

House Bill 219

By: Representatives Royal of the 171st, O'Neal of the 146th, Roberts of the 154th, and Black of the 174th

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 provide for prepayments of certain local sales and use taxes with respect
3 to motor fuels; to provide for procedures, conditions, and limitations; to change certain
4 provisions regarding penalties; to change certain provisions regarding taxation of motor fuel;
5 to change certain provisions regarding sales and use tax exemptions regarding motor fuel;
6 to change certain provisions regarding refunds of motor fuel taxes; to change certain
7 provisions regarding the second motor fuel tax; to provide for an effective date; to repeal
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

11 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
12 amended in Code Section 48-8-2, relating to definitions, by revising paragraph (5.1) as
13 follows:

14 "(5.1) 'Prepaid ~~state~~ sales tax' means the tax levied under Code Section 48-8-30 in
15 conjunction with Code Section 48-8-3.1 and Code Section 48-9-14 on the retail sale of
16 motor fuels for highway use and collected prior to that retail sale. This tax is based upon
17 the average retail sales price as set forth in Code Section 48-9-14. ~~This shall not apply~~
18 ~~to~~ The term 'prepaid sales tax' also means any local sales and use tax which is levied on
19 the sale or use of motor fuel and imposed in an area consisting of less than the entire
20 state, however authorized, including, but not limited to, such taxes authorized by or
21 pursuant to constitutional amendment; by or pursuant to Section 25 of an Act approved
22 March 10, 1965 (Ga. L. 1965, p. 2243), as amended, known as the 'Metropolitan Atlanta
23 Rapid Transit Authority Act of 1965'; or by or pursuant to Article 2 ~~of this chapter; by~~
24 ~~or pursuant to Article 2~~, 2A ~~of this chapter; or by or pursuant to Article 3, 3, or 4~~ of this
25 chapter."

1 or refund, the distributor shall reduce the amount such distributor charges for the fuel sold
 2 to such governmental entity by an amount equal to the tax from which such governmental
 3 entity is exempt. Should a distributor have a liability under Code Section 48-9-8, the
 4 distributor may elect to take a credit for those sales against such liability. The distributor
 5 may obtain a refund for any amount not taken as a credit within 18 months from the date
 6 of the sale to the governmental entity."

7 SECTION 5.

8 Said title is further amended by revising subsection (b) of Code Section 48-9-14, relating to
 9 the second motor fuel tax, as follows:

10 "(b)(1) The motor fuel tax imposed by this Code section is levied at the rate of 3 percent
 11 of the retail sale price less the tax imposed by Code Section 48-9-3 upon the sale, use, or
 12 consumption, as defined in Code Section 48-8-2, of motor fuel in this state. This tax shall
 13 be subject only to the exemptions provided in Code Section 48-9-3.

14 (2)(A) As used in this paragraph, the term 'prepaid state sales tax' shall have the same
 15 meaning as provided in paragraph (5.1) of Code Section 48-8-2.

16 (B) At the time the tax imposed by Code Section 48-9-3 attaches to a sale or transfer
 17 of motor fuels, a prepaid state sales tax shall be collected. The same person remitting
 18 the tax imposed under Code Section 48-9-3, but on a separate schedule, shall remit the
 19 prepaid state sales tax to the state. The tax shall be separately invoiced throughout the
 20 chain of distribution until it reaches the dealer who makes the retail sale. The
 21 commissioner shall issue the rate of prepaid state sales tax on a semiannual basis,
 22 rounded to the nearest \$.001 per gallon for use in the following semiannual period. The
 23 rate shall be calculated at 4 percent of the state-wide average retail price by motor fuel
 24 type as compiled by the Energy Information Agency of the United States Department
 25 of Energy, the Oil Pricing Information Service, or a similar reliable published index less
 26 taxes imposed under Code Section 48-9-3, this subsection, and all local sales and use
 27 taxes. In the event that the retail price changes by 25 percent or more within a
 28 semiannual period, the commissioner shall issue a revised prepaid state sales tax rate
 29 for the remainder of that period.

30 (C) The same prices set out in subparagraph (B) of this paragraph shall be used to
 31 compute the prepaid sales tax rate for local jurisdictions by multiplying such retail price
 32 by the applicable rate imposed by the jurisdiction. The person collecting and reporting
 33 the prepaid sales tax for the local jurisdiction shall provide a schedule as to which
 34 jurisdiction these collections relate. This determination shall be made based upon the
 35 shipping papers of the conveyance that delivered the motor fuel to the dealer or
 36 consumer in the local jurisdiction. A seller may rely upon the representation made by

1 the purchaser as to which jurisdiction the shipment is bound and prepare shipping
2 papers in accordance with those instructions."

3 **SECTION 6.**

4 This Act shall become effective on January 1, 2008.

5 **SECTION 7.**

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