

SENATE BILL No. 29

By Senators Peck, Bowers, Claeys, Doll, Faust-Goudeau and Petersen

1-11

1 AN ACT concerning sales taxation; relating to exemptions; providing an
2 exemption for sales of school supplies, personal computers and
3 clothing during an annual sales tax holiday.

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5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. (a) On and after July 1, 2023, the following shall be
7 exempt from the tax imposed by the Kansas retailers' sales tax act: All
8 back-to-school-related sales of clothing, clothing accessories or
9 equipment, school supplies, school instructional materials, school art
10 supplies, prewritten computer software, personal computers and school
11 computer supplies during the period beginning at 12:01 a.m. on the first
12 Thursday in August and ending at midnight on the Sunday following. The
13 seller of items specified in this subsection shall not be required to obtain
14 an exemption certificate from the purchaser of such items as provided
15 pursuant to K.S.A. 79-3692, and amendments thereto, during the period of
16 time specified in this subsection.

17 (b) As used in this section:

18 (1) "Clothing" means all human wearing apparel suitable for general
19 use. "Clothing" includes, but is not limited to: Aprons, household and
20 shop; athletic supporters; bathing suits and caps; beach capes and coats;
21 belts and suspenders; boots; coats and jackets; costumes; ear muffs;
22 footlets; formal wear; garters and garter belts; girdles; gloves and mittens
23 for general use; hats and caps; hosiery; insoles for shoes; lab coats;
24 neckties; overshoes; pantyhose; rainwear; rubber pants; sandals; scarves;
25 shoes and shoe laces; slippers; sneakers; socks and stockings; steel-toed
26 shoes; underwear; and uniforms, athletic and non-athletic. "Clothing" does
27 not include: Belt buckles sold separately; costume masks sold separately;
28 patches and emblems sold separately; sewing equipment and supplies
29 including, but not limited to, knitting needles, patterns, pins, sewing
30 machines, sewing needles, tape measures and thimbles; and sewing
31 materials that become part of clothing including, but not limited to,
32 buttons, fabric, lace, thread, yarn and zippers;

33 (2) "clothing accessories or equipment" means incidental items worn
34 on the person or in conjunction with clothing. "Clothing accessories or
35 equipment" includes, but is not limited to: Briefcases; hair notions,
36 including, but not limited to, barrettes, hair bows, and hair nets; handbags;

1 handkerchiefs; sunglasses, non-prescription; wallets; watches and wigs
2 and hair pieces;

3 (3) "eligible property" means an item of a type, such as clothing, that
4 qualifies for the sales tax exemption as provided in this section;

5 (4) "layaway sale" means a transaction in which property is set aside
6 for future delivery to a customer who makes a deposit, agrees to pay the
7 balance of the purchase over a period of time and, at the end of the
8 payment period, receives the property. An order is accepted for layaway by
9 the seller when the seller removes the property from normal inventory or
10 clearly identifies the property as sold to the purchaser;

11 (5) "rain check" means the seller allows a customer to purchase an
12 item at a certain price at a later time because the particular item was out of
13 stock;

14 (6) "school art supply" means an item commonly used by a student in
15 a course of study for artwork. The following is an all-inclusive list: Clay
16 and glazes; paints, acrylic, tempera and oil; paintbrushes for artwork;
17 sketch and drawing pads; and watercolors;

18 (7) "school computer supply" means an item commonly used by a
19 student in a course of study in which a computer is used. The following is
20 an all-inclusive list: Computer storage media, diskettes, compact disks;
21 handheld electronic schedulers, except devices that are cellular phones;
22 personal digital assistants, except devices that are cellular phones;
23 computer printers; and printer supplies for computers, printer paper and
24 printer ink;

25 (8) "school instructional material" means written material commonly
26 used by a student in a course of study as a reference and to learn the
27 subject being taught. The following is an all-inclusive list: Reference
28 books; reference maps and globes; textbooks; and workbooks; and

29 (9) "school supply" means an item commonly used by a student in a
30 course of study. The following is an all-inclusive list: Binders; book bags;
31 calculators; cellophane tape; compasses; composition books; crayons;
32 erasers; folders, expandable, pocket, plastic and manila; glue, paste and
33 paste sticks; highlighters; index cards; index card boxes; legal pads; lunch
34 boxes; markers; notebooks; paper; loose leaf ruled notebook paper, copy
35 paper, graph paper, tracing paper, manila paper, colored paper, poster
36 board and construction paper; pencil boxes and other school supply boxes;
37 pencil sharpeners; pencils; pens; protractors; rulers; scissors; wipe boards;
38 wipe board markers; and writing tablets.

39 (c) The secretary of revenue shall provide notice of the exemption
40 period to retailers at least 60 days prior to the first day of the calendar
41 month in which the exemption period established in this section
42 commences.

43 (d) The following procedures are to be used in administering the

1 exemption as provided in this section:

2 (1) A sale of eligible property under a layaway sale qualifies for the
3 exemption if:

4 (A) Final payment on a layaway order is made by, and the property is
5 given to, the purchaser during the exemption period; or

6 (B) the purchaser selects the property and the retailer accepts the
7 order for the item during the exemption period for immediate delivery
8 upon full payment, even if delivery is made after the exemption period;

9 (2) there shall be no change during the period of exemption for the
10 handling of a bundled sale as treated for sales tax purposes at times other
11 than the exemption period;

12 (3) a discount by the seller reduces the sales price of the property. A
13 coupon that reduces the sales price is treated as a discount if the seller is
14 not reimbursed for the coupon amount by a third party. If a discount
15 applies to the total amount paid by a purchaser rather than to the sales
16 price of a particular item and the purchaser has purchased both eligible
17 property and taxable property, the seller shall allocate the discount based
18 on the total sales prices of the taxable property compared to the total sales
19 prices of all property sold in that same transaction;

20 (4) articles that are normally sold as a single unit shall continue to be
21 sold in that manner. Such articles cannot be priced separately and sold as
22 individual items in order to obtain the exemption;

23 (5) a rain check allows a customer to purchase an item at a certain
24 price at a later time because the particular item was out of stock. Eligible
25 property that customers purchase during the exemption period with use of
26 a rain check will qualify for the exemption regardless of when the rain
27 check was issued. Issuance of a rain check during the exemption period
28 shall not qualify eligible property for the exemption if the property is
29 actually purchased after the exemption period;

30 (6) the procedure for an exchange in regards to an exemption is as
31 follows:

32 (A) If a customer purchases an item of eligible property during the
33 exemption period, but later exchanges the item for a similar eligible item,
34 even if a different size, different color or other feature, no additional tax is
35 due even if the exchange is made after the exemption period;

36 (B) if a customer purchases an item of eligible property during the
37 exemption period, but after the exemption period has ended, the customer
38 returns the item and receives credit on the purchase of a different item, the
39 appropriate sales tax is due on the sale of the new item; and

40 (C) if a customer purchases an item of eligible property before the
41 exemption period, but during the exemption period the customer returns
42 the item and receives credit on the purchase of a different item of eligible
43 property, no sales tax is due on the sale of the new item if the new item is

1 purchased during the exemption period;

2 (7) for the purpose of an exemption, eligible property qualifies for the
3 exemption if:

4 (A) The item is both delivered to and paid for by the customer during
5 the exemption period; or

6 (B) the customer orders and pays for the item and the seller accepts
7 the order during the exemption period for immediate shipment, even if
8 delivery is made after the exemption period. The seller accepts an order
9 when the seller has taken action to fill the order for immediate shipment.
10 Actions to fill an order include placement of an in date stamp on a mail
11 order or assignment of an order number to a telephone order. An order is
12 for immediate shipment when the customer does not request delayed
13 shipment. An order is for immediate shipment, notwithstanding that the
14 shipment may be delayed because of a backlog of orders or because stock
15 is currently unavailable to, or on back order by, the seller;

16 (8) for a 60-day period immediately after the exemption period, when
17 a customer returns an item that would qualify for the exemption, no credit
18 for or refund of sales tax shall be given unless the customer provides a
19 receipt or invoice that shows tax was paid or the seller has sufficient
20 documentation to show that tax was paid on the specific item. This 60-day
21 period is set solely for the purpose of designating a time period during
22 which the customer must provide documentation that shows that sales tax
23 was paid on returned merchandise. The 60-day period is not intended to
24 change a seller's policy on the time period during which the seller will
25 accept returns; and

26 (9) the time zone of the seller's location determines the authorized
27 time period for a sales tax holiday when the purchaser is located in one
28 time zone and a seller is located in another.

29 (e) The provisions of this section shall be a part of and supplemental
30 to the Kansas retailers' sales tax act.

31 Sec. 2. This act shall take effect and be in force from and after its
32 publication in the Kansas register.