

House Bill 204

By: Representatives Sims of the 169th, Shaw of the 176th, Roberts of the 154th, McCall of the 30th, Hatfield of the 177th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 1 of Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia
2 Annotated, relating to general provisions regarding sales and use taxation, so as to change
3 certain provisions regarding applicability of sales and use tax to motor fuel sales; to provide
4 for an exemption from state sales and use tax on the sale or use of diesel fuel used to propel
5 locomotives; to provide for related matters; to provide an effective date; to repeal conflicting
6 laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Part 1 of Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,
10 relating to general provisions regarding sales and use taxation, is amended by revising Code
11 Section 48-8-3.1, relating to the applicability of sales and use tax to motor fuel sales, as
12 follows:

13 "48-8-3.1.

14 (a) Except as provided in ~~subsection~~ subsections (b) and (c) of this Code section, sales or
15 use of motor fuels as defined in paragraph (9) of Code Section 48-9-2 shall be exempt from
16 the ~~first 3 4~~ 4 percent of the sales and use ~~taxes tax~~ tax levied or imposed by this article ~~and shall~~
17 ~~be subject to the remaining 1 percent of the sales and use taxes levied or imposed by this~~
18 ~~article.~~

19 (b) Sales or use of motor fuel other than gasoline which motor fuel other than gasoline is
20 purchased for purposes other than propelling motor vehicles on public highways as defined
21 in Article 1 of Chapter 9 of this title shall be fully subject to the 4 percent sales and use
22 taxes levied or imposed by this article unless otherwise specifically exempted by this
23 article.

24 (c)(1) As used in this subsection, the term 'local sales and use tax' means any sales tax,
25 use tax, or local sales and use tax which is levied and imposed in an area consisting of
26 less than the entire state, however authorized, including, but not limited to, such taxes

27 authorized by or pursuant to constitutional amendment; by or pursuant to Section 25 of
28 an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the 'Metropolitan
29 Atlanta Rapid Transit Authority Act of 1965'; by or pursuant to Article 2, 2A, 3, or 4 of
30 this chapter.

31 (2) The sale or use of diesel fuel used to propel locomotives shall be exempt from the 4
32 percent sales and use tax levied or imposed by this article.

33 (3) The exemption provided for in paragraph (2) of this subsection shall not apply to any
34 local sales and use tax levied or imposed at any time.

35 ~~(c)~~(d) It is specifically declared to be the intent of the General Assembly that taxation
36 imposed on sales or use of motor fuel ~~wholly or partially~~ subject to taxation under
37 subsection (b) of this Code section shall not constitute motor fuel taxes for purposes of any
38 provision of the Constitution providing for the automatic or mandatory appropriation of
39 any amount of funds equal to funds derived from motor fuel taxes."

40 **SECTION 2.**

41 This Act shall become effective on July 1, 2009.

42 **SECTION 3.**

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