

The Senate Finance Committee offered the following substitute to HB 318:

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 1 of Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia
2 Annotated, relating to general provisions regarding state sales and use tax, so as to provide
3 a definition for durable medical equipment; to provide a new exemption for a limited period
4 of time regarding sales to certain nonprofit volunteer health clinics; to provide a new
5 exemption with respect to certain sales of eligible food and beverages to a qualified food
6 bank; to provide a new exemption with respect to the use of food which is donated to a
7 qualified nonprofit agency and which is used for hunger relief purposes; to provide a new
8 exemption for kidney dialysis equipment; to amend Part 2 of Article 1 of Chapter 8 of Title
9 48 of the Official Code of Georgia Annotated, relating to imposition, rate, collection, and
10 assessment of sales and use taxes, so as to provide that certain dealers and retailers may
11 under certain circumstances advertise that the dealer or retailer will pay the purchaser's sales
12 and use tax on a transaction; to provide for definitions; to provide an effective date; to repeal
13 conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

15 Part 1 of Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,
16 relating to general provisions regarding state sales and use tax, is amended by revising Code
17 Section 48-8-2, relating to definitions regarding state sales and use tax, as follows:
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19 "(15) 'Durable medical equipment' means equipment including repair and replacement
20 parts for the same, but does not include any kidney dialysis equipment or 'mobility
21 enhancing equipment;' which:

- 22 (A) Can withstand repeated use;
- 23 (B) Is primarily and customarily used to serve a medical purpose;
- 24 (C) Generally is not useful to a person in the absence of illness or injury; and
- 25 (D) Is not worn in or on the body."

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SECTION 2.

Said part is further amended by revising paragraph (7.3), subparagraph (A) of paragraph (57.1), subparagraph (A) of paragraph (57.2), and paragraphs (90) and (91) and by adding a new paragraph in Code Section 48-8-3, relating to exemptions from sales and use tax, as follows:

"(7.3) For the period commencing July 1, ~~2008~~ 2012, and ending ~~June 30, 2010~~ December 31, 2014, sales of tangible personal property and services to a nonprofit volunteer health clinic which primarily treats indigent persons with incomes below 200 percent of the federal poverty level and which property and services are used exclusively by such volunteer health clinic in performing a general treatment function in this state when such volunteer health clinic is a tax exempt organization under the Internal Revenue Code and obtains an exemption determination letter from the commissioner;

(57.1)(A) From July 1, ~~2006~~ 2012, until June 30, ~~2010~~ 2015, sales of food and food ingredients to a qualified food bank."

"(57.2)(A) For the period commencing July 1, ~~2007~~ 2012, and ending on June 30, ~~2011~~ 2015, the use of prepared food which is donated to a qualified nonprofit agency and which are used for hunger relief purposes."

"(90) The sale of electricity to a manufacturer located in this state used directly in the manufacture of a product if the direct cost of such electricity exceeds 50 percent of the cost of all materials, including electricity, used directly in the product; ~~or~~

(91) The sale of prewritten software which has been delivered to the purchaser electronically or by means of load and leave; ~~or~~

(92) The sale or use of kidney dialysis equipment, whether or not worn on the body, including repair and replacement parts and supplies used to facilitate the dialysis process, including, but not limited to, dialyzers, fistula needles, connective tubing, and solutions."

SECTION 3.

Part 2 of Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to imposition, rate, collection, and assessment of sales and use taxes, is amended by revising Code Section 48-8-36, relating to prohibition of advertising by dealer of his or her assumption of payment of tax, as follows:

"48-8-36.

(a) As used in this Code section, the term:

(1) 'Consumer goods' shall mean final goods specifically intended for the mass market.

(2) 'Final goods' shall mean goods that are ultimately consumed rather than used in the production of another good.

61 (b) No person engaged in making retail sales shall advertise or represent to the public in
62 any manner directly or indirectly that he or she will absorb all or any part of the tax or that
63 he or she will relieve the purchaser of the payment of all or any part of the tax imposed by
64 this article unless:

65 (1) The retail sales are for consumer goods;

66 (2) The dealer or retailer includes in the advertisement that any portion of the tax not
67 paid by the purchaser will be remitted on behalf of the purchaser by the dealer or retailer;
68 and

69 (3) The dealer or retailer furnishes the purchaser with written evidence that the dealer or
70 retailer will be liable for and pay any tax the purchaser was relieved from paying under
71 this Code section.

72 (c) If a dealer or retailer advertises pursuant to subsection (b) of this Code section that any
73 portion of the tax not paid by the purchaser will be remitted on the purchaser's behalf by
74 the dealer or retailer, the dealer or retailer shall be solely liable for and shall pay that
75 portion of the tax. If a dealer or retailer complies with the provisions of this Code section
76 and pays the absorbed tax over to the commissioner as provided by law, the dealer or
77 retailer shall be deemed to have complied with the provisions of this article requiring
78 collection of the tax from the purchaser."

79 **SECTION 4.**

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

81 **SECTION 5.**

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