

House Bill 1035 (COMMITTEE SUBSTITUTE)

By: Representative Martin of the 49th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales
2 and use taxes, so as to repeal sunset provisions regarding certain tax exemptions; to exempt
3 sales to organ procurement organizations from sales and use tax; to provide for an annual
4 report; to expand the exemption for the use of food and food ingredients donated to qualified
5 nonprofit agencies to include disaster relief; to extend the sunset for a manufacturer's
6 exemption; to provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use
10 taxes, is amended by revising paragraphs (7.05), (7.3), (46), (57.1), (57.2), (57.3), and (101)
11 of Code Section 48-8-3, relating to exemptions, as follows:

12 ~~"(7.05)(A) For the period commencing on July 1, 2015, and ending on June 30, 2024,~~
13 ~~sales~~ Sales of tangible personal property to a nonprofit health center in this state which
14 has been established under the authority of and is receiving funds pursuant to the
15 United States Public Health Service Act, 42 U. S. C. Section 254b if such health clinic
16 obtains an exemption determination letter from the commissioner.

17 (B)(i) For the purposes of this paragraph, the term 'local sales and use tax' shall mean
18 any sales tax, use tax, or local sales and use tax which is levied and imposed in an
19 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'; or by or
23 pursuant to Article 2, 2A, 3, or 4 of this chapter.

24 (ii) The exemption provided for in subparagraph (A) of this paragraph shall not apply
25 to any local sales and use tax levied or imposed at any time.

26 (C) Notwithstanding Code Sections 48-2-15, 48-7-60, and 48-7-61, any taxpayer
 27 seeking to claim the exemption provided for within subparagraph (A) of this paragraph
 28 shall electronically submit to the department, at the time of application for the
 29 exemption and any such annual renewal, the total number of patients treated in the
 30 previous calendar year, the average monthly number of full-time employees, and the
 31 total amount of exempt purchases made by the taxpayer in the preceding calendar year.
 32 The department shall then issue a report to the chairpersons of the House Committee
 33 on Ways and Means and the Senate Finance Committee detailing the total number of
 34 patients treated, average monthly number of full-time employees, and the total amount
 35 of sales and use tax exempted sales for the previous calendar year, by June 30 each
 36 year;"

37 ~~"(7.3)(A) For the period commencing July 1, 2015, and ending June 30, 2024, sales~~
 38 Sales of tangible personal property and services to a nonprofit volunteer health clinic
 39 which primarily treats indigent persons with incomes below 200 percent of the federal
 40 poverty level and which property and services are used exclusively by such volunteer
 41 health clinic in performing a general treatment function in this state when such
 42 volunteer health clinic is a tax exempt organization under the Internal Revenue Code
 43 and obtains an exemption determination letter from the commissioner.

44 (B) Notwithstanding Code Sections 48-2-15, 48-7-60, and 48-7-61, any taxpayer
 45 seeking to claim the exemption provided for within subparagraph (A) of this paragraph
 46 shall electronically submit to the department, at the time of application for the
 47 exemption and any such annual renewal, the total number of patients treated in the
 48 previous calendar year, the average monthly number of full-time employees, and the
 49 total amount of exempt purchases made by the taxpayer in the preceding calendar year.
 50 The department shall then issue a report to the chairpersons of the House Committee
 51 on Ways and Means and the Senate Finance Committee detailing the total number of
 52 patients treated, average monthly number of full-time employees, and the total amount
 53 of sales and use tax exempted sales for the previous calendar year, by June 30 each
 54 year;"

55 ~~"(46) Sales to blood banks and organ procurement organizations as defined in Code~~
 56 Section 44-5-141 having a nonprofit status pursuant to Section 501(c)(3) of the Internal
 57 Revenue Code. Each organ procurement organization exempt under this paragraph shall
 58 submit an annual report to the Department of Community Health which includes the
 59 number of donors and transplants facilitated by such organization in the organization's
 60 previous fiscal year;"

61 ~~"(57.1)(A) From July 1, 2014, until June 30, 2021, sales~~ Sales of food and food
 62 ingredients to a qualified food bank.

63 (B) As used in this paragraph, the term 'qualified food bank' means any food bank
 64 which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code
 65 and which is operated primarily for the purpose of providing hunger relief to ~~low~~
 66 ~~income~~ low-income persons residing in this state.

67 (C) Notwithstanding Code Sections 48-2-15, 48-7-60, and 48-7-61, any taxpayer
 68 seeking to claim the exemption provided for within subparagraph (A) of this paragraph
 69 shall electronically submit to the department, at the time of application for the
 70 exemption and any such annual renewal, the total number of clients served in the
 71 previous calendar year, total pounds of food donated by retailers, and total amount of
 72 exempt purchases made in the preceding year. The department shall then issue a report
 73 to the chairpersons of the House Committee on Ways and Means and the Senate
 74 Finance Committee detailing the total number of clients served, total pounds of food
 75 donated by retailers, and total amount of sales and use tax exempted sales for the
 76 previous calendar year, by June 30 each year.

77 (D) The commissioner is authorized to promulgate rules and regulations deemed
 78 necessary in order to administer and effectuate this paragraph;

79 ~~(57.2)(A) For the period commencing July 1, 2015, and ending on June 30, 2021, the~~
 80 The use of food and food ingredients which is donated to a qualified nonprofit agency
 81 and which is used for hunger relief or disaster relief purposes.

82 (B) As used in this paragraph, the term 'qualified nonprofit agency' means any entity
 83 which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code
 84 and which provides hunger relief.

85 (C) For the purposes of this paragraph, the term 'food and food ingredients' as defined
 86 in Code Section 48-8-2 shall not include drugs or over-the-counter drugs.

87 (D) The commissioner is authorized to promulgate rules and regulations deemed
 88 necessary in order to administer and effectuate this paragraph;

89 ~~(57.3)(A) For the period commencing July 1, 2015, and ending on June 30, 2020, the~~
 90 The use of food and food ingredients which is donated following a natural disaster and
 91 which is used for disaster relief purposes.

92 (B) For the purposes of this paragraph, the term 'food and food ingredients' as defined
 93 in Code Section 48-8-2 shall not include drugs or over-the-counter drugs.

94 (C) The commissioner is authorized to promulgate rules and regulations deemed
 95 necessary in order to administer and effectuate this paragraph;”

96 ”(101)(A) The sale or use of noncommercial written materials or mailings by an
 97 organization which is exempt from taxation under Section 501(c)(3) of the Internal
 98 Revenue Code, if the organization is located in this state and provides such materials

99 to charity supporters for educational, charitable, religious, or fundraising purposes, to
100 the extent provided in subparagraph (B) of this paragraph.
101 (B) This exemption shall apply from July 1, 2018, until July 1, ~~2021~~ 2026. A
102 qualifying organization must pay sales and use tax on all purchases and uses of tangible
103 personal property and may obtain the benefit of this exemption from sales and use taxes
104 by filing a claim for refund of tax paid on qualifying items. All refunds made pursuant
105 to this paragraph shall not include interest;"

106 **SECTION 2.**

107 Said chapter is further amended in Code Section 48-8-3.2, relating to definitions, exemption,
108 applicability, and examples, by revising paragraph (12) of subsection (e) as follows:

109 "(12) Until July 1, ~~2020~~ 2025, maintenance and replacement parts for machinery or
110 equipment, stationary or in transit, used to mix, agitate, and transport freshly mixed
111 concrete in a plastic and unhardened state, including but not limited to mixers and
112 components, engines and components, interior and exterior operational controls and
113 components, hydraulics and components, all structural components, and all safety
114 components, provided that sales and use taxes on motor fuel used as energy in a concrete
115 mixer truck shall not be exempt or refundable; and"

116 **SECTION 3.**

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