

THE HOUSE OF REPRESENTATIVES
Monday, April 13, 2009

ENGROSSED
Senate Bill No. 723
As Amended

ENGROSSED SENATE BILL NO. 723 - By: BARRINGTON AND MAZZEI of the Senate and SEARS AND SHERRER of the House.

(revenue and taxation - sales tax exemptions – effective date -
emergency)

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

Section 1357.10 A. The sale of an article of clothing or footwear designed to be worn on or about the human body or the sale of any school supply, school art supply or school instructional material shall be exempt from the tax imposed by Section 1354 of Title 68 of the Oklahoma Statutes this title if:

1. The sales price of the article, supply or material 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 1. Any special clothing or footwear that is primarily designed for athletic activity or
2 protective use and that is not normally worn except when used for athletic activity or
3 protective use for which it is designed;

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

7 3. The rental of clothing or footwear; and

8 4. Computers or school computer supplies as defined in the Streamlined Sales and
9 Use Tax Agreement.

10 C. For purposes of this section:

11 1. “School supply” means an item commonly used by a student in a course of study;

12 2. “School art supply” means an item commonly used by a student in a course of
13 study for artwork; and

14 3. “School instructional material” means written material commonly used by a
15 student in a course of study as a reference and to learn the subject being taught.

16 D. The Oklahoma Tax Commission shall promulgate any necessary rules to
17 implement the provisions of this section. Any rules pertaining to the exemption for
18 school supplies, school art supplies and school instructional materials shall be consistent
19 with the Streamlined Sales and Use Tax Agreement.

20 SECTION 2. AMENDATORY Section 5, Chapter 136, O.S.L. 2007 (68 O.S.
21 Supp. 2008, Section 1377), is amended to read as follows:

1 Section 1377. The sales tax imposed by any county or authority authorized by law
2 to levy a sales tax shall not be imposed upon the sale of an article of clothing or footwear
3 designed to be worn on or about the human body or the sale of any school supply, school
4 art supply or school instructional material in accordance with and to the extent set forth
5 in Section ~~3 of this act~~ 1357.10 of this title.

6 SECTION 3. AMENDATORY 68 O.S. 2001, Section 2701, as last amended by
7 Section 6, Chapter 136, O.S.L. 2007 (68 O.S. Supp. 2008, Section 2701), is amended to
8 read as follows:

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

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

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

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

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

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

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

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

12 B. A sales tax authorized in subsection A of this section may be levied for limited
13 purposes specified in the ordinance levying the tax. Such ordinance shall be submitted to
14 the voters for approval as provided in Section 2705 of this title. Any sales tax levied or
15 any change in the rate of a sales tax levied pursuant to the provisions of this section shall
16 become effective on the first day of the calendar quarter following approval by the voters
17 of the city or town unless another effective date, which shall also be on the first day of a
18 calendar quarter, is specified in the ordinance levying the sales tax or changing the rate
19 of sales tax. Such ordinance shall describe with specificity the projects or expenditures
20 for which the limited-purpose tax levy would be made. The municipal governing body
21 shall create a limited-purpose fund and deposit therein any revenue generated by any
22 tax levied pursuant to this subsection. Money in the fund shall be accumulated from

1 year to year. The fund shall be placed in an insured interest-bearing account and the
2 interest which accrues on the fund shall be retained in the fund. The fund shall be
3 nonfiscal and shall not be considered in computing any levy when the municipality
4 makes its estimate to the excise board for needed appropriations. Money in the limited-
5 purpose tax fund shall be expended only as accumulated and only for the purposes
6 specifically described in the taxing ordinance as approved by the voters.

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

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

17 E. If the proceeds of any sales tax levied by a municipality pursuant to subsection B
18 of this section are being used by the municipality for the purpose of retiring indebtedness
19 incurred by the municipality or by a public trust of which the municipality is a
20 beneficiary for the specific purpose for which the sales tax was imposed, the sales tax
21 shall not be repealed until such time as the indebtedness is retired. However, in no
22 event shall the life of the tax be extended beyond the duration approved by the voters of

1 the municipality. The provisions of this subsection shall apply to all sales tax levies
2 imposed by a municipality and being used by the municipality for the purposes set forth
3 in this subsection prior to or after July 1, 1995.

4 F. The sale of an article of clothing or footwear designed to be worn on or about the
5 human body or the sale of any school supply, school art supply or school instructional
6 material shall be exempt from the sales tax imposed by any incorporated city or town, in
7 accordance with and to the extent set forth in Section ~~3 of this act~~ 1357.10 of this title.

8 SECTION 4. This act shall become effective July 1, 2009.

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

12 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET,
13 dated 04-09-09 - DO PASS, As Amended and Coauthored.