

House Bill 341

By: Representatives Burkhalter of the 50<sup>th</sup>, Keen of the 179<sup>th</sup>, and Harbin of the 118<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to  
2 exemptions from sales and use taxation, so as to provide for the tax treatment of certain  
3 airline industry transactions; to provide for a partial exemption under certain circumstances  
4 of jet fuel sold to certain qualifying airlines and provide for the manner of collection of tax  
5 with respect to nonexempt sales; to provide that jet fuel sold to certain qualifying airlines  
6 shall be exempt from certain local sales and use taxes under certain circumstances; to provide  
7 that certain sales of food and beverages for consumption by airline passengers and crew shall  
8 be exempt from taxation under certain circumstances; to provide for related matters; to repeal  
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from  
13 sales and use taxation, is amended by striking subparagraph (B) of paragraph (33) and  
14 inserting in its place a new subparagraph to read as follows:

15 "(B) In ~~Except as otherwise provided in paragraph (33.1) of this Code section, in lieu~~  
16 of any tax under this article which would apply to the purchase, sale, use, storage, or  
17 consumption of the tangible personal property described in this paragraph but for this  
18 exemption, the tax under this article shall apply with respect to all fuel purchased and  
19 delivered within this state by or to any common carrier and with respect to all fuel  
20 purchased outside this state and stored in this state irrespective, in either case, of the  
21 place of its subsequent use;"

22 **SECTION 2.**

23 Said Code Section 48-8-3 is further amended by adding after paragraph (33) a new paragraph  
24 (33.1) to read as follows:

1       "(33.1)(A) The sale or use of jet fuel to or by a qualifying airline, to the extent provided  
2       in subparagraphs (B), (C), and (D) of this paragraph.

3       (B)(i) For each fiscal year beginning after June 30, 2005, each qualifying airline shall  
4       pay the first \$15 million of state sales and use tax that is applicable to the purchase  
5       of jet fuel. Thereafter, the purchase of jet fuel by a qualifying airline during the fiscal  
6       year shall be exempt from state sales and use tax.

7       (ii) Each qualifying airline purchasing jet fuel on which state sales and use tax is  
8       reasonably expected to exceed \$15 million shall report and pay directly to the  
9       Department of Revenue the tax applicable to the purchase of jet fuel under procedures  
10      required by the commissioner.

11      (C)(i) Effective July 1, 2006, the sale or use of jet fuel to or by any qualifying airline  
12      shall not be subject to any local sales and use tax levied or imposed at any time,  
13      except as provided in division (ii) of this subparagraph.

14      (ii) The exemption provided for in this subparagraph shall not apply to the local  
15      option tax for educational purposes authorized pursuant to the authority of Article  
16      VIII, Section VI, Paragraph IV of the Constitution of Georgia.

17      (iii) For the purposes of this subparagraph, the term 'local sales and use tax' shall  
18      mean any sales tax, use tax, or local sales and use tax which is levied and imposed in  
19      an area consisting of less than the entire state, however authorized, including, but not  
20      limited to, such taxes authorized by or pursuant to constitutional amendment; by or  
21      pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as  
22      amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; or by or  
23      pursuant to Article 2, 2A, 3, or 4 of this chapter.

24      (D) Except as provided in division (i) of subparagraph (C) of this paragraph, the  
25      exemption provided for in this paragraph shall apply only as to transactions occurring  
26      on or after July 1, 2005.

27      (E) For purposes of this paragraph, a 'qualifying airline' shall mean any person which  
28      is authorized by the Federal Aviation Administration or appropriate agency of the  
29      United States to operate as an air carrier under an air carrier operating certificate and  
30      which provides regularly scheduled flights for the transportation of passengers or cargo  
31      for hire.

32      (F) The commissioner shall adopt rules and regulations to carry out the provisions of  
33      this paragraph."

