

HOUSE BILL No. 2108

By Committee on Taxation

1-19

1 AN ACT concerning sales taxation; relating to exemptions; providing an
2 exemption for sales of certain school supplies, computers and clothing
3 during an annual sales tax holiday.
4

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

6 Section 1. (a) (1) On and after July 1, 2023, during the four-day
7 period beginning at 12:01 a.m. on the first Thursday in August and ending
8 at midnight on the Sunday following, all back-to-school-related sales of
9 the following items shall be exempt from the tax imposed by the Kansas
10 retailers' sales tax act:

11 (A) Clothing or clothing accessories or equipment with a sales price
12 of \$300 or less per item;

13 (B) school supplies, school instructional materials or school art
14 supplies with a sales price of \$100 or less per item;

15 (C) prewritten computer software with a sales price of \$300 or less
16 per item; and

17 (D) computers or school computer supplies with a sales price of
18 \$2,000 or less per item.

19 (2) Only items priced at or below the price threshold established in
20 this subsection shall be exempt from taxation pursuant to this subsection.
21 Notwithstanding K.S.A. 79-3609, and amendments thereto, the seller of
22 items specified in this subsection is not required to obtain an exemption
23 certificate from the purchaser of such items during the period of time
24 specified in this subsection. There shall be no exemption pursuant to this
25 subsection for only a portion of the price of an individual item.

26 (b) As used in this section:

27 (1) "Clothing" means all human wearing apparel suitable for general
28 use.

29 (A) "Clothing" includes, but is not limited to:

30 (i) Aprons, household and shop;

31 (ii) athletic supporters;

32 (iii) baby receiving blankets;

33 (iv) bathing suits and caps;

34 (v) beach capes and coats;

35 (vi) belts and suspenders;

36 (vii) boots;

- 1 (viii) coats and jackets;
- 2 (ix) costumes;
- 3 (x) diapers, children and adult, including disposable diapers;
- 4 (xi) ear muffs;
- 5 (xii) footlets;
- 6 (xiii) formal wear;
- 7 (xiv) garters and garter belts;
- 8 (xv) girdles;
- 9 (xvi) gloves and mittens for general use;
- 10 (xvii) hats and caps;
- 11 (xviii) hosiery;
- 12 (xix) insoles for shoes;
- 13 (xx) lab coats;
- 14 (xxi) neckties;
- 15 (xxii) overshoes;
- 16 (xxiii) pantyhose;
- 17 (xxiv) rainwear;
- 18 (xxv) rubber pants;
- 19 (xxvi) sandals;
- 20 (xxvii) scarves;
- 21 (xxviii) shoes and shoe laces;
- 22 (xxix) slippers;
- 23 (xxx) sneakers;
- 24 (xxxii) socks and stockings;
- 25 (xxxiii) steel-toed shoes;
- 26 (xxxiv) underwear;
- 27 (xxxv) uniforms, athletic and non-athletic; and
- 28 (xxxvi) wedding apparel.
- 29 (B) "Clothing" does not include:
- 30 (i) Belt buckles sold separately;
- 31 (ii) costume masks sold separately;
- 32 (iii) patches and emblems sold separately;
- 33 (iv) sewing equipment and supplies, including, but not limited to,
- 34 knitting needles,
- 35 patterns, pins, scissors, sewing machines, sewing needles, tape
- 36 measures and thimbles; and
- 37 (v) sewing materials that become part of clothing, including, but not
- 38 limited to, buttons,
- 39 fabric, lace, thread, yarn and zippers.
- 40 (2) "Clothing accessories or equipment" means incidental items worn
- 41 on the person or in conjunction with clothing. "Clothing accessories or
- 42 equipment" includes, but is not limited to:
- 43 (A) Briefcases;

- 1 (B) cosmetics;
- 2 (C) hair notions, including, but not limited to, barrettes, hair bows
- 3 and hair nets;
- 4 (D) handbags;
- 5 (E) handkerchiefs;
- 6 (F) jewelry;
- 7 (G) sunglasses, nonprescription;
- 8 (H) umbrellas;
- 9 (I) wallets;
- 10 (J) watches; and
- 11 (K) wigs and hairpieces.
- 12 (3) "Eligible property" means an item of a type, such as clothing, that
- 13 qualifies for the sales tax exemption as provided in this section.
- 14 (4) "Layaway sale" means a transaction in which property is set aside
- 15 for future delivery to a customer who makes a deposit, agrees to pay the
- 16 balance of the purchase price over a period of time and, at the end of the
- 17 payment period, receives the property. An order is accepted for layaway by
- 18 the seller when the seller removes the property from normal inventory or
- 19 clearly identifies the property as sold to the purchaser.
- 20 (5) "Rain check" means the seller allows a customer to purchase an
- 21 item at a certain price at a later time, because the particular item was out of
- 22 stock.
- 23 (6) "School art supply" means an item commonly used by a student in
- 24 a course of study for artwork. The following is an all-inclusive list:
- 25 (A) Clay and glazes;
- 26 (B) paints; acrylic, tempera and oil;
- 27 (C) paintbrushes for artwork;
- 28 (D) sketch and drawing pads; and
- 29 (E) watercolors.
- 30 (7) "School computer supply" means an item commonly used by a
- 31 student in a course of study in which a computer is used. The following is
- 32 an all-inclusive list:
- 33 (A) Computer storage media; diskettes, compact disks;
- 34 (B) handheld electronic schedulers, except devices that are cellular
- 35 phones;
- 36 (C) personal digital assistants, except devices that are cellular phones;
- 37 (D) computer printers; and
- 38 (E) printer supplies for computers; printer paper, printer ink.
- 39 (8) "School instructional material" means written material commonly
- 40 used by a student in a course of study as a reference and to learn the
- 41 subject being taught. The following is an all-inclusive list:
- 42 (A) Reference books;
- 43 (B) reference maps and globes;

- 1 (C) textbooks; and
2 (D) workbooks.
3 (9) "School supply" means an item commonly used by a student in a
4 course of study. The following is an all-inclusive list:
5 (A) Binders;
6 (B) book bags;
7 (C) calculators;
8 (D) cellophane tape;
9 (E) blackboard chalk;
10 (F) compasses;
11 (G) composition books;
12 (H) crayons;
13 (I) erasers;
14 (J) folders; expandable, pocket, plastic and manila;
15 (K) glue, paste and paste sticks;
16 (L) highlighters;
17 (M) index cards;
18 (N) index card boxes;
19 (O) legal pads;
20 (P) lunch boxes;
21 (Q) markers;
22 (R) notebooks;
23 (S) paper; loose leaf ruled notebook paper, copy paper, graph paper,
24 tracing paper, manila paper, colored paper, poster board and construction
25 paper;
26 (T) pencil boxes and other school supply boxes;
27 (U) pencil sharpeners;
28 (V) pencils;
29 (W) pens;
30 (X) protractors;
31 (Y) rulers;
32 (Z) scissors; and
33 (AA) writing tablets.
34 (c) The secretary of revenue shall provide notice of the exemption
35 period to retailers at least 60 days prior to the first day of the calendar
36 month in which the exemption period established in this section
37 commences.
38 (d) The following procedures are to be used in administering the
39 exemption as provided in this section:
40 (1) A sale of eligible property under a layaway sale qualifies for
41 exemption if:
42 (A) Final payment on a layaway order is made by, and the property is
43 given to, the purchaser during the exemption period; or

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

4 (2) There shall be no change during the period of exemption for the
5 handling of a bundled sale as treated for sales tax purposes at times other
6 than the exemption period.

7 (3) A discount by the seller reduces the sales price of the property,
8 and the discounted sales price determines whether the sales price is within
9 the price threshold provided in subsection (a). A coupon that reduces the
10 sales price is treated as a discount if the seller is not reimbursed for the
11 coupon amount by a third party. If a discount applies to the total amount
12 paid by a purchaser rather than to the sales price of a particular item and
13 the purchaser has purchased both eligible property and taxable property,
14 the seller shall allocate the discount based on the total sales prices of the
15 taxable property compared to the total sales prices of all property sold in
16 that same transaction.

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

20 (5) Eligible property that customers purchase during the exemption
21 period with use of a rain check will qualify for the exemption regardless of
22 when the rain check was issued. Issuance of a rain check during the
23 exemption period shall not qualify an eligible property for the exemption if
24 the property is actually purchased after the exemption period.

25 (6) The procedure for an exchange in regards to an exemption is as
26 follows:

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

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

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

40 (7) For the purpose of an exemption, eligible property qualifies for
41 the exemption if:

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

1 period; or

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

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

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

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

28 Sec. 2. This act shall take effect and be in force from and after its
29 publication in the statute book.