

House Bill 309

By: Representative Martin of the 47th

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 tax, so as to change certain provisions regarding exemptions
3 with respect to the sale of certain manufacturing machinery or equipment, 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 sales and use tax, is amended by revising paragraphs (34), (34.1), (34.2), (34.3), and (36) as
11 follows:

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

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

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

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

26 (D) Any person making a sale of machinery or equipment for the purpose specified in
27 subparagraph (B) of this paragraph shall collect the tax imposed on the sale by this
28 article unless the purchaser furnishes him with a certificate issued by the commissioner
29 certifying that the purchaser is entitled to purchase the machinery or equipment without
30 paying the tax. As a condition precedent to the issuance of the certificate, the
31 commissioner, at the commissioner's discretion, may require a good and valid bond
32 with a surety company authorized to do business in this state as surety or may require
33 legal securities, in an amount fixed by the commissioner, conditioned upon payment by
34 the purchaser of all taxes due under this article in the event it should be determined that
35 the sale fails to meet the requirements of this subparagraph;

36 (34.1)(A) The sale of primary material handling equipment which is used for the
37 handling and movement of tangible personal property and racking systems used for the
38 conveyance and storage of tangible personal property in a warehouse or distribution
39 facility located in this state when such equipment is either part of an expansion worth
40 \$5 million or more of an existing warehouse or distribution facility or part of the
41 construction of a new warehouse or distribution facility where the total value of all real
42 and personal property purchased or acquired by the taxpayer for use in the warehouse
43 or distribution facility is worth \$5 million or more.

44 (B) In order to qualify for the exemption provided for in subparagraph (A) of this
45 paragraph, a warehouse or distribution facility may not make retail sales from such
46 facility to the general public if the total of the retail sales equals or exceeds 15 percent
47 of the total revenues of the warehouse or distribution facility. If retail sales are made
48 to the general public by a warehouse or distribution facility and at any time the total of
49 the retail sales equals or exceeds 15 percent of the total revenues of the facility, the
50 taxpayer will be disqualified from receiving such exemption as of the date such 15
51 percent limitation is met or exceeded. The taxpayer may be required to repay any tax
52 benefits received under subparagraph (A) of this paragraph on or after that date plus
53 penalty and interest as may be allowed by law;

54 (34.2)(A) The sale or use of machinery or equipment, or both, which is used in the
55 remanufacture of aircraft engines or aircraft engine parts or components in a
56 remanufacturing facility located in this state. For purposes of this paragraph,
57 'remanufacture of aircraft engines or aircraft engine parts or components' means the
58 substantial overhauling or rebuilding of aircraft engines or aircraft engine parts or
59 components.

60 (B) Any person making a sale of machinery or equipment, or both, for the
61 remanufacture of aircraft engines or aircraft engine parts or components shall collect
62 the tax imposed on the sale by this article unless the purchaser furnishes a certificate

63 issued by the commissioner certifying that the purchaser is entitled to purchase the
64 machinery or equipment without paying the tax;

65 (34.3)(A) The sale or use of repair or replacement parts, machinery clothing or
66 replacement machinery clothing, molds or replacement molds, dies or replacement dies,
67 waxes, and tooling or replacement tooling for machinery which is necessary and
68 integral to the manufacture of tangible personal property in a manufacturing plant
69 presently existing in this state.

70 (B) The commissioner shall promulgate rules and regulations to implement and
71 administer this paragraph;"

72 "(36)(A) The sale of machinery and equipment and any repair, replacement, or
73 component parts for such machinery and equipment which is used for the primary
74 purpose of reducing or eliminating air or water pollution;

75 (B) Any person making a sale of machinery and equipment or repair, replacement, or
76 component parts for such machinery and equipment for the purposes specified in this
77 paragraph shall collect the tax imposed on the sale by this article unless the purchaser
78 furnishes him with a certificate issued by the commissioner certifying that the purchaser
79 is entitled to purchase the machinery and equipment or repair, replacement, or
80 component parts for such machinery and equipment without paying the tax;"

81 **SECTION 2.**

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

84 **SECTION 3.**

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