

House Bill 271

By: Representatives Peake of the 137<sup>th</sup>, Williams of the 4<sup>th</sup>, Stephens of the 164<sup>th</sup>, Martin of the 47<sup>th</sup>, Amerson of the 9<sup>th</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 sales and use taxes, so as to provide for a phased-in exemption with respect  
3 to state sales and use tax for the sale of natural or artificial gas, electricity, or any other  
4 energy used directly or indirectly in the manufacture or processing, in a manufacturing plant  
5 located in this state, of tangible personal property primarily for resale; to provide an effective  
6 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 sales and use taxes, is amended by revising paragraph (70.1) as follows:

11 ~~"(70.1)(A) For the period commencing July 1, 2008, and concluding on December 31,~~  
12 ~~2010, the sale of natural or artificial gas, No. 2 fuel oil, No. 6 fuel oil, propane,~~  
13 ~~petroleum coke, and coal used directly or indirectly in the manufacture or processing,~~  
14 ~~in a manufacturing plant located in this state, of tangible personal property primarily~~  
15 ~~for resale, and the fuel cost recovery component of retail electric rates used directly or~~  
16 ~~indirectly in the manufacture or processing, in a manufacturing plant located in this~~  
17 ~~state, of tangible personal property primarily for resale.~~

18 ~~(B) The exemption provided for in subparagraph (A) of this paragraph shall not apply~~  
19 ~~to the first \$7.60 per decatherm of the sales price or cost price of natural or artificial~~  
20 ~~gas, the first \$2.48 per gallon of the sales price or cost price of No. 2 fuel oil, the first~~  
21 ~~\$1.72 per gallon of the sales price or cost price of No. 6 fuel oil, the first \$1.44 per~~  
22 ~~gallon of the sales price or cost price of propane, the first \$57.90 per ton of petroleum~~  
23 ~~coke, the first \$57.90 per ton of coal, or the first 3.44¢ per kilowatt hour of the fuel cost~~  
24 ~~recovery component of retail electricity rates whether such fuel recovery charges are~~  
25 ~~charged separately or are embedded in such electric rates. Dealers with such embedded~~  
26 ~~rates may exempt from the electricity sales upon which the sales tax is calculated no~~

27 more than the amount, if any, by which the fuel cost recovery charge approved by the  
 28 Georgia Public Service Commission for transmission customers of electric utilities  
 29 regulated by the Georgia Public Service Commission exceeds 3.44¢ per kilowatt hour.

30 ~~(C)(i) For the purposes of this paragraph, the term 'local sales and use tax' shall mean~~  
 31 ~~any sales tax, use tax, or local sales and use tax which is levied and imposed in an~~  
 32 ~~area consisting of less than the entire state, however authorized, including, but not~~  
 33 ~~limited to, such taxes authorized by or pursuant to constitutional amendment; by or~~  
 34 ~~pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as~~  
 35 ~~amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; or by or~~  
 36 ~~pursuant to Article 2, 2A, 3, or 4 of this chapter.~~

37 ~~(ii) The exemption provided for in subparagraph (A) of this paragraph shall not apply~~  
 38 ~~to any local sales and use tax levied or imposed at any time.~~

39 ~~(D) Any person making a sale of items qualifying for exemption under~~  
 40 ~~subparagraph (A) of this paragraph shall be relieved of the burden of proving such~~  
 41 ~~qualification if the person receives in good faith a certificate from the purchaser~~  
 42 ~~certifying that the purchase is exempt under this paragraph.~~

43 ~~(E) Any person who qualifies for this exemption shall notify and certify to the person~~  
 44 ~~making the qualified sale that this exemption is applicable to the sale;~~

45 (70.1)(A)(i) The sale of natural or artificial gas, electricity, or any other energy used  
 46 directly or indirectly in the production or processing, in a manufacturing plant located  
 47 in this state, of tangible personal property primarily for resale as specified in division  
 48 (ii) of this subparagraph:

49 (ii)(I) At the rate of 20 percent of the total sale or use as described in division (i)  
 50 of this subparagraph for the calendar year beginning January 1, 2011;

51 (II) At the rate of 40 percent of the total sale or use as described in division (i) of  
 52 this subparagraph for the calendar year beginning January 1, 2012;

53 (III) At the rate of 60 percent of the total sale or use as described in division (i) of  
 54 this subparagraph for the calendar year beginning January 1, 2013;

55 (IV) At the rate of 80 percent of the total sale or use as described in division (i) of  
 56 this subparagraph for the calendar year beginning January 1, 2014; and

57 (V) At the rate of 100 percent of the total sale or use as described in division (i) of  
 58 this subparagraph for the calendar year beginning January 1, 2015, and for each  
 59 calendar year thereafter.

60 (B) For the purposes of this paragraph, the term 'local sales and use tax' shall mean any  
 61 sales tax, use tax, or local sales and use tax which is levied and imposed in an area  
 62 consisting of less than the entire state, however authorized, including, but not limited  
 63 to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant

64 to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended,  
65 the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; by or pursuant to  
66 Article 2, 2A, 3, or 4 of this chapter.

67 (C) The exemption provided for in subparagraph (A) of this paragraph shall not apply  
68 to any local sales and use tax levied or imposed at any time.

69 (D) Any person making a sale of items qualifying for exemption under  
70 subparagraph (A) of this paragraph shall be relieved of the burden of proving such  
71 qualification if the person receives in good faith a certificate from the purchaser  
72 certifying that the purchase is exempt under this paragraph.

73 (E) Any person who qualifies for this exemption shall notify and certify to the person  
74 making the qualified sale that this exemption is applicable to the sale.

75 (F) The commissioner shall adopt rules and regulations to carry out the provisions of  
76 this paragraph;"

77 **SECTION 2.**

78 This Act shall become effective on January 1, 2011.

79 **SECTION 3.**

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