporting or delivery of their products when such
31 containers do not go with and become part of the sale of their
32 products at wholesale or retail.
- 33 (1e) The rate of three percent (3%) applies to the sales price of each
34 mobile classroom or mobile office sold at retail, including all
35 accessories attached to the mobile classroom or mobile office when
36 it is delivered to the purchaser. The maximum tax is one thousand
37 five hundred dollars (\$1,500) per article. Each section of a mobile
38 classroom or mobile office that is transported separately to the site
39 where it is to be placed is a separate article.
- 40 (1f) The rate of two and eighty-three-hundredths percent (2.83%) applies
41 to the sales price of electricity and ~~and piped natural gas~~ described in this
42 subdivision and measured by a separate meter or another separate
43 device:

- 1 a. Sales of electricity ~~and piped natural gas~~ to farmers to be used by
2 them for any farm purposes other than preparing food, heating
3 dwellings, and other household purposes. The quantity of
4 electricity or gas purchased or used at any one time shall not be a
5 determinative factor as to whether its sale or use is or is not
6 subject to the rate of tax provided in this subdivision.
- 7 b. Sales of electricity ~~and piped natural gas~~ to manufacturing
8 industries and manufacturing plants for use in connection with
9 the operation of the industries and plants other than sales of
10 electricity ~~and gas~~ to be used for residential heating purposes. The
11 quantity of electricity ~~or gas~~ purchased or used at any one time
12 shall not be a determinative factor as to whether its sale or use is
13 or is not subject to the rate of tax provided in this subdivision.
- 14 c. Sales of electricity ~~and piped natural gas~~ to commercial laundries
15 or to pressing and dry-cleaning establishments for use in
16 machinery used in the direct performance of the laundering or the
17 pressing and cleaning service.

18 (2) The applicable percentage rate applies to the gross receipts derived
19 from the lease or rental of tangible personal property by a person
20 who is engaged in the business of leasing or renting tangible
21 personal property, or is a retailer and leases or rents property of the
22 type sold by the retailer. The applicable percentage rate is the rate
23 and the maximum tax, if any, that applies to a sale of the property
24 that is leased or rented. A person who leases or rents property shall
25 also collect the tax imposed by this section on the separate retail sale
26 of the property.

27 (3) Operators of hotels, motels, tourist homes, tourist camps, and similar
28 type businesses and persons who rent private residences and cottages
29 to transients are considered retailers under this Article. A tax at the
30 general rate of tax is levied on the gross receipts derived by these
31 retailers from the rental of any rooms, lodgings, or accommodations
32 furnished to transients for a consideration. This tax does not apply to
33 any private residence or cottage that is rented for less than 15 days in
34 a calendar year or to any room, lodging, or accommodation supplied
35 to the same person for a period of 90 or more continuous days.

36 As used in this subdivision, the term 'persons who rent to transients'
37 means (i) owners of private residences and cottages who rent to
38 transients and (ii) rental agents, including 'real estate brokers' as defined
39 in G.S. 93A-2, who rent private residences and cottages to transients on
40 behalf of the owners. If a rental agent is liable for the tax imposed by
41 this subdivision, the owner is not liable.

42 (4) Every person engaged in the business of operating a dry cleaning,
43 pressing, or hat-blocking establishment, a laundry, or any similar

1 business, engaged in the business of renting clean linen or towels or
2 wearing apparel, or any similar business, or engaged in the business
3 of soliciting cleaning, pressing, hat blocking, laundering or linen
4 rental business for any of these businesses, is considered a retailer
5 under this Article. A tax at the general rate of tax is levied on the
6 gross receipts derived by these retailers from services rendered in
7 engaging in any of the occupations or businesses named in this
8 subdivision. The tax imposed by this subdivision does not apply to
9 receipts derived from coin or token-operated washing machines,
10 extractors, and dryers. The tax imposed by this subdivision does not
11 apply to gross receipts derived from services performed for resale by
12 a retailer that pays the tax on the total gross receipts derived from the
13 services.

14 (4a) The rate of three percent (3%) applies to the gross receipts
15 derived by a utility from sales of ~~electricity, piped natural gas,~~
16 electricity or local telecommunications service as defined by G.S.
17 105-120(e), other than sales of electricity ~~or piped natural gas~~
18 subject to tax under another subdivision in this section. ~~Gross~~
19 ~~receipts from sales of piped natural gas shall not include natural gas~~
20 ~~expansion surcharges imposed under G.S. 62-158.~~ A person who
21 operates a utility is considered a retailer under this Article.

22 (4b) A person who sells tangible personal property at a flea market, other
23 than the person's own household personal property, is considered a
24 retailer under this Article. A tax at the general rate of tax is levied
25 on the sales price of each article sold by the retailer at the flea
26 market. A person who leases or rents space to others at a flea market
27 may not lease or rent this space unless the retailer requesting to rent
28 or lease the space shows the license or a copy of the license required
29 by this Article or other evidence of compliance. A person who leases
30 or rents space at a flea market shall keep records of retailers who
31 have leased or rented space at the flea market. As used in this
32 subdivision, the term 'flea market' means a place where space is
33 rented to a person for the purpose of selling tangible personal
34 property.

35 (4c) The rate of six and one-half percent (6 1/2%) applies to the gross
36 receipts derived from providing toll telecommunications services or
37 private telecommunications services as defined by G.S. 105-120(e)
38 that both originate from and terminate in the State and are not
39 subject to the privilege tax under G.S. 105-120. Any business entity
40 that provides these services is considered a retailer under this
41 Article. This subdivision does not apply to telephone membership
42 corporations as described in Chapter 117 of the General Statutes.

- (5) **(Effective July 1, 1997)** The rate of three percent (3%) applies to the sales price of food that is not otherwise exempt pursuant to G.S. 105-164.13 but would be exempt pursuant to G.S. 105-164.13 if it were purchased with coupons issued under the Food Stamp Program, 7 U.S.C. § 51."

Section 4. G.S. 105-164.13 is amended by adding a new subdivision to read:

- "(43) Piped natural gas. This item is exempt because it is taxed under Article 5D of this Chapter."

Section 5. G.S. 105-164.20 reads as rewritten:

"§ 105-164.20. Cash or accrual basis of reporting.

Any retailer, except a utility, ~~taxable under this Article having both cash and credit sales~~ may report ~~such~~ sales on either the cash or accrual basis of accounting upon making application to the Secretary for permission to use ~~such the~~ basis of reporting under such rules and regulations as shall be promulgated from time to time by the Secretary. Such permission shall continue in force and effect unless revoked by the Secretary but he may grant written permission to any such taxpayer upon application therefor to change from one basis to another under such rules and regulations. A utility shall selected. Permission granted by the Secretary to report on a selected basis continues in effect until revoked by the Secretary or the taxpayer receives permission from the Secretary to change the basis selected. A utility must report its sales on an accrual basis. A sale by a utility of ~~electricity, piped natural gas, electricity~~ or intrastate telephone service is considered to accrue when the utility bills its customer for the sale."

Section 6. Chapter 105 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 5D.

"PIPED NATURAL GAS TAX.

"§ 105-187.30. Definitions.

The definitions in G.S. 105-228.90 and the following definitions apply in this Article:

- (1) Local distribution company. – A natural gas company to whom the North Carolina Utilities Commission has issued a franchise under Chapter 62 of the General Statutes to serve an area of this State.
- (2) Sales customer. – An end-user whose piped natural gas is delivered by the seller of the gas.
- (3) Transportation customer. – An end-user whose piped natural gas is delivered by a person who is not the seller of the gas.

"§ 105-187.32. Tax imposed on piped natural gas.

(a) Scope. – An excise tax is imposed on piped natural gas consumed in this State. This tax is imposed in lieu of a sales and use tax and a percentage gross receipts tax on piped natural gas.

(b) Rate. – The tax rate is set in the table below and is based on monthly therm volumes of piped natural gas received by the consumer of the gas:

Volume of Therms Received	Rate per Therm
During the Month	

1	<u>First 200</u>	<u>\$.047</u>
2	<u>201 to 15,000</u>	<u>.027</u>
3	<u>Over 15,000</u>	<u>.022</u>

4 **"§ 105-187.34. Liability for the tax.**

5 The excise tax imposed by this section on piped natural gas is payable as follows:

- 6 (1) For piped natural gas delivered by a local distribution company to a
7 sales customer or a transportation customer, the tax is payable by the
8 local distribution company.
- 9 (2) For piped natural gas delivered to a sales customer by a city, the tax is
10 payable by the city.
- 11 (3) For piped natural gas received by a person directly from an interstate
12 pipeline for consumption by that person, the tax is payable by that
13 person.

14 **"§ 105-187.36. Payment of the tax.**

15 (a) Monthly Return. – The tax imposed by this Article is payable monthly to the
16 Secretary. A monthly tax payment is due by the last day of the month that follows the
17 month in which the tax accrues. The tax payable on piped natural gas delivered to a
18 customer by a local distribution company or a city accrues when the gas is delivered.
19 The tax payable on piped natural gas to be consumed by a person who received the gas
20 directly from an interstate pipeline accrues when the person receives the gas.

21 (b) Small Underpayments. – A person is not subject to interest on or penalties for
22 an underpayment of a monthly amount due if the person timely pays at least ninety-five
23 percent (95%) of the amount due and includes the underpayment with the next return the
24 person files.

25 **"§ 105-187.38. Distribution of part of tax proceeds to cities.**

26 (a) City Information. – A return filed under this Article must indicate the amount
27 of tax attributable to the following:

- 28 (1) Piped natural gas delivered during that month to sales or transportation
29 customers in each city in the State.
- 30 (2) Piped natural gas consumed during the month in each city in the State
31 by the pipeline recipient of the gas.

32 If a tax return does not state this information, the Secretary must determine how much of
33 the tax proceeds are to be attributed to each city.

34 (b) Distribution. – Within 75 days after the end of each calendar quarter, the
35 Secretary must distribute to the cities part of the tax proceeds collected under this Article
36 during that quarter. The amount to be distributed to a city is one-half of the amount of
37 tax attributable to that city for that quarter under subsection (a) of this section, less the
38 'holdback amount' for that city. The 'holdback amount' for a city is one-fourth of the
39 amount certified by the Secretary as the increase in the amount of piped natural gas tax
40 proceeds distributed to the city during the 12-month period beginning April 1, 1994,
41 compared to the amount distributed during the 12-month period beginning April 1, 1990.

42 **"§ 105-187.40. Information exchange and information returns.**

1 (a) Utilities Information. – The North Carolina Utilities Commission or the Public
2 Staff of that Commission must give the Secretary a list of the entities that receive piped
3 natural gas from an interstate pipeline and any other information available to the
4 Commission that the Secretary asks for in administering the tax imposed by this Article.

5 (b) Information Return. – The Secretary may require the operator of an interstate
6 pipeline to report the amount of piped natural gas taken from the pipeline in this State,
7 the persons that received the gas, and the volume received by each person.

8 **"§ 105-187.42. Records and audits.**

9 (a) Records. – A person who is required to file a return under this Article must
10 keep a record of all documents used to determine information provided in the return. The
11 records must be kept for three years after the due date of the return to which the records
12 apply.

13 (b) Audits. – The Secretary may audit a person who is required to file a return
14 under this Article."

15 Section 7. G.S. 105-259(b) is amended by adding a new subdivision to read:

16 "(20) To exchange information concerning the tax on piped natural gas
17 imposed by Article 5D of this Chapter with the North Carolina Utilities
18 Commission or the Public Staff of that Commission."

19 Section 8. G.S. 160A-211 is amended by adding a new subsection to read:

20 "(c) Piped Gas Restriction. – A city may not levy a privilege license tax on a person
21 who is engaged in the business of supplying piped natural gas and is subject to tax under
22 Article 5D of Chapter 105 of the General Statutes."

23 Section 9. This act becomes effective January 1, 1998.