

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 exempt the sale of food and food ingredients to individual consumers
3 for off-premises human consumption from all local sales and use taxes; to provide for related
4 matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use
8 taxes, is amended by revising paragraph (57) of Code Section 48-8-3, relating to exemptions,
9 as follows:

10 "(57)(A) The sale of food and food ingredients to an individual consumer for
11 off-premises human consumption, to the extent provided in this paragraph.

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

15 (C) The exemption provided for in this paragraph shall not apply to the sale or use of
16 food and food ingredients when purchased for any use in the operation of a business.

17 ~~(D)(i) Except in counties in which a tax authorized under Part 1 of Article 3 of this~~
 18 ~~chapter in connection with an equalized homestead option sales tax pursuant to Part~~
 19 ~~2 of Article 2A of this chapter is imposed, the exemption provided for in this~~
 20 ~~paragraph shall not apply to any local sales and use tax levied or imposed at any time.~~
 21 ~~(ii) For the purposes of this subparagraph, the term 'local sales and use tax' shall~~
 22 ~~mean any sales tax, use tax, or local sales and use tax which is levied and imposed in~~
 23 ~~an area consisting of less than the entire state, however authorized, including, but not~~
 24 ~~limited to, such taxes authorized by or pursuant to constitutional amendment; by or~~
 25 ~~pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as~~
 26 ~~amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; or by or~~
 27 ~~pursuant to any article of this chapter but shall not mean a tax authorized under Part~~
 28 ~~1 of Article 3 of this chapter in connection with an equalized homestead option sales~~
 29 ~~tax pursuant to Part 2 of Article 2A of this chapter.~~

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

32 SECTION 2.

33 Said chapter is further amended by revising subsection (a) of Code Section 48-8-82, relating
 34 to authorization of counties and municipalities to impose joint sales and use tax, rate, and
 35 applicability to sales of motor fuels and food and beverages, as follows:

36 "(a) When the imposition of a joint county and municipal sales and use tax is authorized
 37 according to the procedures provided in this article within a special district, the county
 38 whose geographical boundary is conterminous with that of the special district and each
 39 qualified municipality located wholly or partially within the special district shall levy a
 40 joint sales and use tax at the rate of 1 percent, except as provided in subsection (b) of this
 41 Code section. Except as to rate, the joint tax shall correspond to the tax imposed and
 42 administered by Article 1 of this chapter. No item or transaction which is not subject to

43 taxation by Article 1 of this chapter shall be subject to the tax levied pursuant to this article;
 44 ~~except that; provided, however, that the joint tax provided in this article shall be applicable~~
 45 to:

46 (1) The sale of motor fuels as prepaid local tax as that term is defined in Code Section
 47 48-8-2;

48 ~~(2) The sale of food and food ingredients and alcoholic beverages only to the extent~~
 49 ~~provided for in paragraph (57) of Code Section 48-8-3 Reserved; and~~

50 (3) The sale or use of jet fuel as such term is defined in Code Section 48-8-2, to the
 51 extent allowed pursuant to Code Section 48-8-3.5."

52 SECTION 3.

53 Said chapter is further amended by revising subsection (b) of Code Section 48-8-102, relating
 54 to creation of special districts, levying of tax, use of proceeds of tax, and restriction on
 55 levying taxes relative to the Homestead Option Sales and Use Tax (HOST), as follows:

56 "(b)(1) When the imposition of a local sales and use tax is authorized according to the
 57 procedures provided in this part within a special district, the county whose geographical
 58 boundary is conterminous with that of the special district shall levy a local sales and use
 59 tax at the rate of 1 percent, except as provided in paragraph (2) of this subsection. Except
 60 as to rate, the local sales and use tax shall correspond to the tax imposed and administered
 61 by Article 1 of this chapter. No item or transaction which is not subject to taxation by
 62 Article 1 of this chapter shall be subject to the sales and use tax levied pursuant to this
 63 part, except that the sales and use tax provided in this part shall be applicable to sales of
 64 motor fuels as prepaid local tax as such term is defined in Code Section 48-8-2 ~~and shall~~
 65 ~~be applicable to the sale of food and food ingredients and alcoholic beverages only to the~~
 66 ~~extent provided for in paragraph (57) of Code Section 48-8-3.~~

67 (2) On or after July 1, 2015, such sales and use tax levied on sales of motor fuels as
68 defined in Code Section 48-9-2 shall be at the rate of 1 percent of the retail sales price of
69 the motor fuel which is not more than \$3.00 per gallon."

70 **SECTION 4.**

71 Said chapter is further amended by revising subsection (c) of Code Section 48-8-110.1,
72 relating to authorization for county special purpose local option sales tax, subjects of
73 taxation, and applicability to sales of motor fuels and food and beverages relative to the
74 County Special Purpose Local Option Sales Tax (SPLOST), as follows:

75 "(c) Except as provided in subsection (d) of this Code section, any tax imposed under this
76 part shall be at the rate of 1 percent. Except as to rate, a tax imposed under this part shall
77 correspond to the tax imposed by Article 1 of this chapter. No item or transaction which
78 is not subject to taxation under Article 1 of this chapter shall be subject to a tax imposed
79 under this part, except that a tax imposed under this part shall apply to sales of motor fuels
80 as prepaid local tax as that term is defined in Code Section 48-8-2 ~~and shall be applicable~~
81 ~~to the sale of food and food ingredients and alcoholic beverages as provided for in Code~~
82 ~~Section 48-8-3."~~

83 **SECTION 5.**

84 Said chapter is further amended by revising subsection (b) of Code Section 48-8-146, relating
85 to imposing taxes for funding coliseum capital outlay projects and tax rate relative to the
86 Consolidated Government Coliseum Project Sales Tax, as follows:

87 "(b) Except as provided in subsection (c) of this Code section, any tax imposed under this
88 part shall be at the rate of 0.5 percent. Except as to rate, a tax imposed under this part shall
89 correspond to the tax imposed by Article 1 of this chapter. No item or transaction which
90 is not subject to taxation under Article 1 of this chapter shall be subject to a tax imposed
91 under this part, except that a tax imposed under this part shall apply to sales of motor fuels

92 as prepaid local tax as that term is defined in Code Section 48-8-2 ~~and shall be applicable~~
93 ~~to the sale of food and food ingredients and alcoholic beverages as provided for in Code~~
94 ~~Section 48-8-3."~~

95 **SECTION 6.**

96 Said chapter is further amended by revising subsection (c) of Code Section 48-8-201, relating
97 to intergovernmental contract for distribution of tax proceeds, approval of referendum by
98 voters, cap on aggregate amount of tax, and rate relative to the Water and Sewer Projects and
99 Costs Tax (MOST), as follows:

100 "(c) In the event a tax imposed under this article is imposed only by the municipality:

101 (1) No item or transaction which is not subject to taxation under Article 1 of this chapter
102 shall be subject to a tax imposed under this article, except that a tax imposed under this
103 article shall apply to:

104 (A) Sales of motor fuels as prepaid local tax as that term is defined in Code Section
105 48-8-2;

106 (B) ~~The sale of food and food ingredients and alcoholic beverages as provided for in~~
107 ~~Code Section 48-8-3~~ Reserved;

108 (C) The sale of natural or artificial gas used directly in the production of electricity
109 which is subsequently sold, notwithstanding paragraph (70) of Code Section 48-8-3;
110 and

111 (D) The furnishing for value to the public of any room or rooms, lodgings, or
112 accommodations which is subject to taxation under Article 3 of Chapter 13 of this title;
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114 (2) A tax imposed under this article shall not apply to the sale of motor vehicles."

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SECTION 7.

Said chapter is further amended by revising subsection (d) of Code Section 48-8-241, relating to creation of special districts and tax rate relative to the Special District Transportation Sales and Use Tax (TSPLOST), as follows:

"(d) Except as otherwise provided in subsection (e) of this Code section, any tax imposed under this article shall be at the rate of 1 percent. Except as to rate, a tax imposed under this article shall correspond to the tax imposed by Article 1 of this chapter. No item or transaction which is not subject to taxation under Article 1 of this chapter shall be subject to a tax imposed under this article, and a tax imposed under this article shall not apply to:

- (1) The sale or use of any type of fuel used for off-road heavy-duty equipment, off-road farm or agricultural equipment, or locomotives;
- (2) The sale or use of jet fuel as such term is defined in Code Section 48-8-2, except to the extent allowed pursuant to Code Section 48-8-3.5;
- (3) The sale or use of fuel that is used for propulsion of motor vehicles on the public highways. For purposes of this paragraph, a motor vehicle means a self-propelled vehicle designed for operation or required to be licensed for operation upon the public highways;
- (4) The sale or use of energy used in the manufacturing or processing of tangible goods primarily for resale; or
- (5) Motor fuel as defined under paragraph (9) of Code Section 48-9-2 for public mass transit.

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

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SECTION 8.

Said chapter is further amended by revising subsection (b) of Code Section 48-8-269, relating to exemption from taxation relative to the Special District Mass Transportation Sales and Use Tax, as follows:

"(b) Except as otherwise specifically provided in this part, the tax imposed pursuant to this part shall be subject to any sales and use tax exemption which is otherwise imposed by law; ~~provided, however, that the tax levied by this part shall be applicable to the sale of food and food ingredients as provided for in paragraph (57) of Code Section 48-8-3.~~"

SECTION 9.

Said chapter is further amended by revising subsection (b) of Code Section 48-8-269.15, relating to tax imposed relative to Metropolitan County Special Districts, as follows:

"(b) Except as otherwise specifically provided in this part, the tax imposed pursuant to this part shall be subject to any sales and use tax exemption which is otherwise imposed by law; ~~provided, however, that the tax levied by this part shall be applicable to the sale of food and food ingredients as provided for in paragraph (57) of Code Section 48-8-3.~~"

SECTION 10.

Said chapter is further amended by revising subsection (b) of Code Section 48-8-269.30, relating to tax imposed relative to Metropolitan Municipality Special Districts, as follows:

"(b) Except as otherwise specifically provided in this part, the tax imposed pursuant to this part shall be subject to any sales and use tax exemption which is otherwise imposed by law; ~~provided, however, that the tax levied by this part shall be applicable to the sale of food and food ingredients as provided for in paragraph (57) of Code Section 48-8-3.~~"

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SECTION 11.

Said chapter is further amended by revising subsection (b) of Code Section 48-8-269.52, relating to exemption from taxation relative to the levy of a tax for transit projects, as follows:

"(b) Except as otherwise specifically provided in this article, the tax imposed pursuant to this article shall be subject to any sales and use tax exemption which is otherwise imposed by law; ~~provided, however, that the tax levied by this article shall be applicable to the sale of food and food ingredients as provided for in paragraph (57) of Code Section 48-8-3.~~"

SECTION 12.

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