

House Bill 520

By: Representative Lucas of the 105th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,
2 relating to state sales and use taxation, so as to provide for a temporary change in the rate of
3 such taxation; to provide for related matters; to provide an effective date; to repeal
4 conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to state
8 sales and use taxation, is amended by striking Code Section 48-8-3.1, relating to application
9 of sales and use tax to motor fuels, and inserting in its place a new Code section to read as
10 follows:

11 "48-8-3.1.

12 (a) Except as provided in subsection (b) of this Code section, sales of motor fuels as
13 defined in paragraph (9) of Code Section 48-9-2 shall be exempt from the first 3 percent
14 of the sales and use taxes levied or imposed by this article and shall be subject to the
15 remaining ~~1 percent~~ amount of the sales and use taxes levied or imposed by this article.

16 (b) Sales of motor fuel other than gasoline which motor fuel other than gasoline is
17 purchased for purposes other than propelling motor vehicles on public highways as defined
18 in Article 1 of Chapter 9 of this title shall be fully subject to the ~~4 percent~~ sales and use
19 taxes levied or imposed by this article unless otherwise specifically exempted by this
20 article.

21 (c) It is specifically declared to be the intent of the General Assembly that taxation
22 imposed on sales of motor fuel wholly or partially subject to taxation under this Code
23 section shall not constitute motor fuel taxes for purposes of any provision of the
24 Constitution providing for the automatic or mandatory appropriation of any amount of
25 funds equal to funds derived from motor fuel taxes."

SECTION 2.

Said article is further amended by adding at the end of Code Section 48-8-30, relating to imposition, rate, and collection of tax, a new subsection (j) to read as follows:

"(j) Notwithstanding any other provision of law, the tax levied by this article shall be levied at the rate of 5 percent for the period of time beginning with the first day of the month following the effective date of this subsection and ending December 31, 2006. During such period of time any cap imposed by Code Section 48-13-51 or any other law with respect to the maximum amount of state sales and use tax and other taxes which may be imposed on any transaction shall be increased by 1 percent."

SECTION 3.

Said article is further amended by striking Code Section 48-8-32, relating to collection from dealers, and inserting in its place a new Code section to read as follows:

"48-8-32.

The tax at the ~~rate of 4 percent of the retail sales price at the time of sale or 4 percent of the cost price at the time of purchase, as the case may be,~~ percentage specified in Code Section 48-8-30 shall be collectable from all persons engaged as dealers in the sale at retail, or in the use, consumption, distribution, or storage for use or consumption in this state of tangible personal property."

SECTION 4.

Said article is further amended by striking Code Section 48-8-43, relating to disposition of excess tax collections, and inserting in its place a new Code section to read as follows:

"48-8-43.

When the tax collected for any period is in excess of ~~4 percent~~ the percentage specified in Code Section 48-8-30, the total tax collected shall be paid over to the commissioner less the compensation to be allowed the dealer."

SECTION 5.

Said article is further amended by striking subsection (d) of Code Section 48-8-63, relating to taxation of contractors and their transactions, and inserting in its place a new subsection to read as follows:

"(d)(1) Any subcontractor who enters into a construction contract with a general or prime contractor shall be liable under this article as a general or prime contractor. Any general or prime contractor who enters into any construction contract or contracts with any subcontractor, where the total amount of such contract or contracts between such general or prime contractor and any subcontractors on any given project equals or exceeds

1 \$250,000.00 shall withhold up to ~~4 percent of the~~ the percentage specified in Code
2 Section 48-8-30 from the payments due the subcontractor in satisfaction of any sales or
3 use taxes owed this state.

4 (2) The prime or general contractor shall withhold payments on all contracts that meet
5 the criteria specified in paragraph (1) of this subsection until the subcontractor furnishes
6 such prime or general contractor with a certificate issued by the commissioner showing
7 that all sales taxes accruing by reason of the contract between the subcontractor and the
8 general or prime contractor have been paid and satisfied. If the prime or general
9 contractor for any reason fails to withhold up to ~~4 percent of the~~ the percentage specified
10 in Code Section 48-8-30 from payments due the subcontractor under their contract, such
11 prime or general contractor shall become liable for any sales or use taxes due or owed this
12 state by the subcontractor."

13 **SECTION 6.**

14 This Act shall become effective upon its approval by the Governor or upon its becoming law
15 without such approval.

16 **SECTION 7.**

17 All laws and parts of laws in conflict with this Act are repealed.