House Bill 341 (AS PASSED HOUSE AND SENATE)

By: Representatives Burkhalter of the 50th, Keen of the 179th, and Harbin of the 118th

A BILL TO BE ENTITLED

AN ACT

To amend Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from sales and use taxation, so as to provide for the tax treatment of certain airline industry transactions; to provide for a limited period of time for a partial exemption under certain circumstances of jet fuel sold to certain qualifying airlines and provide for the manner of collection of tax with respect to nonexempt sales; to provide for a limited period of time that jet fuel sold to certain qualifying airlines shall be exempt from certain local sales and use taxes under certain circumstances; to provide that certain sales of food and beverages for consumption by airline passengers and crew shall be exempt from sales and use taxes under certain circumstances; to provide for related matters; to provide for effective dates; to provide for automatic repeal; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from sales and use taxation, is amended by striking subparagraph (B) of paragraph (33) and inserting in its place a new subparagraph (B) to read as follows:

"(B) ~~In~~ Except as otherwise provided in paragraph (33.1) of this Code section, in lieu of any tax under this article which would apply to the purchase, sale, use, storage, or consumption of the tangible personal property described in this paragraph but for this exemption, the tax under this article shall apply with respect to all fuel purchased and delivered within this state by or to any common carrier and with respect to all fuel purchased outside this state and stored in this state irrespective, in either case, of the place of its subsequent use;".

SECTION 2.

Said Code section is further amended by striking subparagraph (B) of paragraph (33) and inserting in its place a new subparagraph (B) to read as follows:

"(B) In lieu of any tax under this article which would apply to the purchase, sale, use, storage, or consumption of the tangible personal property described in this paragraph but for this exemption, the tax under this article shall apply with respect to all fuel purchased and delivered within this state by or to any common carrier and with respect to all fuel purchased outside this state and stored in this state irrespective, in either case, of the place of its subsequent use;"

SECTION 3.

Said Code section is further amended by adding after paragraph (33) a new paragraph (33.1) to read as follows:

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

(B)(i) For each fiscal year beginning after June 30, 2005, each qualifying airline shall pay the first $15 million of state sales and use tax, plus applicable local sales and use tax, levied or imposed by this chapter on the purchase or use of jet fuel. Thereafter, the purchase of jet fuel by a qualifying airline during the fiscal year shall be exempt from state and local sales and use tax except as provided in division (ii) of this subparagraph.

(ii) The exemption provided in division (i) of this subparagraph shall not apply to any local option sales tax for educational purposes authorized pursuant to the authority of Article VIII, Section VI, Paragraph IV of the Constitution of Georgia and which is effective before July 1, 2005.

(C) The sale or use of jet fuel to or by a qualifying airline shall not be subject to any local sales and use tax which becomes effective on or after July 1, 2005.

(D) Each qualifying airline purchasing jet fuel on which state sales and use tax is reasonably expected to exceed $15 million shall report and pay directly to the Department of Revenue the tax applicable to the purchase of jet fuel under procedures required by the commissioner.

(E) For the purposes of this subparagraph, the term 'local sales and use tax' shall mean any sales tax, use tax, or local sales and use tax which is levied and imposed in an area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended,

the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; or by or pursuant to Article 2, 2A, 3, or 4 of this chapter.

(F) The exemption provided for in this paragraph shall apply only as to transactions occurring on or after July 1, 2005, and prior to July 1, 2007.

(G) For purposes of this paragraph, a 'qualifying airline' shall mean any person which is authorized by the Federal Aviation Administration or appropriate agency of the United States to operate as an air carrier under an air carrier operating certificate and which provides regularly scheduled flights for the transportation of passengers or cargo for hire.

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

(I) This paragraph shall stand repealed in its entirety on July 1, 2007;″

SECTION 4.

Said Code Section 48-8-3 is further amended by striking the word "or" at the end of paragraph (79); substituting the symbol and word "; or" for the period at the end of paragraph (80); and adding a new paragraph (81) to read as follows:

″(81) The sale of food and beverages, except for alcoholic beverages, to a qualifying airline for service to passengers and crew in the aircraft, whether in flight or on the ground, and the furnishing without charge of food and beverages to qualifying airline passengers and crew in the aircraft, whether in flight or on the ground; and for purposes of this paragraph a 'qualifying airline' shall mean any person which is authorized by the Federal Aviation Administration or appropriate agency of the United States to operate as an air carrier under an air carrier operating certificate and which provides regularly scheduled flights for the transportation of passengers or cargo for hire.″

SECTION 5.

(a) Except as otherwise provided in this section, this Act shall become effective July 1, 2005.

(b) Section 2 of this Act shall become effective July 1, 2007.

(c) Section 1 of this Act shall stand repealed in its entirety on July 1, 2007.

SECTION 6.

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