

House Bill 322 (AS PASSED HOUSE AND SENATE)

By: Representatives Roberts of the 154th, Powell of the 171st, Smyre of the 132nd, Dollar of the 45th, England of the 108th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,
2 relating to sales and use taxation, so as to change provisions relating to the exemption for the
3 sale or use of jet fuel by certain qualifying airlines at a qualifying airport; to provide for
4 limitations; to repeal certain provisions regarding limitations on the state revenue
5 commissioner's authority to make certain distributions of unidentifiable sales and use tax
6 proceeds; to provide for related matters; to provide for effective dates; to repeal conflicting
7 laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 SECTION 1.

10 Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales
11 and use taxation, is amended in Code Section 48-8-3, relating to exemptions from sales and
12 use taxation, by revising paragraph (33.1) as follows:

13 "(33.1)(A) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport,
14 to the extent provided in subparagraphs ~~(B), (C), and (D)~~ (B) and (C) of this paragraph.

15 (B)(i) ~~The~~ For the period of time beginning July 1, 2011, and ending June 30, 2012,
16 the sale or use of jet fuel to or by a qualifying airline at a qualifying airport shall be
17 exempt from the first 1.80 percent of the 4 percent state sales and use tax imposed by
18 this chapter and shall be subject to the remaining 2.20 percent of the 4 percent state
19 sales and use tax imposed by this chapter state sales and use tax until the aggregate
20 state sales and use tax liability of the taxpayer during such period with respect to jet
21 fuel exceeds \$20 million, computed as if the exemption provided in this division was
22 not in effect during such period. Thereafter during such period, the exemption
23 provided by this division shall not apply to the sale or use of jet fuel to or by the
24 qualifying airline.

25 (ii) For the period of time beginning July 1, 2012, and ending June 30, 2013, the sale
26 or use of jet fuel to or by a qualifying airline at a qualifying airport shall be exempt

27 from state sales and use tax until the aggregate state sales and use tax liability of the
 28 taxpayer during such period with respect to jet fuel exceeds \$10 million, computed
 29 as if the exemption provided in this division was not in effect during such period.
 30 Thereafter during such period, the sale or use of jet fuel to or by the qualifying airline
 31 shall be subject to state sales and use tax.

32 (iii) The exemptions provided in divisions (i) and (ii) of this subparagraph shall not
 33 apply to any purchases of jet fuel occurring on or after July 1, 2013.

34 (C) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport shall
 35 ~~also~~ be exempt at all times from the sales or use tax levied and imposed as authorized
 36 pursuant to Part 1 of Article 3 of this chapter.

37 (D) Except as provided for in subparagraph (C) of this paragraph, this exemption shall
 38 not apply to any other local sales and use tax levied or imposed at anytime in any area
 39 consisting of less than the entire state, however authorized, including, but not limited
 40 to, such taxes authorized by or pursuant to Section 25 of an Act approved March 10,
 41 1965 (Ga. L. 1965, p. 2243), as amended, the 'Metropolitan Atlanta Rapid Transit
 42 Authority Act of 1965,' or such taxes as authorized by or pursuant to Part 2 of Article 3
 43 or Article 2, 2A, or 4 of this chapter.

44 (E) For purposes of this paragraph and paragraph (2) of subsection (d) of Code Section
 45 48-8-241, a 'qualifying airline' shall mean any person which:

46 (i) Is is authorized by the Federal Aviation Administration or appropriate agency of
 47 the United States to operate as an air carrier under an air carrier operating certificate
 48 and which provides regularly scheduled flights for the transportation of passengers
 49 or cargo for hire; and

50 (ii) For the 12 month period immediately preceding the applicable period specified
 51 in division (i) or (ii) of subparagraph (B) of this paragraph had, or would have had in
 52 the absence of any exemption during such 12 month period, state sales and use tax
 53 liability on jet fuel of more than \$15 million.

54 (F) For purposes of this paragraph and paragraph (2) of subsection (d) of Code Section
 55 48-8-241, a 'qualifying airport' shall mean any airport in the state that has had more than
 56 750,000 takeoffs and landings during a calendar year.

57 (G) The commissioner shall adopt rules and regulations to carry out the provisions of
 58 this paragraph.

59 ~~(H) The exemption provided for in this paragraph shall apply only as to transactions~~
 60 ~~occurring on or after July 1, 2009, and prior to July 1, 2011;"~~

61 **SECTION 2.**

62 Said article is further amended in Code Section 48-8-67, relating to distribution of
63 unidentifiable sales and use tax proceeds, by repealing subsection (h), which reads as
64 follows:

65 "(h) The authority of the commissioner to make distributions pursuant to this Code section
66 shall cease on December 31, 2011, unless such authority is extended by a subsequent
67 general Act of the General Assembly."

68 **SECTION 3.**

69 (a) Section 2, this section, and Section 4 of this Act shall become effective upon the
70 approval of this Act by the Governor or upon its becoming law without such approval.

71 (b) Section 1 of this Act shall become effective on July 1, 2011.

72 **SECTION 4.**

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