

## House Bill 59 (COMMITTEE SUBSTITUTE)

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

A BILL TO BE ENTITLED  
AN ACT

To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, so as change certain provisions regarding the exemption from sales and use taxes on prescription drugs; to provide for additional exemptions from sales and use taxes on certain controlled substances, dangerous drugs, new animal drugs, or medical devices; to provide for legislative findings; to provide for definitions; to provide for procedures, conditions, and limitations; to provide for powers, duties, and authority of the state revenue commissioner with respect to the foregoing; to ratify an executive order of the Governor suspending the collection of such taxes; to provide for effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

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

"48-8-18.

(a) The General Assembly finds that:

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

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

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

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

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

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

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

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

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

**SECTION 2.**

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

"(47)(A)(i) The sale or use ~~Sales~~ of controlled substances and dangerous drugs which are lawfully dispensed by prescription for the treatment of natural persons, and sales of prescription eyeglasses and contact lenses including, without limitation, prescription contact lenses distributed by the manufacturer to licensed dispensers as free samples not intended for resale and labeled as such;

(ii) The sale or use of those controlled substances and dangerous drugs lawfully dispensable by prescription for the treatment of natural persons which are dispensed or distributed without charge to physicians, dentists, clinics, hospitals, or any other person or entity located in Georgia by a pharmaceutical manufacturer or distributor; and the use of controlled substances, dangerous drugs, new animal drugs, and medical devices lawfully dispensed or distributed without charge solely for the purposes of a clinical trial approved by either the United States Food and Drug Administration or by an institutional review board.

(B) For purposes of this paragraph, the term:

(i) 'Controlled substance' means the same as provided in Code Section 16-13-1.

(ii) 'Dangerous drug' means the same as provided in Code Section 16-13-1.

(iii) 'Institutional review board' means an institutional review board as provided in 21 C.F.R. Section 56.

(iv) 'Medical device' means a device as defined in subsection (h) of 21 U.S.C. Section 321.

(v) 'New animal drug' means a new animal drug as defined in subsection (v) of 21 U.S.C. Section 321.

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

**SECTION 3.**

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

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

**SECTION 4.**

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