

House Bill 103

By: Representative Stephens of the 164th

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 to change the sales and use tax exemption for food and food ingredients; to
3 provide for an exception from local sales and use taxes; to provide for related matters; to
4 provide for an effective date; to provide for applicability; to repeal conflicting laws; and for
5 other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
9 amended in Code Section 48-8-3, relating to exemptions from sales and use tax, by revising
10 paragraph (57), as follows:

11 ~~"(57)(A) The sale of food and food ingredients, to the extent provided in subparagraph~~
12 ~~(B) of this paragraph.~~

13 ~~(B) For the purposes of this paragraph, 'food and food ingredients' shall not include~~
14 ~~prepared food, alcoholic beverages, or tobacco.~~

15 ~~(C)(i) The exemption provided for in this paragraph shall not apply to any local sales~~
16 ~~and use tax levied or imposed at any time.~~

17 ~~(ii) For the purposes of this subparagraph, the term 'local sales and use tax' shall~~
18 ~~mean any sales tax, use tax, or local sales and use tax which is levied and imposed in~~
19 ~~an area consisting of less than the entire state, however authorized, including, but not~~
20 ~~limited to, such taxes authorized by or pursuant to constitutional amendment, by or~~
21 ~~pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as~~
22 ~~amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; by or~~
23 ~~pursuant to any article of this chapter.~~

24 ~~(D) The commissioner shall adopt rules and regulations to carry out the provisions of~~
25 ~~this paragraph;"~~

26 **SECTION 2.**

27 Said title is further amended by revising Code Section 48-8-82, relating to imposition of the
28 joint county and municipal sales and use tax, as follows:

29 "48-8-82.

30 When the imposition of a joint county and municipal sales and use tax is authorized
31 according to the procedures provided in this article within a special district, the county
32 whose geographical boundary is conterminous with that of the special district and each
33 qualified municipality located wholly or partially within the special district shall levy a
34 joint sales and use tax at the rate of 1 percent. Except as to rate, the joint tax shall
35 correspond to the tax imposed and administered by Article 1 of this chapter. No item or
36 transaction which is not subject to taxation by Article 1 of this chapter shall be subject to
37 the tax levied pursuant to this article, except that the joint tax provided in this article shall
38 be applicable to sales of motor fuels as prepaid local tax as that term is defined in Code
39 Section 48-8-2 ~~and shall be applicable to the sale of food and food ingredients and~~
40 ~~alcoholic beverages only to the extent provided for in paragraph (57) of Code Section~~
41 ~~48-8-3."~~

42 **SECTION 3.**

43 Said title is further amended by revising subsection (b) of Code Section 48-8-102, relating
44 to the imposition of the homestead option sales and use tax, as follows:

45 "(b) When the imposition of a local sales and use tax is authorized according to the
46 procedures provided in this article within a special district, the county whose geographical
47 boundary is conterminous with that of the special district shall levy a local sales and use
48 tax at the rate of 1 percent. Except as to rate, the local sales and use tax shall correspond
49 to the tax imposed and administered by Article 1 of this chapter. No item or transaction
50 which is not subject to taxation by Article 1 of this chapter shall be subject to the sales and
51 use tax levied pursuant to this article, except that the sales and use tax provided in this
52 article shall be applicable to sales of motor fuels as prepaid local tax as that term is defined
53 in Code Section 48-8-2 ~~and shall be applicable to the sale of food and food ingredients and~~
54 ~~alcoholic beverages only to the extent provided for in paragraph (57) of Code Section~~
55 ~~48-8-3."~~

56 **SECTION 4.**

57 Said title is further amended by revising subsection (c) of Code Section 48-8-110.1, relating
58 to imposition of the county special purpose local option sales and use tax, as follows:

59 "(c) Any tax imposed under this part shall be at the rate of 1 percent. Except as to rate, a
 60 tax imposed under this part shall correspond to the tax imposed by Article 1 of this chapter.
 61 No item or transaction which is not subject to taxation under Article 1 of this chapter shall
 62 be subject to a tax imposed under this part, except that a tax imposed under this part shall
 63 apply to sales of motor fuels as prepaid local tax as that term is defined in Code Section
 64 48-8-2 and shall be applicable to the sale of food and food ingredients and alcoholic
 65 beverages as provided for in Code Section 48-8-3."

66 **SECTION 5.**

67 Said title is further amended by revising subparagraph (c)(1)(B) of Code Section 48-8-201,
 68 relating to approval and imposition of the water and sewer projects and costs tax, as follows:
 69 "(B) The sale of ~~food and food ingredients and~~ alcoholic beverages as provided for in
 70 Code Section 48-8-3;"

71 **SECTION 6.**

72 Said title is further amended by revising subsection (d) of Code Section 48-8-241, relating
 73 to creation of special districts for regional transportation funding, as follows:

74 "(d) Any tax imposed under this article shall be at the rate of 1 percent. Except as to rate,
 75 a tax imposed under this article shall correspond to the tax imposed by Article 1 of this
 76 chapter. No item or transaction which is not subject to taxation under Article 1 of this
 77 chapter shall be subject to a tax imposed under this article, except that a tax imposed under
 78 this article shall not apply to:

- 79 (1) The sale or use of any type of fuel used for off-road heavy-duty equipment, off-road
 80 farm or agricultural equipment, or locomotives;
- 81 (2) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport;
- 82 (3) The sale or use of fuel that is used for propulsion of motor vehicles on the public
 83 highways. For purposes of this paragraph, a motor vehicle means a self-propelled vehicle
 84 designed for operation or required to be licensed for operation upon the public highways;
- 85 (4) The sale or use of energy used in the manufacturing or processing of tangible goods
 86 primarily for resale; or
- 87 (5) For motor fuel as defined under paragraph (9) of Code Section 48-9-2 for public mass
 88 transit.

89 The tax imposed pursuant to this article shall only be levied on the first \$5,000.00 of any
 90 transaction involving the sale or lease of a motor vehicle. The tax imposed pursuant to this
 91 article shall be subject to any sales and use tax exemption which is otherwise imposed by
 92 law; ~~provided, however, that the tax levied by this article shall be applicable to the sale of~~
 93 ~~food and food ingredients as provided for in paragraph (57) of Code Section 48-8-3."~~

94 **SECTION 7.**

95 This Act shall become effective on July 1, 2012.

96 **SECTION 8.**

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