

House Bill 237

By: Representatives Martin of the 47<sup>th</sup>, Stephens of the 164<sup>th</sup>, Lewis of the 15<sup>th</sup>, Watson of the 91<sup>st</sup>, Royal of the 171<sup>st</sup>, and others

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 state sales and use tax, so as to change certain provisions regarding  
3 exemptions with respect to the sale of certain manufacturing machinery, certain primary  
4 handling equipment, certain aircraft machinery or equipment, certain parts, machinery  
5 clothing, molds, dies, or tooling, and certain air or water pollution eliminating machinery and  
6 equipment; to provide an effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from  
10 state sales and use tax, is amended by revising paragraphs (34), (34.1), (34.2), (34.3), and  
11 (36) as follows:

12 "(34) The sale of the following types of manufacturing machinery:

13 (A) Machinery which is ~~used directly in~~ necessary and integral to the manufacture of  
14 tangible personal property when the machinery is bought to replace or upgrade  
15 machinery in a manufacturing plant presently existing in this state and machinery  
16 components which are purchased to upgrade machinery used directly in the  
17 manufacture of tangible personal property in a manufacturing plant;

18 (B) Machinery which is ~~used directly in~~ necessary and integral to the manufacture of  
19 tangible personal property when the machinery is ~~incorporated~~ used for the first time  
20 in a new manufacturing plant located in this state;

21 (C) Machinery which is ~~used directly in~~ necessary and integral to the manufacture of  
22 tangible personal property when the machinery is ~~incorporated~~ used as additional  
23 machinery for the first time into a manufacturing plant presently existing in this state;  
24 and

25 (D) Any person making a sale of machinery for the purpose specified in subparagraph  
26 (B) of this paragraph shall collect the tax imposed on the sale by this article unless the

1 purchaser furnishes him with a certificate issued by the commissioner certifying that  
2 the purchaser is entitled to purchase the machinery without paying the tax. As a  
3 condition precedent to the issuance of the certificate, the commissioner, at his  
4 discretion, may require a good and valid bond with a surety company authorized to do  
5 business in this state as surety or may require legal securities, in an amount fixed by the  
6 commissioner, conditioned upon payment by the purchaser of all taxes due under this  
7 article in the event it should be determined that the sale fails to meet the requirements  
8 of this subparagraph;

9 (34.1)(A) The sale of primary material handling equipment which is used ~~directly~~ for  
10 the handling and movement of tangible personal property and racking systems used for  
11 the conveyance and storage of tangible personal property in a warehouse or distribution  
12 facility located in this state when such equipment is either part of an expansion worth  
13 \$5 million or more of an existing warehouse or distribution facility or part of the  
14 construction of a new warehouse or distribution facility where the total value of all real  
15 and personal property purchased or acquired by the taxpayer for use in the warehouse  
16 or distribution facility is worth \$5 million or more.

17 (B) In order to qualify for the exemption provided for in subparagraph (A) of this  
18 paragraph, a warehouse or distribution facility may not make retail sales from such  
19 facility to the general public if the total of the retail sales equals or exceeds 15 percent  
20 of the total revenues of the warehouse or distribution facility. If retail sales are made  
21 to the general public by a warehouse or distribution facility and at any time the total of  
22 the retail sales equals or exceeds 15 percent of the total revenues of the facility, the  
23 taxpayer will be disqualified from receiving such exemption as of the date such 15  
24 percent limitation is met or exceeded. The taxpayer may be required to repay any tax  
25 benefits received under subparagraph (A) of this paragraph on or after that date plus  
26 penalty and interest as may be allowed by law;

27 (34.2)(A) The sale or use of machinery or equipment, or both, which is used ~~directly~~  
28 in the remanufacture of aircraft engines or aircraft engine parts or components in a  
29 remanufacturing facility located in this state. For purposes of this paragraph,  
30 'remanufacture of aircraft engines or aircraft engine parts or components' means the  
31 substantial overhauling or rebuilding of aircraft engines or aircraft engine parts or  
32 components.

33 (B) Any person making a sale of machinery or equipment, or both, for the  
34 remanufacture of aircraft engines or aircraft engine parts or components shall collect  
35 the tax imposed on the sale by this article unless the purchaser furnishes a certificate  
36 issued by the commissioner certifying that the purchaser is entitled to purchase the  
37 machinery without paying the tax;

1 (34.3)(A) The sale or use of repair or replacement parts, machinery clothing or  
 2 replacement machinery clothing, molds or replacement molds, dies or replacement dies,  
 3 and tooling or replacement tooling for machinery ~~used directly in~~ necessary and integral  
 4 to the manufacture of tangible personal property in a manufacturing plant presently  
 5 existing in this state.

6 ~~(B) The exemption provided for in this paragraph shall apply to that portion of the~~  
 7 ~~sales price of each such part, item of machinery clothing, mold, die, or tool which does~~  
 8 ~~not exceed \$150,000.00.~~

9 ~~(C) The exemption provided for in this paragraph shall be applicable to all calendar~~  
 10 ~~years beginning on or after January 1, 2001, as follows:~~

11 ~~(i) At the rate of 20 percent of the total sale or use as provided in subparagraph (A)~~  
 12 ~~of this paragraph for the calendar year beginning January 1, 2001;~~

13 ~~(ii) At the rate of 40 percent of the total sale or use as provided in subparagraph (A)~~  
 14 ~~of this paragraph for the calendar year beginning January 1, 2002;~~

15 ~~(iii) At the rate of 60 percent of the total sale or use as provided in subparagraph (A)~~  
 16 ~~of this paragraph for the calendar year beginning January 1, 2003;~~

17 ~~(iv) At the rate of 80 percent of the total sale or use as provided in subparagraph (A)~~  
 18 ~~of this paragraph for the calendar year beginning January 1, 2004; and~~

19 ~~(v) At the rate of 100 percent of the total sale or use as provided in subparagraph (A)~~  
 20 ~~of this paragraph for the calendar year beginning January 1, 2005, and for each~~  
 21 ~~calendar year thereafter.~~

22 ~~(D)~~(B) The commissioner shall promulgate rules and regulations to implement and  
 23 administer this paragraph;"

24 "(36)(A) The sale of machinery and equipment and any repair, replacement, or  
 25 component parts for such machinery and equipment which is ~~incorporated into any~~  
 26 ~~facility and~~ used for the primary purpose of reducing or eliminating air or water  
 27 pollution;

28 (B) Any person making a sale of machinery and equipment or repair, replacement, or  
 29 componet parts for such machinery and equipment for the purposes specified in this  
 30 paragraph shall collect the tax imposed on the sale by this article unless the purchaser  
 31 furnishes him with a certificate issued by the commissioner certifying that the purchaser  
 32 is entitled to purchase the machinery and equipment or repair, replacement, or  
 33 componet parts for such machinery and equipment without paying the tax;"

## 34 SECTION 2.

35 This Act shall become effective upon its approval by the Governor or upon its becoming law  
 36 without such approval.

1

**SECTION 3.**

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