

House Bill 59

By: Representatives O`Neal of the 146th, Cole of the 125th, Pruett of the 144th, Golick of the 34th, and Harden of the 147th

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 certain exemptions from sales and use taxes on those controlled
3 substances and dangerous drugs, as defined by Code Section 16-13-1, lawfully dispensable
4 by prescription for the treatment of natural persons which are either sold or are distributed
5 without charge to physicians, dentists, clinics, hospitals, or any other person or entity located
6 in Georgia by a pharmaceutical manufacturer or distributor; to provide for certain exemptions
7 from sales and use taxes on controlled substances and dangerous drugs, as defined by Code
8 Section 16-13-1, lawfully dispensed without charge for the purposes of a clinical trial
9 approved by an institutional review board which has been accredited by the Association for
10 the Accreditation of Human Research Protection Programs; to provide for legislative
11 findings; to provide for procedures, conditions, and limitations; to provide for powers, duties,
12 and authority of the state revenue commissioner with respect to the foregoing; to ratify an
13 executive order of the Governor suspending the collection of such taxes; to provide for
14 effective dates; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

17 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
18 amended by adding a new Code section to read as follows:

19 "48-8-18.

20 (a) The General Assembly finds that:

21 (1) Pharmaceutical samples provide a zero-cost option for some Georgians to obtain
22 medication necessary to maintain their health and sustain their lives;

23 (2) Pharmaceutical medications used in clinical trials are often provided without cost;

24 and

25 (3) It is in the best interests of Georgians to exempt from sales and use taxes
26 pharmaceutical medications that are distributed without cost for several reasons,
27 including:

28 (A) The ability to distribute needed medicines to persons who might not otherwise be
29 able to afford them;

30 (B) The attraction of clinical trials to Georgia for the betterment of the health of
31 Georgians and to continue the state's place as a leader in cutting-edge health research;
32 and

33 (C) The elimination of an inconsistency in the law whereby pharmaceutical medicines
34 that are sold at retail are not taxed, but those that are distributed for free are subject to
35 taxation.

36 (b) The General Assembly of Georgia ratifies the Executive Order of the Governor dated
37 August 29, 2008, and filed in the official records of the Office of the Governor as
38 Executive Order 08.29.08.01 which suspended the collection of any rate of sales and use
39 taxation as that tax applies to those controlled substances and dangerous drugs, as defined
40 by Code Section 16-13-1, lawfully dispensable by prescription for the treatment of natural
41 persons which are dispensed without charge to physicians, dentists, clinics, hospitals, or
42 any other person or entity located in Georgia by a pharmaceutical manufacturer or
43 distributor and the collection of any such taxes on controlled substances and dangerous
44 drugs, as defined by Code Section 16-13-1, lawfully dispensed without charge for the
45 purposes of a clinical trial approved by an institutional review board which has been
46 accredited by the Association for the Accreditation of Human Research Protection
47 Programs.

48 (c) For the time period commencing on September 1, 2008, as specified in the Executive
49 Order of the Governor dated August 29, 2008, and filed in the official records of the Office
50 of the Governor as Executive Order 08.29.08.01 and concluding on the last moment of June
51 30, 2009, sales and use taxation pursuant to Code Section 48-8-30 as that tax applies to
52 those controlled substances and dangerous drugs, as defined by Code Section 16-13-1,
53 lawfully dispensable by prescription for the treatment of natural persons which are
54 dispensed without charge to physicians, dentists, clinics, hospitals, or any other person or
55 entity located in Georgia by a pharmaceutical manufacturer or distributor and as such tax
56 applies to controlled substances and dangerous drugs, as defined by Code Section 16-13-1,
57 lawfully dispensed without charge for the purposes of a clinical trial approved by an
58 institutional review board which has been accredited by the Association for the
59 Accreditation of Human Research Protection Programs, shall be governed by the
60 provisions of this Code section notwithstanding any provisions of Code Section 48-8-30
61 or any other law to the contrary.

62 (d) The commissioner is authorized to prescribe forms and promulgate rules and
 63 regulations deemed necessary in order to administer and effectuate this Code section."

64 **SECTION 2.**

65 Said title is further amended in Code Section 48-8-3, relating to exemptions from sales and
 66 use tax, by revising paragraph (47) as follows:

67 "(47)(A) Sales of controlled substances and dangerous drugs, as defined by Code
 68 Section 16-13-1, which are lawfully dispensed by prescription for the treatment of
 69 natural persons, and sales of prescription eyeglasses and contact lenses including,
 70 without limitation, prescription contact lenses distributed by the manufacturer to
 71 licensed dispensers as free samples not intended for resale and labeled as such;

72 (B) The sale or use of those controlled substances and dangerous drugs, as defined by
 73 Code Section 16-13-1, and lawfully dispensable by prescription for the treatment of
 74 natural persons which are distributed without charge to physicians, dentists, clinics,
 75 hospitals, or any other person or entity located in Georgia by a pharmaceutical
 76 manufacturer or distributor; and the sale or use of controlled substances and dangerous
 77 drugs, as defined by Code Section 16-13-1, lawfully dispensed without charge for the
 78 purposes of a clinical trial approved by an institutional review board which has been
 79 accredited by the Association for the Accreditation of Human Research Protection
 80 Programs.

81 (C) The commissioner is authorized to prescribe forms and promulgate rules and
 82 regulations deemed necessary in order to administer and effectuate this paragraph;"

83 **SECTION 3.**

84 (a) Except as otherwise provided in subsection (b) of this section, this Act shall become
 85 effective upon its approval by the Governor or upon its becoming law without such approval.

86 (b) Section 2 of this Act shall become effective July 1, 2009.

87 **SECTION 4.**

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