STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

HOUSE BILL NO. 1847____ By: Sullivan (John)

AS INTRODUCED

An Act relating to revenue and taxation; creating sales tax exemption for certain clothing and footwear purchased during certain time periods; defining terms; exempting from sales tax eligible food and beverages for specific time periods; authorizing the Oklahoma Tax Commission to promulgate certain rules; amending 68 O.S. 1991, Section 2701, as last amended by Section 14, Chapter 301, O.S.L. 1998 (68 O.S. Supp. 1999, Section 2701), which relates to authorization to tax for municipal government purposes; permitting cities and towns to exempt from sales tax certain items; requiring exemption to be for certain time periods; permitting counties and certain authorities to exempt from sales tax certain items for certain time periods; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1357.9 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The sale of an article of clothing or footwear designed to be worn on or about the human body shall be exempt from the tax imposed by Section 1354 of Title 68 of the Oklahoma Statutes if:

1. The sales price of the article is less than One Hundred Dollars ($100.00); and

2. The sale takes place during a period beginning at 12:01 a.m. on the first Friday in August and ending at 12 midnight on the second following Sunday, covering a period of ten (10) days.

B. Subsection A shall not apply to:

1. Any special clothing or footwear that is primarily designed for athletic activity or protective use and that is not normally

worn except when used for athletic activity or protective use for which it is designed:

2. Accessories, including jewelry, handbags, luggage, umbrellas, wallets, watches, and similar items carried on or about the human body, without regard to whether worn on the body in a manner characteristic of clothing; and

3. The rental of clothing or footwear.

C. The sale of all eligible food and beverages as defined in the federal Food Stamp Act, 7 U.S.C., Section 2011 et seq., as the act existed on January 1, 2000, shall be exempt from the tax imposed by Section 1354 of Title 68 of the Oklahoma Statutes if such sales take place during the following periods:

1. Beginning at 12:01 a.m. on the Sunday immediately preceding the Thanksgiving holiday through 12 midnight on the Sunday immediately following the Thanksgiving holiday; and

2. Beginning at 12:01 a.m. on July 1 through 12 midnight on July 7.

D. The Oklahoma Tax Commission shall promulgate any necessary rules to implement the provisions of this section.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 2701, as last amended by Section 14, Chapter 301, O.S.L. 1998 (68 O.S. Supp. 1999, Section 2701), is amended to read as follows:

Section 2701. A. Any incorporated city or town in this state is hereby authorized to assess, levy, and collect taxes for general and special purposes of municipal government as the Legislature may levy and collect for purposes of state government except ad valorem property taxes. Provided:

1. Taxes shall be uniform upon the same class subjects, and any tax, charge, or fee levied upon or measured by income or receipts from the sale of products or services shall be uniform upon all classes of taxpayers;

2. Motor vehicles may be taxed by the city or town only when such vehicles are primarily used or located in such city or town for a period of time longer than six (6) months of a taxable year;

3. The provisions of this section shall not be construed to authorize imposition of any tax upon persons, firms, or corporations exempted from other taxation under the provisions of Sections 348.1, 624 and 321 of Title 36 of the Oklahoma Statutes, by reason of payment of taxes imposed under such sections;

4. Cooperatives and communications companies are hereby authorized to pass on to their subscribers in the incorporated city or town involved, the amount of any special municipal fee, charge or tax hereafter assessed or levied on or collected from such cooperatives or communications companies;

5. No earnings, payroll or income taxes may be levied on nonresidents of the cities or towns levying such tax;

6. The governing body of any city or town shall be prohibited from proposing taxing ordinances more often than three times in any calendar year, or twice in any six-month period;

7. Any revenues derived from a tax authorized by this subsection not dedicated to a limited purpose shall be deposited in the municipal general fund.

B. A sales tax authorized in subsection A of this section may be levied for limited purposes specified in the ordinance levying the tax. Such ordinance shall be submitted to the voters for approval as provided in Section 2705 of this title. Any sales tax levied or any change in the rate of a sales tax levied pursuant to the provisions of this section shall become effective on the first day of the calendar quarter following approval by the voters of the city or town unless another effective date, which shall also be on the first day of a calendar quarter, is specified in the ordinance levying the sales tax or changing the rate of sales tax. Such ordinance shall describe with specificity the projects or

expenditures for which the limited-purpose tax levy would be made. The municipal governing body shall create a limited-purpose fund and deposit therein any revenue generated by any tax levied pursuant to this subsection. Money in the fund shall be accumulated from year to year. The fund shall be placed in an insured interest-bearing account and the interest which accrues on the fund shall be retained in the fund. The fund shall be nonfiscal and shall not be considered in computing any levy when the municipality makes its estimate to the excise board for needed appropriations. Money in the limited-purpose tax fund shall be expended only as accumulated and only for the purposes specifically described in the taxing ordinance as approved by the voters.

C. If the proceeds of any sales tax levied by a municipality pursuant to subsection B of this section are being used by the municipality for the purpose of retiring indebtedness incurred by the municipality or by a public trust of which the municipality is a beneficiary for the specific purpose for which the sales tax was imposed, the sales tax shall not be repealed until such time as the indebtedness is retired. However, in no event shall the life of the tax be extended beyond the duration approved by the voters of the municipality. The provisions of this subsection shall apply to all sales tax levies imposed by a municipality and being used by the municipality for the purposes set forth in this subsection prior to or after July 1, 1995.

D. Any incorporated city or town may, by ordinance, exempt from the sales tax authorized by this section the sale of an article of clothing or footwear designed to be worn on or about the human body in accordance with and as set forth in subsections A and B of Section 1 of this act. A city or town may also, by ordinance, exempt the sale of eligible food and beverage in accordance with and as set forth in subsection C of Section 1 of this act. However, any exemption authorized by a city or town pursuant to this subsection

shall be effective only during the specific time periods set forth in Section 1 of this act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1375 of Title 68, unless there is created a duplication in numbering, reads as follows:

Any county or authority authorized by law to levy a sales tax may, by ordinance or resolution, exempt from the sales tax the sale of an article of clothing or footwear designed to be worn on or about the human body in accordance with and as set forth in subsections A and B of Section 1 of this act. A county or authority may also, by ordinance or resolution, exempt the sale of eligible food and beverage in accordance with and as set forth in subsection C of Section 1 of this act. However, any exemption authorized by a county or authority pursuant to this section shall be effective only during the specific time periods set forth in Section 1 of this act.

SECTION 4. This act shall become effective July 1, 2000.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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