STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

HOUSE BILL HB1002 By: Hilliard

AS INTRODUCED

An Act relating to revenue and taxation; creating sales tax exemption for certain articles of clothing or footwear; setting certain time and dollar limits; providing exceptions; authorizing the Oklahoma Tax Commission to promulgate rules; amending 68 O.S. 1991, Section 2701, as last amended by Section 14, Chapter 301, O.S.L. 1998 (68 O.S. Supp. 2000, Section 2701), which relates to authorization to tax for purposes of local government; setting forth certain exemption from local sales tax; requiring amount of sales tax exemption to be reimbursed by the Oklahoma Tax Commission; setting forth exemption from county or authority sales tax; providing for reimbursement; 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 following Sunday, covering a period of three (3) days.

B. Subsection A of this section shall not apply to:

1. Any special clothing or footwear that is primarily designed for athletic 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 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. 2000, 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. The sales tax exemption authorized by Section 1 of this act for the sale of an article of clothing or footwear designed to be worn on or about the human body shall also apply to any sales tax of an incorporated city or town authorized by this section. The amount of the exemption from the sales tax authorized by this section shall be reimbursed to each city and town by the Oklahoma Tax Commission based on reports from the vendors located in each city or town.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1376 of Title 68, unless there is created a duplication in numbering, reads as follows:

The sales tax exemption authorized by Section 1 of this act for the sale of an article of clothing or footwear designed to be worn on or about the human body shall also apply to any sales tax of a county or authority authorized by law to levy a sales tax. The amount of the exemption from the sales tax shall be reimbursed to each county and authority by the Oklahoma Tax Commission based on reports from the vendors located in each county or within the district of each authority.

SECTION 4. This act shall become effective July 1, 2001.

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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