

House Bill 227

By: Representative Sims of the 169th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and
2 taxation, so as to repeal the sales and use tax exemption with respect to eligible foods and
3 beverages for off-premises consumption; to provide for the allocation of certain revenue to
4 fund relief from ad valorem property taxes for educational purposes, indigent defense,
5 indigent care, and PeachCare; to provide for a contingent effective date; to provide for
6 applicability; to provide for automatic repeal under certain circumstances; to repeal
7 conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
11 amended by striking paragraph (57) of Code Section 48-8-3, relating to sales and use tax
12 exemption, and inserting in its place a new paragraph (57) to read as follows:

13 ~~"(57)(A) The sale for off-premises human consumption or use of eligible foods and~~
14 ~~beverages, to the extent provided in subparagraph (B) of this paragraph.~~

15 ~~(B) A transaction described in subparagraph (A) of this paragraph shall be exempt~~
16 ~~from sales and use tax only if occurring on or after October 1, 1996, and only to the~~
17 ~~extent set forth in divisions (i) through (iii) of this subparagraph as follows:~~

18 ~~(i) For a transaction occurring during the period from October 1, 1996, through~~
19 ~~September 30, 1997, to the extent of 50 percent of that amount on which, but for this~~
20 ~~paragraph, sales and use tax would be levied or imposed;~~

21 ~~(ii) For a transaction occurring during the period from October 1, 1997, through~~
22 ~~September 30, 1998, to the extent of 75 percent of that amount on which, but for this~~
23 ~~paragraph, sales and use tax would be levied or imposed; and~~

24 ~~(iii) For a transaction occurring on or after October 1, 1998, to the extent of 100~~
25 ~~percent of that amount on which, but for this paragraph, sales and use tax would be~~
26 ~~levied or imposed.~~

1 ~~(C) For the purposes of this paragraph, 'eligible food and beverages' means any food~~
 2 ~~as defined in Section 3 of the federal Food Stamp Act of 1977 (P.L. 95-113), as~~
 3 ~~amended, 7 U.S.C.A. 2012(g), as such Act existed on January 1, 1996, except that~~
 4 ~~eligible food and beverages shall not include seeds or plants to grow food and shall not~~
 5 ~~include food or drink dispensed by or through vending machines or related operations.~~

6 ~~(D)(i) The exemption provided for in this paragraph shall not apply to any local sales~~
 7 ~~and use tax levied or imposed at any time by or pursuant to Article 3 of this chapter.~~

8 ~~(ii) Except as otherwise provided in division (i) of this subparagraph, the exemption~~
 9 ~~provided for in this paragraph shall not apply to any local sales and use tax which is~~
 10 ~~effective before October 1, 1996, notwithstanding any provisions to the contrary in~~
 11 ~~the law authorizing or imposing such tax.~~

12 ~~(iii) Except as otherwise provided in divisions (i) and (iv) of this subparagraph, the~~
 13 ~~exemption provided for in this paragraph shall apply with respect to any local sales~~
 14 ~~and use tax which becomes effective on or after October 1, 1996, but such exemption~~
 15 ~~shall apply only as to transactions occurring on or after October 1, 1998,~~
 16 ~~notwithstanding any provision to the contrary in the law authorizing or imposing such~~
 17 ~~tax.~~

18 ~~(iv) The exemption provided for in this paragraph shall apply to any local sales and~~
 19 ~~use tax levied or imposed at any time by or pursuant to Article 2A of this chapter.~~

20 ~~(v) For the purposes of this subparagraph, the term 'local sales and use tax' shall mean~~
 21 ~~any sales tax, use tax, or local sales and use tax which is levied and imposed in an~~
 22 ~~area consisting of less than the entire state, however authorized, including, but not~~
 23 ~~limited to, such taxes authorized by or pursuant to constitutional amendment; by or~~
 24 ~~pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as~~
 25 ~~amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; by or~~
 26 ~~pursuant to Article 2 of this chapter; by or pursuant to Article 2A of this chapter; or~~
 27 ~~by or pursuant to Article 3 of this chapter. The exemption formerly provided for~~
 28 ~~under this paragraph shall terminate at the last moment of December 31, 2006. On~~
 29 ~~and after January 1, 2007, the eligible food and beverages which were the subject of~~
 30 ~~the exemption shall be subject to taxation under this chapter. The commissioner shall~~
 31 ~~calculate annually an amount equal to the revenue attributable to state sales and use~~
 32 ~~taxation of such items and such amount shall be deposited in the adjustment trust fund~~
 33 ~~under Code Section 48-8-14.~~

34 ~~(E)(B) The commissioner shall adopt rules and regulations to carry out the provisions~~
 35 ~~of this paragraph;"~~

SECTION 2.

Said title is further amended by adding a new Code section immediately following Code Section 48-8-13, to be designated Code Section 48-8-14, to read as follows:

"48-8-14.

(a) There is created the adjustment trust fund.

(b) The commissioner shall deposit annually into the trust fund the moneys provided for under paragraph (57) of Code Section 48-8-3. Such money shall be allocated annually as follows:

(1) Fifty percent of such amount shall be transferred to the department and included in funds provided for homeowner tax relief grants to county and independent school systems under Chapter 89 of Title 36;

(2) Twelve and one-half percent of such amount shall be allocated for indigent defense purposes;

(3) Twelve and one-half percent of such amount shall be allocated for indigent care grants to counties; and

(4) Twenty-five percent of such amount shall be allocated for PeachCare purposes."

SECTION 3.

This Act shall become effective on January 1, 2007; provided, however, that this Act shall only become effective on January 1, 2007, upon the ratification of a resolution at the November, 2006, state-wide general election, which resolution amends the Constitution so as to allocate the revenue from the levy of state sales and use tax on food and beverages for off-premises consumption to provide additional relief from ad valorem property taxes for educational purposes through additional funds for the homeowner's incentive adjustment and to provide funding for indigent defense, indigent care, and PeachCare. If such resolution is not so ratified, this Act shall not become effective and shall stand repealed in its entirety on January 1, 2007.

SECTION 4.

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