

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 1268

By: Mazzei

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5  
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending  
8 Sections 3 and 5, Chapter 136, O.S.L. 2007 and 68  
9 O.S. 2001, Section 2701, as last amended by Section  
10 6, Chapter 136, O.S.L. 2007 (68 O.S. Supp. 2009,  
11 Sections 1357.10, 1377 and 2701), which relate to  
12 sales tax; modifying certain state exemption to  
13 include school supplies, school art supplies or  
14 school instructional materials; excluding specified  
15 items; defining terms; requiring rules promulgated by  
16 Oklahoma Tax Commission to be in compliance with  
17 specified agreement; modifying certain county  
18 exemption to include school supplies, school art  
19 supplies or school instructional materials; modifying  
20 certain municipal exemption to include school  
21 supplies, school art supplies or school instructional  
22 materials; providing an effective date; and declaring  
23 an emergency.

24 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. 2009, 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

1 material shall be exempt from the tax imposed by Section 1354 of  
2 ~~Title 68 of the Oklahoma Statutes~~ this title if:

3 1. The sales price of the article, supply or material is less  
4 than One Hundred Dollars (\$100.00); and

5 2. The sale takes place during a period beginning at 12:01 a.m.  
6 on the first Friday in August and ending at 12 midnight on the  
7 following Sunday, covering a period of three (3) days.

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

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

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

17 3. The rental of clothing or footwear; and

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

20 C. For purposes of this section;

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

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

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

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

9       SECTION 2.        AMENDATORY        Section 5, Chapter 136, O.S.L.  
10 2007 (68 O.S. Supp. 2009, Section 1377), is amended to read as  
11 follows:

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

18       SECTION 3.        AMENDATORY        68 O.S. 2001, Section 2701, as  
19 last amended by Section 6, Chapter 136, O.S.L. 2007 (68 O.S. Supp.  
20 2009, Section 2701), is amended to read as follows:

21       Section 2701. A. Any incorporated city or town in this state  
22 is hereby authorized to assess, levy, and collect taxes for general  
23 and special purposes of municipal government as the Legislature may  
24 levy and collect for purposes of state government, subject to the

1 provisions of subsection F of this section, except ad valorem  
2 property taxes. Provided:

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

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

10 3. The provisions of this section shall not be construed to  
11 authorize imposition of any tax upon persons, firms, or corporations  
12 exempted from other taxation under the provisions of Sections 348.1,  
13 624 and 321 of Title 36 of the Oklahoma Statutes, by reason of  
14 payment of taxes imposed under such sections;

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

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

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

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

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

1 and only for the purposes specifically described in the taxing  
2 ordinance as approved by the voters.

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

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

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

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

5 F. The sale of an article of clothing or footwear designed to  
6 be worn on or about the human body or the sale of any school supply,  
7 school art supply or school instructional material shall be exempt  
8 from the sales tax imposed by any incorporated city or town, in  
9 accordance with and to the extent set forth in Section ~~3 of this act~~  
10 1357.10 of this title.

11 SECTION 4. This act shall become effective July 1, 2010.

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

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