

Senator Seay of the 34th offered the following substitute to HB 341:

MOOT

**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:**

SECTION 1.

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

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;"

SECTION 2.

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

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 \$13 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 \$13 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 or Article 2 of this
17 chapter.

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

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

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

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

SECTION 3.

Said Code Section 48-8-3 is further amended by striking the word "or" at the end of paragraph (79); substituting the symbol and word "; or" for the period at the end of paragraph (80); and adding a new paragraph (81) to read as follows:

"(81) The sale of food and beverages to a commercial airline for service to passengers and crew in the aircraft, whether in flight or on the ground, and the furnishing or sale of food and beverages to commercial airline passengers and crew in the aircraft, whether in flight or on the ground."

SECTION 4.

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