

House Bill 401

By: Representatives Lucas of the 139th, Day of the 163rd, and Buckner of the 130th

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 taxation, so as to remove the exemption for the sale for
3 off-premises human consumption or use of eligible foods and beverages; to provide for
4 related matters; to provide an effective date; to repeal conflicting laws; and for other
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from
9 sales and use taxation, is amended by repealing and reserving paragraph (57) as follows:

10 ~~"(57) Reserved.~~

11 ~~(A) The sale for off-premises human consumption or use of eligible foods and~~
12 ~~beverages, to the extent provided in subparagraph (B) of this paragraph.~~

13 ~~(B) A transaction described in subparagraph (A) of this paragraph shall be exempt~~
14 ~~from sales and use tax only if occurring on or after October 1, 1996, and only to the~~
15 ~~extent set forth in divisions (i) through (iii) of this subparagraph as follows:~~

16 ~~(i) For a transaction occurring during the period from October 1, 1996, through~~
17 ~~September 30, 1997, to the extent of 50 percent of that amount on which, but for this~~
18 ~~paragraph, sales and use tax would be levied or imposed;~~

19 ~~(ii) For a transaction occurring during the period from October 1, 1997, through~~
20 ~~September 30, 1998, to the extent of 75 percent of that amount on which, but for this~~
21 ~~paragraph, sales and use tax would be levied or imposed; and~~

22 ~~(iii) For a transaction occurring on or after October 1, 1998, to the extent of 100~~
23 ~~percent of that amount on which, but for this paragraph, sales and use tax would be~~
24 ~~levied or imposed.~~

25 ~~(C) For the purposes of this paragraph, 'eligible food and beverages' means any food~~
26 ~~as defined in Section 3 of the federal Food Stamp Act of 1977 (P.L. 95-113), as~~

27 ~~amended, 7 U.S.C.A. 2012(g), as such Act existed on January 1, 1996, except that~~
 28 ~~eligible food and beverages shall not include seeds or plants to grow food and shall not~~
 29 ~~include food or drink dispensed by or through vending machines or related operations.~~

30 ~~(D)(i) The exemption provided for in this paragraph shall not apply to any local sales~~
 31 ~~and use tax levied or imposed at any time by or pursuant to Article 3 of this chapter.~~

32 ~~(ii) Except as otherwise provided in division (i) of this subparagraph, the exemption~~
 33 ~~provided for in this paragraph shall not apply to any local sales and use tax which is~~
 34 ~~effective before October 1, 1996, notwithstanding any provisions to the contrary in~~
 35 ~~the law authorizing or imposing such tax.~~

36 ~~(iii) Except as otherwise provided in divisions (i) and (iv) of this subparagraph, the~~
 37 ~~exemption provided for in this paragraph shall apply with respect to any local sales~~
 38 ~~and use tax which becomes effective on or after October 1, 1996, but such exemption~~
 39 ~~shall apply only as to transactions occurring on or after October 1, 1998,~~
 40 ~~notwithstanding any provision to the contrary in the law authorizing or imposing such~~
 41 ~~tax.~~

42 ~~(iv) The exemption provided for in this paragraph shall apply to any local sales and~~
 43 ~~use tax levied or imposed at any time by or pursuant to Article 2A of this chapter.~~

44 ~~(v) For the purposes of this subparagraph, the term 'local sales and use tax' shall mean~~
 45 ~~any sales tax, use tax, or local sales and use tax which is levied and imposed in an~~
 46 ~~area consisting of less than the entire state, however authorized, including, but not~~
 47 ~~limited to, such taxes authorized by or pursuant to constitutional amendment, by or~~
 48 ~~pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as~~
 49 ~~amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; by or~~
 50 ~~pursuant to Article 2 of this chapter; by or pursuant to Article 2A of this chapter; or~~
 51 ~~by or pursuant to Article 3 of this chapter.~~

52 ~~(E) The commissioner shall adopt rules and regulations to carry out the provisions of~~
 53 ~~this paragraph;"~~

54 **SECTION 2.**

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

56 **SECTION 3.**

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