

REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

The Committee on **Taxation** recommends **HB 2607** be amended on page 34, in line 25, by striking all following "(hhhh)"; by striking all in lines 26 through 43;

On page 35, by striking all in lines 1 through 9 and inserting "on and after July 1, 2015, all back-to-school related sales of clothing or clothing accessories or equipment having a taxable value of \$300 or less, school supplies, school instructional materials or school art supplies not to exceed \$100 per item, prewritten computer software with a taxable value of \$300 or less and personal computers or school computer supplies not to exceed \$2,000, during the period beginning at 12:01 a.m. on the first Thursday in August and ending at midnight on the Sunday following. Only items priced below the price threshold established in this subsection shall be exempt from taxation pursuant to this subsection. The seller of items specified in this subsection is not required to obtain an exemption certificate from the purchaser of such items as provided pursuant to K.S.A. 79-3692, and amendments thereto, during the period of time specified in this subsection. There shall be no exemption pursuant to this subsection for only a portion of the price of an individual item. The provisions of section 2, and amendments thereto, shall apply to the exemption contained in this subsection.

New Sec. 2. (a) As used in this section and subsection (hhhh) of K.S.A. 79-3606, and amendments thereto:

(1) "Clothing" means all human wearing apparel suitable for general use. Clothing includes, but is not limited to: Aprons, household and shop; athletic supporters; baby receiving blankets; bathing suits and caps; beach capes and coats; belts and suspenders; boots; coats and

jackets; costumes; diapers, children and adult, including disposable diapers; ear muffs; footlets; formal wear; garters and garter belts; girdles; gloves and mittens for general use; hats and caps; hosiery; insoles for shoes; lab coats; neckties; overshoes; pantyhose; rainwear; rubber pants; sandals; scarves; shoes and shoe laces; slippers; sneakers; socks and stockings; steel-toed shoes; underwear; uniforms, athletic and non-athletic; and wedding apparel. Clothing shall not include: Belt buckles sold separately; costume masks sold separately; patches and emblems sold separately; sewing equipment and supplies including, but not limited to, knitting needles, patterns, pins, scissors, sewing machines, sewing needles, tape measures and thimbles; and sewing materials that become part of clothing including, but not limited to, buttons, fabric, lace, thread, yarn and zippers;

(2) "clothing accessories or equipment" means incidental items worn on the person or in conjunction with clothing. Clothing accessories or equipment includes, but is not limited to: Briefcases; cosmetics; hair notions, including, but not limited to, barrettes, hair bows, and hair nets; handbags; handkerchiefs; jewelry; sunglasses, non-prescription; umbrellas; wallets; watches and wigs and hair pieces;

(3) "eligible property" means an item of a type, such as clothing, that qualifies for the sales tax exemption as provided in subsection (hhhh) of K.S.A. 79-3606, and amendments thereto;

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

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

(6) "school art supply" means an item commonly used by a student in a course of study for

artwork. The following is an all-inclusive list: Clay and glazes; paints, acrylic, tempera and oil; paintbrushes for artwork; sketch and drawing pads; and watercolors;

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

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

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

(b) The secretary of revenue shall provide notice of the exemption period to retailers at least 60 days prior to the first day of the calendar quarter in which the exemption period established in subsection (hhhh) of K.S.A. 79-3606, and amendments thereto, commences.

(c) The following procedures are to be used in administering the exemption as provided in subsection (hhhh) of K.S.A. 79-3606, and amendments thereto:

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

(A) Final payment on a layaway order is made by, and the property is given to, the purchaser

during the exemption period; or

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

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

(3) a discount by the seller reduces the sales price of the property and the discounted sales price determines whether the sales price is within the price threshold provided in subsection (hhhh) of K.S.A. 79-3606, and amendments thereto. A coupon that reduces the sales price is treated as a discount if the seller is not reimbursed for the coupon amount by a third party. If a discount applies to the total amount paid by a purchaser rather than to the sales price of a particular item and the purchaser has purchased both eligible property and taxable property, the seller should allocate the discount based on the total sales prices of the taxable property compared to the total sales prices of all property sold in that same transaction;

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

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

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

(A) If a customer purchases an item of eligible property during the exemption period, but later exchanges the item for a similar eligible item, even if a different size, different color or other feature,

no additional tax is due even if the exchange is made after the exemption period;

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

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

(7) delivery charges, including shipping, handling and service charges, are part of the sales price of eligible property. For the purpose of determining the price threshold, if all the property in a shipment qualifies as eligible property and the sales price for each item in the shipment is within the price threshold, then the seller does not have to allocate the delivery, handling or service charge to determine if the price threshold is exceeded. The shipment will be considered a sale of eligible products. If the shipment includes eligible property and taxable property, including an eligible item with a sales price in excess of the price threshold, the seller should allocate the delivery charge by using:

(A) A percentage based on the total sales prices of the taxable property compared to the total sales prices of all property in the shipment; or

(B) a percentage based on the total weight of the taxable property compared to the total weight of all property in the shipment; and

(C) the seller must tax the percentage of the delivery charge allocated to the taxable property but does not have to tax the percentage allocated to the eligible property;

(8) for the purpose of an exemption, eligible property qualifies for the exemption if:

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

or

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

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

(10) the time zone of the seller's location determines the authorized time period for a sales tax holiday when the purchaser is located in one time zone and a seller is located in another.";

(d) The provisions of this section shall be a part of and supplemental to the Kansas retailers' sales and compensating tax act.";

And renumber sections accordingly; and the bill be passed as amended.

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Chairperson