

THE HOUSE OF REPRESENTATIVES
Monday, March 2, 2009

House Bill No. 1297

HOUSE BILL NO. 1297 - By: OWNBEY of the House and CRUTCHFIELD of the Senate.

(revenue and taxation - amending sections in Title 68 - expanding sales tax holiday to include certain school supplies - effective date - emergency)

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

1 SECTION 1. AMENDATORY Section 3, Chapter 136, O.S.L. 2007 (68 O.S.
2 Supp. 2008, Section 1357.10), is amended to read as follows:

3 Section 1357.10 A. The sale of an article of clothing or footwear designed to be
4 worn on or about the human body and the sale of school supplies shall be exempt from
5 the tax imposed by Section 1354 of ~~Title 68 of the Oklahoma Statutes~~ this title if:

- 6 1. The sales price of the article is less than One Hundred Dollars (\$100.00); and
- 7 2. The sale takes place during a period beginning at 12:01 a.m. on the first Friday
- 8 in August and ending at 12 midnight on the following Sunday, covering a period of three
- 9 (3) days.

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

- 11 1. Any special clothing or footwear that is primarily designed for athletic activity or
- 12 protective use and that is not normally worn except when used for athletic activity or
- 13 protective use for which it is designed;

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

4 3. The rental of clothing or footwear.

5 C. As used in this section, “school supplies” means pens, pencils, three-ring binders,
6 notebook paper, spiral notebooks, pocket folders, rulers, protractors, compasses, map
7 pencils, crayons, markers, glue, index cards or any item included on an official supply list
8 provided to students by a school.

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

11 SECTION 2. AMENDATORY 68 O.S. 2001, Section 1370, as last amended by
12 Section 4, Chapter 136, O.S.L. 2007 (68 O.S. Supp. 2008, Section 1370), is amended to
13 read as follows:

14 Section 1370. A. Any county of this state may levy a sales tax of not to exceed two
15 percent (2%) upon the gross proceeds or gross receipts derived from all sales or services
16 in the county upon which a consumer’s sales tax is levied by this state. Before a sales tax
17 may be levied by the county, the imposition of the tax shall first be approved by a
18 majority of the registered voters of the county voting thereon at a special election called
19 by the board of county commissioners or by initiative petition signed by not less than five
20 percent (5%) of the registered voters of the county who were registered at the time of the
21 last general election. However, if a majority of the registered voters of a county voting
22 fail to approve such a tax, the board of county commissioners shall not call another

1 special election for such purpose for six (6) months. Any sales tax approved by the
2 registered voters of a county shall be applicable only when the point of sale is within the
3 territorial limits of such county. Any sales tax levied or any change in the rate of a sales
4 tax levied pursuant to the provisions of this section shall become effective on the first day
5 of the calendar quarter following approval by the voters of the county unless another
6 effective date, which shall also be on the first day of a calendar quarter, is specified in the
7 ordinance or resolution levying the sales tax or changing the rate of sales tax.

8 B. The Oklahoma Tax Commission shall give notice to all vendors of a rate change
9 at least sixty (60) days prior to the effective date of the rate change. Provided, for
10 purchases from printed catalogs wherein the purchaser computed the tax based upon
11 local tax rates published in the catalog, the rate change shall not be effective until the
12 first day of a calendar quarter after a minimum of one hundred twenty (120) days' notice
13 to vendors. Failure to give notice as required by this section shall delay the effective date
14 of the rate change to the first day of the next calendar quarter.

15 C. Initiative petitions calling for a special election concerning county sales tax
16 proposals shall be in accordance with Sections 2, 3, 3.1, 6, 18 and 24 of Title 34 of the
17 Oklahoma Statutes. Petitions shall be submitted to the office of county clerk for
18 approval as to form prior to circulation. Following approval, the petitioner shall have
19 ninety (90) days to secure the required signatures. After securing the requisite number
20 of signatures, the petitioner shall submit the petition and signatures to the county clerk.
21 Following the verification of signatures, the county clerk shall present the petition to the
22 board of county commissioners. The special election shall be held within sixty (60) days

1 of receiving the petition. The ballot title presented to the voters at the special election
2 shall be identical to the ballot as presented in the initiative petition.

3 D. Subject to the provisions of Section ~~3~~ 1357.10 of this ~~act~~ title, all items that are
4 exempt from the state sales tax shall be exempt from any sales tax levied by a county.

5 E. Any sales tax which may be levied by a county shall be designated for a
6 particular purpose. Such purposes may include, but are not limited to, projects owned by
7 the state, any agency or instrumentality thereof, the county and/or any political
8 subdivision located in whole or in part within such county, regional development,
9 economic development, common education, general operations, capital improvements,
10 county roads, weather modification or any other purpose deemed, by a majority vote of
11 the county commissioners or as stated by initiative petition, to be necessary to promote
12 safety, security and the general well-being of the people. The county shall identify the
13 purpose of the sales tax when it is presented to the voters pursuant to the provisions of
14 subsection A of this section. Except as otherwise provided in this section, the proceeds of
15 any sales tax levied by a county shall be deposited in the general revenue or sales tax
16 revolving fund of the county and shall be used only for the purpose for which such sales
17 tax was designated. If the proceeds of any sales tax levied by a county pursuant to this
18 section are pledged for the purpose of retiring indebtedness incurred for the specific
19 purpose for which the sales tax is imposed, the sales tax shall not be repealed until such
20 time as the indebtedness is retired. However, in no event shall the life of the tax be
21 extended beyond the duration approved by the voters of the county.

1 F. 1. Notwithstanding any other provisions of law, any county that has approved a
2 sales tax for the construction, support or operation of a county hospital may continue to
3 collect such tax if such hospital is subsequently sold. Such collection shall only continue
4 if the county remains indebted for the past construction, support or operation of such
5 hospital. The collection may continue only until the debt is repaid or for the stated term
6 of the sales tax, whichever period is shorter.

7 2. If the construction, support or operation of a hospital is funded through the levy
8 of a county sales tax pursuant to this section and such hospital is subsequently sold, the
9 county levying the tax may dissolve the governing board of such hospital following the
10 sale. Upon the sale of the hospital and dissolution of any governing board, the county is
11 relieved of any future liability for the operation of such hospital.

12 G. Proceeds from any sales tax levied that is designated to be used solely by the
13 sheriff for the operation of the office of sheriff shall be placed in the special revenue
14 account of the sheriff.

15 H. The life of the tax could be limited or unlimited in duration. The county shall
16 identify the duration of the tax when it is presented to the voters pursuant to the
17 provisions of subsections A and C of this section.

18 I. There are hereby created one or more county sales tax revolving funds in each
19 county which levies a sales tax under this section if any or all of the proceeds of such tax
20 are not to be deposited in the general revenue fund of the county or comply with the
21 provisions of subsection G of this section. Each such revolving fund shall be designated
22 for a particular purpose and shall consist of all monies generated by such sales tax which

1 are designated for such purpose. Monies in such funds shall only be expended for the
2 purposes specifically designated as required by this section. A county sales tax revolving
3 fund shall be a continuing fund not subject to fiscal year limitations.

4 SECTION 3. AMENDATORY Section 5, Chapter 136, O.S.L. 2007 (68 O.S.
5 Supp. 2008, Section 1377), is amended to read as follows:

6 Section 1377. The sales tax imposed by any county or authority authorized by law
7 to levy a sales tax shall not be imposed upon the sale of ~~an article of clothing or footwear~~
8 ~~designed to be worn on or about the human body~~ any items included in Section 1357.10 of
9 this title, in accordance with and to the extent set forth in Section ~~3~~ 1357.10 of this ~~act~~
10 title.

11 SECTION 4. AMENDATORY 68 O.S. 2001, Section 2701, as last amended by
12 Section 6, Chapter 136, O.S.L. 2007 (68 O.S. Supp. 2008, Section 2701), is amended to
13 read as follows:

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

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

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

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

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

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

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

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

19 B. A sales tax authorized in subsection A of this section may be levied for limited
20 purposes specified in the ordinance levying the tax. Such ordinance shall be submitted to
21 the voters for approval as provided in Section 2705 of this title. Any sales tax levied or
22 any change in the rate of a sales tax levied pursuant to the provisions of this section shall

1 become effective on the first day of the calendar quarter following approval by the voters
2 of the city or town unless another effective date, which shall also be on the first day of a
3 calendar quarter, is specified in the ordinance levying the sales tax or changing the rate
4 of sales tax. Such ordinance shall describe with specificity the projects or expenditures
5 for which the limited-purpose tax levy would be made. The municipal governing body
6 shall create a limited-purpose fund and deposit therein any revenue generated by any
7 tax levied pursuant to this subsection. Money in the fund shall be accumulated from
8 year to year. The fund shall be placed in an insured interest-bearing account and the
9 interest which accrues on the fund shall be retained in the fund. The fund shall be
10 nonfiscal and shall not be considered in computing any levy when the municipality
11 makes its estimate to the excise board for needed appropriations. Money in the limited-
12 purpose tax fund shall be expended only as accumulated and only for the purposes
13 specifically described in the taxing ordinance as approved by the voters.

14 C. The Oklahoma Tax Commission shall give notice to all vendors of a rate change
15 at least sixty (60) days prior to the effective date of the rate change. Provided, for
16 purchases from printed catalogs wherein the purchaser computed the tax based upon
17 local tax rates published in the catalog, the rate change shall not be effective until the
18 first day of a calendar quarter after a minimum of one hundred twenty (120) days' notice
19 to vendors. Failure to give notice as required by this section shall delay the effective date
20 of the rate change to the first day of the next calendar quarter.

1 D. The change in the boundary of a municipality shall be effective, for sales and use
2 tax purposes only, on the first day of a calendar quarter after a minimum of sixty (60)
3 days' notice to vendors.

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

13 F. The sale of an ~~article of clothing or footwear designed to be worn on or about the~~
14 ~~human body~~ item included in Section 1357.10 of this title, in accordance with and to the
15 extent set forth in Section 1357.10 of this title, shall be exempt from the sales tax
16 imposed by any incorporated city or town, ~~in accordance with and to the extent set forth~~
17 ~~in Section 3 of this act.~~

18 SECTION 5. This act shall become effective July 1, 2009.

19 SECTION 6. It being immediately necessary for the preservation of the public
20 peace, health and safety, an emergency is hereby declared to exist, by reason whereof
21 this act shall take effect and be in full force from and after its passage and approval.

1 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET,
2 dated 02-26-09 - DO PASS, As Amended and Coauthored.