

House Bill 351

By: Representatives Stephens of the 164<sup>th</sup>, O`Neal of the 146<sup>th</sup>, Royal of the 171<sup>st</sup>, Day of the 163<sup>rd</sup>, Lewis of the 15<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 2 of Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia  
2 Annotated, relating to imposition, rate, collection, and assessment of sales and use taxes, so  
3 as to change certain provisions regarding imposition and collection of such tax; to change  
4 certain provisions regarding burden of proof regarding sales; to provide an effective date; to  
5 repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Part 2 of Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,  
9 relating to imposition, rate, collection, and assessment of sales and use taxes, is amended in  
10 Code Section 48-8-30, relating to imposition of such tax, by striking paragraph (1) of  
11 subsection (f) and inserting in its place a new paragraph (1) to read as follows:

12 ~~“(f)(1) Every person purchasing or receiving any service within this state, the purchase~~  
13 ~~of which is a retail sale, shall be liable for tax on the purchase at the rate of 4 percent of~~  
14 ~~the gross charge or charges made for the purchase. The tax shall be paid by the person~~  
15 ~~purchasing or receiving the service to the person furnishing the service. The person~~  
16 ~~furnishing the service, as a dealer under this article, shall remit the tax to the~~  
17 ~~commissioner as provided in this article, and, when received by the commissioner, the~~  
18 ~~tax shall be a credit against the tax imposed on the person furnishing the service. Every~~  
19 ~~person furnishing a service, the purchase of which is a retail sale, shall be a dealer and~~  
20 ~~shall be liable for a tax on the sale at the rate of 4 percent of the gross charge or charges~~  
21 ~~made for furnishing the service, or the amount of taxes collected by him from the person~~  
22 ~~to whom the service is furnished, whichever is greater. The tax shall be paid by the~~  
23 person purchasing or receiving the service to the retailer selling the service. The retailer,  
24 as a dealer under this article, shall remit the tax to the commissioner as provided in this  
25 article; and when received by the commissioner, the tax shall be a credit against the tax  
26 imposed on the person selling the service. Every person selling a service, the purchase

1 of which is a retail sale, shall be a dealer and shall be liable for a tax on the sale at the rate  
2 of 4 percent of the sales price of the service, or the amount of taxes collected by him or  
3 her from the person to whom the services are sold."

4 **SECTION 2.**

5 Said part is further amended by striking subsection (a) of Code Section 48-8-38, relating to  
6 burden of proof regarding sales, and inserting in its place a new subsection (a) to read as  
7 follows:

8 "(a) All gross sales of a retailer are subject to the tax imposed by this article until the  
9 contrary is established. The burden of proving that a sale of tangible personal property or  
10 services is not a sale at retail is upon the person who makes the sale unless he or she takes  
11 from the purchaser a certificate stating that the property is purchased for resale."

12 **SECTION 3.**

13 This Act shall become effective on July 1, 2005.

14 **SECTION 4.**

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