

House Bill 59 (AS PASSED HOUSE AND SENATE)

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

A BILL TO BE ENTITLED
AN ACT

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

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**SECTION 1.**

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

14 "48-8-18.

15 (a) The General Assembly finds that:

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

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

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

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

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

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

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

43 (c) For the time period commencing on September 1, 2008, as specified in the Executive
44 Order of the Governor dated August 29, 2008, and filed in the official records of the Office
45 of the Governor as Executive Order 08.29.08.01 and concluding on the last moment of June
46 30, 2009, sales and use taxation pursuant to Code Section 48-8-30 as that tax applies to
47 those controlled substances and dangerous drugs, as defined by Code Section 16-13-1,
48 lawfully dispensable by prescription for the treatment of natural persons which are
49 dispensed without charge to physicians, dentists, clinics, hospitals, or any other person or
50 entity located in Georgia by a pharmaceutical manufacturer or distributor and as such tax
51 applies to controlled substances and dangerous drugs, as defined by Code Section 16-13-1,
52 lawfully dispensed without charge for the purposes of a clinical trial approved by an
53 institutional review board which has been accredited by the Association for the
54 Accreditation of Human Research Protection Programs, shall be governed by the
55 provisions of this Code section notwithstanding any provisions of Code Section 48-8-30
56 or any other law to the contrary.

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

59 **SECTION 2.**

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

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

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

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

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

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

78 (iii) 'Institutional review board' means an institutional review board as provided in
 79 21 C.F.R. Section 56.

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

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

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

86 **SECTION 3.**

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

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

90 **SECTION 4.**

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