

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE DRH50108-LYx-29B (2/12)

Short Title: Mitchell River-Rafting User Tax. (Local)

Sponsors: Representative Frye (By Request).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE MITCHELL COUNTY TO IMPOSE A USER TAX ON
THE BUSINESS OF PROVIDING RIVER RAFTING IN MITCHELL COUNTY.

Whereas, a number of businesses operate in both Mitchell County and Tennessee providing river-rafting services; and

Whereas, a tax is imposed in Tennessee on these businesses conducted in both Mitchell County and Tennessee; and

Whereas, the operation of river-rafting businesses in Mitchell County requires the county to provide emergency medical and rescue services and fire and police protection to customers of the businesses; and

Whereas, as a result of the influx of river rafters in Mitchell County, the county must provide services and facilities that create a financial burden to the county;

Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. This act applies only to Mitchell County.

SECTION 2. Definitions. – The following definitions apply in this act:

- (1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the user tax, as determined by the finance officer, not to exceed seven percent (7%) of the gross proceeds.
- (2) Providing river rafting. – Renting vessels or personal flotation devices for use on a river or providing river tours.
- (3) Vessel. – Defined in G.S. 75A-2.

SECTION 3. County river-rafting user tax. (a) Levy. – The board of commissioners of a county may, by resolution, levy a river-rafting user tax on the business of providing river rafting in the county. The user tax shall be at the rate of three dollars (\$3.00) per day for each individual to whom the business provides river rafting in the county. River rafting is provided in a county if the customer enters the

1 river in that county. This river-rafting user tax is in addition to any State or local sales
2 tax.

3 **SECTION 3.(b)** Effective Date of Levy. – Collection of the user tax, and
4 liability therefor, shall begin and continue only on and after the first day of a calendar
5 month set by the board of commissioners in the resolution levying the user tax. The
6 effective date of a user tax levied under this act may not be earlier than the first day of
7 the second succeeding calendar month after the date the resolution is adopted.

8 **SECTION 3.(c)** Use of User Tax Proceeds. – A county shall use at least fifty
9 percent (50%) of the net proceeds of a user tax levied under this act only for the
10 provision of emergency services.

11 **SECTION 3.(d)** Repeal. – A user tax levied under this act may be repealed
12 by a resolution adopted by the board of commissioners of the county. Repeal of a user
13 tax levied under this act shall become effective on the first day of a month and may not
14 become effective until the end of the fiscal year in which the repeal resolution was
15 adopted. Repeal of a user tax levied under this act does not affect a liability for a user
16 tax that was attached before the effective date of the repeal, nor does it affect a right to a
17 refund of a user tax that accrued before the effective date of the repeal.

18 **SECTION 4.** Collection and administration of the user tax. (a) Collection. –
19 Every operator of a business subject to the user tax levied under this act shall, on and
20 after the effective date of the levy of the user tax, collect the user tax. This user tax
21 shall be collected as part of the price charged for providing river rafting subject to the
22 user tax. The user tax shall be stated and charged separately from the sales records and
23 shall be paid by the customer to the operator of the business as trustee for and on
24 account of the county. The user tax shall be added to the price of the river rafting and
25 shall be passed on to the customer instead of being borne by the operator of the
26 business. The county shall design, print, and furnish to all appropriate businesses and
27 persons in the county the necessary forms for filing returns and instructions to ensure
28 the full collection of the user tax.

29 **SECTION 4.(b)** Administration. – The county shall administer a user tax
30 levied under this act. A user tax levied under this act is due and payable to the county
31 finance officer in monthly installments on or before the 15th day of the month following
32 the month in which the user tax accrues. Every person, firm, corporation, or association
33 liable for the user tax shall, on or before the 15th day of each month, prepare and render
34 a return on a form prescribed by the county. The return shall state the total gross
35 receipts derived in the preceding month from providing river rafting.

36 A return filed with the county finance officer under this act is not a public
37 record and may not be disclosed except in accordance with G.S. 153A-148.1.

38 **SECTION 5.** Penalties. – A person, firm, corporation, or association who
39 fails or refuses to file the return or pay the user tax required by this act is subject to the
40 civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for
41 State sales and use taxes. The board of commissioners of the levying county has the
42 same authority to waive the penalties for the river-rafting user tax that the Secretary of
43 Revenue has to waive the penalties for State sales and use taxes.

44 **SECTION 6.** This act is effective when it becomes law.