

SB 723

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THE STATE SENATE
Monday, February 23, 2009

Senate Bill No. 723
As Amended

SENATE BILL NO. 723 - By: Barrington and Mazzei of the Senate and
Sears of the House.

[revenue and taxation - sales tax exemptions -
emergency]

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

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
2 for athletic activity or protective use and that is not normally
3 worn except when used for athletic activity or protective use for
4 which it is designed;

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

9 3. The rental of clothing or footwear; and

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

12 C. For purposes of this section;

13 1. "School supply" means an item commonly used by a student in
14 a course of study;

15 2. "School art supply" means an item commonly used by a student
16 in a course of study for artwork; and

17 3. "School instructional material" means written material
18 commonly used by a student in a course of study as a reference and
19 to learn the subject being taught.

20 D. The Oklahoma Tax Commission shall promulgate any necessary
21 rules to implement the provisions of this section. Any rules
22 pertaining to the exemption for school supplies, school art supplies

1 and school instructional materials shall be consistent with the
2 Streamlined Sales and Use Tax Agreement.

3 SECTION 2. AMENDATORY Section 5, Chapter 136, O.S.L.
4 2007 (68 O.S. Supp. 2008, Section 1377), is amended to read as
5 follows:

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

12 SECTION 3. AMENDATORY 68 O.S. 2001, Section 2701, as
13 last amended by Section 6, Chapter 136, O.S.L. 2007 (68 O.S. Supp.
14 2008, Section 2701), is amended to read as follows:

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

21 1. Taxes shall be uniform upon the same class subjects, and any
22 tax, charge, or fee levied upon or measured by income or receipts

1 from the sale of products or services shall be uniform upon all
2 classes of taxpayers;

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

6 3. The provisions of this section shall not be construed to
7 authorize imposition of any tax upon persons, firms, or corporations
8 exempted from other taxation under the provisions of Sections 348.1,
9 624 and 321 of Title 36 of the Oklahoma Statutes, by reason of
10 payment of taxes imposed under such sections;

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

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

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

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

1 B. A sales tax authorized in subsection A of this section may
2 be levied for limited purposes specified in the ordinance levying
3 the tax. Such ordinance shall be submitted to the voters for
4 approval as provided in Section 2705 of this title. Any sales tax
5 levied or any change in the rate of a sales tax levied pursuant to
6 the provisions of this section shall become effective on the first
7 day of the calendar quarter following approval by the voters of the
8 city or town unless another effective date, which shall also be on
9 the first day of a calendar quarter, is specified in the ordinance
10 levying the sales tax or changing the rate of sales tax. Such
11 ordinance shall describe with specificity the projects or
12 expenditures for which the limited-purpose tax levy would be made.
13 The municipal governing body shall create a limited-purpose fund and
14 deposit therein any revenue generated by any tax levied pursuant to
15 this subsection. Money in the fund shall be accumulated from year
16 to year. The fund shall be placed in an insured interest-bearing
17 account and the interest which accrues on the fund shall be retained
18 in the fund. The fund shall be nonfiscal and shall not be
19 considered in computing any levy when the municipality makes its
20 estimate to the excise board for needed appropriations. Money in
21 the limited-purpose tax fund shall be expended only as accumulated
22 and only for the purposes specifically described in the taxing
23 ordinance as approved by the voters.

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

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

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

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

4 F. The sale of an article of clothing or footwear designed to
5 be worn on or about the human body or the sale of any school supply,
6 school art supply or school instructional material shall be exempt
7 from the sales tax imposed by any incorporated city or town, in
8 accordance with and to the extent set forth in Section ~~3 of this act~~
9 1357.10 of this title.

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

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

15 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-10-09 - DO PASS,
16 As Amended and Coauthored.