



2008

LEGISLATIVE ANALYSIS FOR ENACTED LEGISLATION

ALCOHOL

HB 393 (O.C.G.A. §§ 3-6-21.1 and 3-6-21.3) Amends the Code Section relating to farm wineries for the purpose of allowing sales, ordering and shipments of bulk and package wines by out-of-state farm wineries and domestic farm wineries. The bill amends certain current definitions and provisions. Farm wineries would be required to maintain production with no less than 40 percent of grapes grown where the winery is located. The Bill will remove the basic differences between in-state and out-of-state farm wineries. This bill is effective July 1, 2008.

House Bill 393 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb393.pdf

HB 1061 (O.C.G.A. § 3-6-31) Amends the Code Section as it relates only to wine, so as to provide for certain provisions concerning special order shipping licenses; to limit the number of cases of wine shipped to any one consumer; and to provide for certain taxes to be paid by the shipper of the wine. This bill removes the limit of 50 cases shipped into Georgia per year, allows the shipment of 12 cases of wine to any one consumer or address per year, and prohibits the holder of a special order shipping license from shipping to a licensed premises authorized to sell wine. A special order shipping license is issued only to a shipper with a valid federal wine manufacturing permit. The license holder must agree to be subject to Georgia laws. This bill removes the prohibition of shipping brands and labels which are already assigned to a wholesaler. This bill is effective July 1, 2008.

House Bill 1061 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb1061.pdf

HB 1066 (O.C.G.A. § 3-3-33) Amends Article 2 of Chapter 3 of Title 3 by inserting new Code Section, relating to prohibited acts relative to regulation of alcoholic beverages generally, so as to prohibit certain conduct regarding vaporized forms of alcoholic beverages produced by alcohol vaporizing devices and to set forth punishments for violations. This bill is effective July 1, 2008.

House Bill 1066 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb1066.pdf

HB 1243 (O.C.G.A. §§ 3-9-3 and 3-9-4) Amends the Code Section relating to the sale of alcoholic beverages by nonprofit organizations. The amendment changes certain provisions relating to the issuance of temporary permits for the sale of alcoholic beverages by nonprofit organizations; increases the number of days and number of permits that the Commissioner may issue; increases fees for temporary permits; and provides for nonprofit organizations to conduct auctions of wine donated by persons under specific circumstances. The amendment allows a nonprofit civic organization that obtains a license under § 3-9-3 to sell wine at retail for both on-premises and off-premises consumption. It increases the number of days that a permit is valid for a bona fide nonprofit entity under § 3-9-3 from one day to three days and increases the number of times a bona fide nonprofit civic organization can obtain a special use temporary permit under § 3-9-3 from two per calendar year to six per calendar year. The new Code Section creates a new special use temporary permit authorizing a nonprofit civic organization to ship or otherwise transport and to auction wine in sealed containers only for a period not to exceed three days. It allows no more than six

special use temporary permits to be issued to a bona fide nonprofit civic organization in any calendar year and allows a bona fide nonprofit civic organization licensed under this Code section to obtain alcohol from entities other than a licensed wholesaler. The bill requires a detailed inventory list of the wine being auctioned and detailed information concerning where or from whom the wine was obtained. It requires a nonprofit civic organization to verify that tax has been paid on the wine auction for sales made for off-premises consumption. If verification cannot be provided, the bona fide nonprofit civic organization must pay such tax to the State. This bill is effective immediately upon approval by the Governor, which occurred on March 29, 2008.

House Bill 1243 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb1243.pdf

HB 1280 (O.C.G.A. §§ 3-13-1, 3-13-2, 3-13-3, 3-13-4, 50-8-193 and 50-8-7) Creates four new Code sections relating to state licensing of alcoholic beverages for regional economic assistance projects (REAP). The new Code Sections are 3-13-1 Definitions, 3-13-2 Licensing provisions setting forth requirements for application and providing that if the application is approved the applicant may sell alcoholic beverages under a state license, 3-13-3 Authorizes the collections by local government of tax on alcohol and 3-13-4 Authorizes the Department to promulgate reasonable rules for regulation of the Code Sections. The bill also amends § 50-8-7 by inserting a new provision (2.1) allowing additional governmental facilities to be considered an adjacent facility and § 50-8-193 by deleting paragraph (b). These two Title 50 provisions were also transferred to Title 3. This bill is effective July 1, 2008.

House Bill 1280 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb1280.pdf

SB 55 (O.C.G.A. §§ 3-6-4 and 40-6-253) Amends existing Code Section and creates a new Code Section with respect to wine only. It allows patrons of restaurants to remove a resealed partially-consumed bottle of wine for off-premises consumption when purchased with a meal. Also the bill amends O.C.G.A. Title 40 relating to uniform rules of the road. The bill allows a resealed partially consumed bottle of wine that was purchased with a meal to not be considered an open alcoholic beverage container for purposes of the prohibition against possessing an open container of alcohol in the passenger area of a motor vehicle. This bill is effective July 1, 2008.

Senate Bill 55 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/sb55.pdf

SB 385 (O.C.G.A. § 3-9-4) Provides for the issuance of permits to limousine carriers to transport and sell for consumption alcoholic beverages and for annual applications and fees. It further provides for issuance of a certificate for each authorized vehicle. The bill states that an annual permit does not authorize wholesale purchase of alcoholic beverages by limousine carriers. The bill allows a limousine carrier that holds a certificate (\$50.00 fee) issued by the Commissioner to sell beverage alcohol for consumption only in the vehicle. Each vehicle would have to obtain an individual permit (\$15.00 fee) and the carrier must obtain their alcohol through a retail outlet instead of a licensed wholesaler. This bill is effective July 1, 2008.

Senate Bill 385 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/sb385.pdf

INCOME TAX

HB 515 (O.C.G.A. §§ 50-27-3, 50-27-24, and 50-27-24.1) Allows certain lottery prizes to be assigned and requires withholding on the purchase price when they are assigned. This bill is effective immediately upon approval by the Governor which occurred on May 12, 2008.

House Bill 515 can be viewed at the following link:

http://www.legis.ga.gov/legis/2007_08/pdf/hb515.pdf

HB 670 (redesignated from O.C.G.A. § 48-7-29.13 to O.C.G.A. § 48-7-29.14) This bill establishes a new Code Section to create tax credits for transporting or diverting wood residuals to a renewable biomass qualified facility on or after July 1, 2008. It also creates a tax credit for the construction, purchase, or lease of clean energy property that is placed into service in Georgia between July 1, 2008 and December 31, 2012.

House Bill 670 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb670.pdf

HB 851 (O.C.G.A. § 48-7-29.8) Increases the amount of the tax credit for a historic home from 10 percent of qualified rehabilitation expenditures to 25 percent and it increases the amount of the tax credit for any other certified structure from 20 percent of qualified rehabilitation expenditures to 25 percent. The bill also increases the \$5,000 cap on credits in a ten-year period to \$100,000 for a historic home and \$300,000 for a certified structure. This bill is effective for tax years beginning on or after January 1, 2009.

House Bill 851 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb851.pdf

HB 926 (O.C.G.A. § 48-1-2) For the 2008 tax year, this bill updates and conforms Georgia's adoption of certain portions of the Internal Revenue Code ("IRC") to the IRC as amended through January 1, 2008. In addition to the "annual update", HB 926 also adds a new paragraph to this code section to make this same update applicable retroactively to the 2007 tax year. The bill thus incorporates provisions of five federal tax bills that were passed during 2007 for purposes of both the Georgia 2007 and 2008 tax years.

The following are among the more significant 2007 federal law changes that HB 926 would make applicable to Georgia tax years 2007 and 2008. IRC Sec. 179 business expensing is increased to \$125,000, with the phase-out threshold rising to \$500,000. Taxpayers can discharge up to \$2 million of acquisition debt on their principal residence and exclude the debt cancellation from income when the debt is restructured or the residence goes into foreclosure. The interest deduction for mortgage insurance premiums is extended. A surviving spouse is entitled to a \$500,000 exclusion (otherwise \$250,000) on the gain from the sale of a principal residence within two years of the death of a spouse.

House Bill 926 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb926.pdf

HB 977 (O.C.G.A. §§ 48-7-29.13 and 48-7-27) This bill primarily focuses on Title 33 (Insurance) by authorizing the Commissioner of Insurance to adopt policies to promote, approve, and encourage high deductible health plans in Georgia. The bill also provides an exemption from insurance premium taxes that are administered by the Commissioner of Insurance for certain insurance products involving such high deductible health plans.

As to provisions relating to Title 48 (Taxation), Section 4 adds a new subparagraph (13.1) in subsection (a) of Code Section 48-7-27 to provide for the deduction from Georgia taxable income of 100% of the premium paid by a taxpayer for a high deductible health plan established and used with a health savings account

under the applicable provisions of Section 223 of the Internal Revenue Code. Note that the expense cannot have been deducted in arriving at federal adjusted gross income and the expense amount cannot have been provided from a health reimbursement arrangement nor have been included in the taxpayer's itemized deductions.

Section 5 allows an employer (but only an employer who employs 50 or fewer persons either directly or whose compensation is reported on Form 1099) a tax credit against the tax imposed by Code Section 48-7-20 (Individuals and Partnerships) or 48-7-21 (Corporations), as applicable, for qualified health insurance expenses in the amount of \$250.00 for each employee enrolled for twelve consecutive months in a qualified health insurance plan. Qualified health insurance means a high deductible health plan that includes, at a minimum, catastrophic health care coverage which is established and used with a health savings account established under Section 223 of the Internal Revenue Code. The qualified health insurance must be made available to all employees and compensated individuals of the employer pursuant to the applicable provisions of Section 125 of the Internal Revenue Code. The total amount of the tax credit for a taxable year cannot exceed the employer's income tax liability. Any unused tax credit is allowed against the employer's succeeding years' tax liability, but no credit is allowed the employer's prior years' tax liability. The qualified health insurance premium expense must equal at least \$250 annually.

Sections 4 and 5 of this bill are effective for tax years beginning on or after January 1, 2009.

House Bill 977 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb977.pdf

HB 1014 (O.C.G.A. §§ 48-7-1, 48-7-27 and 48-7-30) Amends the Code Section relating to income taxation of residents and nonresidents, with respect to the deduction for contributions to certain savings trust accounts under the Georgia Higher Education Savings Plan. The bill amends definitions to clarify that the programs under the Georgia Higher Education Savings Plan must be qualified tuition programs under Section 529. The bill clarifies the nature of the contribution deduction limitation allowable to both single and joint filers of Georgia income tax returns; Section 7 revises subparagraph (B) of O.C.G.A. § 48-7-27(a)(11.1) by changing the contribution deduction limitation from "\$2,000 per return" to "\$2,000 per beneficiary." It also adds a new subparagraph (C) that limits the contribution deduction for a joint filer to \$2,000 per beneficiary.

Section 8 of the bill adds a new subparagraph (C) to O.C.G.A. § 48-7-27(b)(10) to recapture the contribution deduction where "other than qualified withdrawals" are made or where withdrawals are "rolled over" to other qualified tuition programs.

Section 9 adds a reference to O.C.G.A. § 48-7-30 to make this new subparagraph applicable to the taxation of nonresidents.

Sections 8 and 9 are applicable to tax years beginning on or after January 1, 2008 and the remainder of the bill became effective when the Governor signed the bill on May 6, 2008.

House Bill 1014 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb1014.pdf

HB 1100 (O.C.G.A. § 48-7-40.26) Amends the Code Section relating to the Film Tax Credit. This bill increases the tax credit from 9 percent to 20 percent of the base investment or excess base investment and adds an additional 10 percent tax credit for including a qualified Georgia promotion in the qualified production activity. The bill eliminates the 3 percent additional tax credit for base investment in a tier 1 or tier 2 county, the 3 percent additional tax credit for wages paid to Georgia residents and the 3 percent additional tax credit for spending \$20 million for multiple television projects. This bill is effective for tax years beginning on or after January 1, 2008.

House Bill 1100 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb1100.pdf

HB 1133 (redesignated from O.C.G.A. § 48-7-29.13 to O.C.G.A. § 48-7-29.16) Adds a new chapter 2A in Title 20 to define Student Scholarship Organizations, which are 501(c)(3) nonprofits that distribute at least 90% of their revenues for scholarships or tuition grants to allow students to attend qualified nonpublic schools. The bill also creates a new income tax credit for qualified educational expenses. An individual is eligible for a credit of up to \$1,000 (single or head of household), or \$2,500 (married filing joint). A corporation is eligible for a credit amount that can equal up to 75% of its income tax liability. The credit is allowed on a first come, first served basis. The aggregate amount of the tax credit cannot exceed \$50 million per tax year. The taxpayer must add back to Georgia taxable income that part of any federal charitable contribution deduction taken on a federal return for which a credit is allowed. This bill is effective for tax years beginning on or after January 1, 2008.

House Bill 1133 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb1133.pdf

HB 1151 (O.C.G.A. §§ 48-7-21, 48-7-25, 48-7-27, 48-7-29.5, 48-7-54, 48-7-100, 48-7-101, and 48-7-129) Sections 1, 2 and 3 relate to raffle licenses, bingo, and bingo licensing procedures respectively. They eliminate the requirement of a determination letter from the Georgia Department of Revenue certifying exemption and replacing that requirement with a statement affirming that the applicant is exempt under O.C.G.A. § 48-7-25.

Sections 4 (Corporations) and 6 (Individuals) remove the mandatory formula from the statute that was used to calculate the amount of the direct and indirect interest expense attributable to the production of exempt interest or dividend income.

Section 5 provides that organizations exempt from federal income tax pursuant to Section 501(c), 501(d), 501(e), 664, or 401 of the Internal Revenue Code of 1986, will now be similarly exempt for purposes of O.C.G.A. § 48-7-21, eliminating the need for a separate Georgia letter. The Commissioner would retain the prerogative to deny or revoke the organization's exempt status at the state level if warranted.

Section 7 eliminates the annual consent requirement for "S" corporations. Nonresident shareholders of "S" corporations will only need to file a single consent to jurisdiction in the year in which the Subchapter 'S' corporation is first required to file a Georgia income tax return. For a Subchapter 'S' corporation in existence prior to January 1, 2008, the consent agreement must be filed for each shareholder in the first Georgia tax return filed for a year beginning on or after January 1, 2008. A consent agreement will also need to be filed in any subsequent year for any additional nonresident who first becomes a shareholder of the Subchapter 'S' corporation in that year.

Section 8 will enable electronic filers to claim the Driver Education Tax Credit. Now the taxpayer will merely have to obtain written proof of successful completion of an approved driver education course and keep it with their tax records.

Section 9 allows the Department to require non-individual taxpayers to file an electronic return if they are already required to file electronically for federal tax purposes.

Section 10 clarifies the terms "distributions credited" and "distributions paid" for purposes of Georgia non resident withholding for partners, "S" corporation shareholders, and members of limited liability companies.

Section 11 will give a taxpayer the option to conform to the federal provision which allows retirees the option of having state taxes withheld from lump sum distributions. Georgia currently follows a federal provision that allows taxpayers to request withholding on periodic payments; this bill would bring

Georgia into full federal conformity by also giving taxpayers the option of electing Georgia withholding on lump sum distributions.

Section 12 reduces the penalty in O.C.G.A. § 48-7-129 from 100% to 25% on flow-through entities that fail to withhold tax on distributions. Currently, the entity can be assessed for the tax that was not withheld plus a penalty equal to that same amount. Section 12 also extends the due date for taxes deducted and withheld on distributions credited but not paid by a partnership, Subchapter 'S' corporation, or limited liability company to their nonresident members from 30 days after the close of the tax year, to the due date (without extensions) for filing the income tax return for the partnership, Subchapter 'S' corporation, or limited liability company.

This bill is effective for tax years beginning on or after January 1, 2008.

House Bill 1151 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb1151.pdf

HB 1159 (redesignated from O.C.G.A. § 48-7-29.13 to O.C.G.A. § 48-7-29.15) Adds a new Code Section to create an income tax credit for the adoption of a qualified foster child. The amount of the credit is \$2,000 per qualified foster child per taxable year, commencing with the year in which the adoption becomes final, and ending in the year in which the adopted child attains the age of 18. This bill is effective for tax years beginning on or after January 1, 2008.

House Bill 1159 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb1159.pdf

HB 1196 (O.C.G.A. § 48-7-40.27 and 48-7-40.28) Adds new Code Sections and amends an existing Code Section to create tax credits for certain qualified investments made on or after July 1, 2008 and to specify that funds invested by the state from the Seed-Capital Fund may include funds from sources other than the investment entity.

House Bill 1196 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb1196.pdf

HB 1246 (O.C.G.A. §§ 48-7-40, 48-7-40.1, 48-7-40.12, 48-7-40.15, 48-7-40.21 and 48-7-40.22) Amends Code Sections dealing with income tax credits, to define the term “broadcasting,” and to include such term in the definition of business enterprise. These amendments are effective for tax years beginning on or after January 1, 2008.

The bill also adds, in Title 33 (Insurance), new Code Sections 33-8-4.1 and 33-8-4.2, to create a tax credit against insurance premium tax liability for any business enterprise located in certain counties ranked and designated as less developed areas. “Business enterprise” is defined in Code Section 33-8-4.1 as any insurance company or the headquarters of any insurance company required to pay the tax under Code Section 33-8-4. It further provides that tax credits claimed under Code Section 33-8-4.1 can be assigned in whole or in part to one or more affiliated entities which pay tax under Code Section 33-8-4. The insurance portions of the bill are effective January 1, 2009.

House Bill 1246 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb1246.pdf

HB 1273 (O.C.G.A. § 48-7-40.1) Changes the criteria for determination of what constitutes a less developed area in paragraph (4) of subsection (c) from “any area comprised of two or more contiguous census blocks” to “any area which is within or adjacent to one or more contiguous census blocks.” The bill

lowers the poverty rate in paragraph (4) of subsection (c) from 20% to 15%. It specifies that within areas of pervasive poverty as designated under paragraphs (2) and (4) of subsection (c), businesses shall only have to increase employment by two or more jobs in order to be eligible for the credit. This bill is effective for tax years beginning on or after January 1, 2008.

House Bill 1273 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb1273.pdf

HB 1274 (O.C.G.A. § 48-7-29.12) Defines the terms “fair market value,” “eligible donor,” “related person,” and “substantial valuation misstatement.” The bill specifies that a fee simple conveyance to the federal government is a qualified donation and specifies that the credit amount shall be limited to an amount not to exceed the lesser of \$500,000.00, 25% of the fair market value of the donated real property for the year in which the donation occurred, or 25% of the difference between fair market value and the amount paid to the donor if the donation is effected by a sale of property for less than fair market value as established for the year in which the donation occurred. The bill provides that in the case of a taxpayer whose net income is determined under Code Section 48-7-23, the aggregate total credit allowed to all partners in a partnership shall be limited to an amount not to exceed the lesser of \$1 million, 25% of the fair market value of the donated real property as fair market value is established for the year in which the donation occurred, or 25% of the difference between the fair market value and the amount paid to the donor if the donation is effected by a sale of property for less than fair market value as established for the year in which the donation occurred. It increases the carry-forward period from 5 years to 10 years and specifies that only one qualified donation may be made with respect to any real property that was, in the year prior to donation, within the same tax parcel of record, except that a subsequent donation may be made by a person who is not a related person with respect to any prior eligible donors of any portion of such tax parcel. The bill provides a penalty for a substantial valuation misstatement equal to the lesser of: 1) the greater of 25% of the overstated part of the credit or \$1,000; or 2) 125% of the fee received. There is no penalty if it is established that the appraisal value is more likely than not the correct appraisal value. This bill is effective for tax years beginning on or after January 1, 2008.

House Bill 1274 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb1274.pdf

SB 169 (O.C.G.A. § 20-3-409) Creates new Code Sections which establish student loan funds. The bill also creates a Code Section to allow for contributions to such funds by means of taxpayer-directed income tax return refunds or voluntary payments on income tax returns for taxable years beginning on or after January 1, 2008.

Senate Bill 169 can be viewed at the following link:

http://www.legis.ga.gov/legis/2007_08/pdf/sb169.pdf

MOTOR FUEL

HB 1035 (§§ 48-9-3, 48-8-220 and 48-8-221) Amends the Code Section to extend, for two additional years, the expiration date for the motor fuel tax exemption for certain public transit and public campus transportation systems. The bill also contains language creating new Code Sections. This portion of the bill depended upon the General Assembly passing a resolution to allow for a referendum vote in November 2008 authorizing a state constitutional amendment. That Resolution, however, (SR 845) did not pass the Senate. Therefore, pursuant to the provisions of the bill, the language of that section will be considered repealed effective January 1, 2009. The motor fuel provision of this bill is effective July 1, 2008.

House Bill 1035 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb1035.pdf

MOTOR VEHICLE DIVISION

HB 297 (O.C.G.A. § 10-1-679.14) Amends the Code Section relating to franchise agreements required to sell or distribute recreational vehicles. The Bill provides that an out of state recreational vehicle dealer register with the department prior to participating in a convention or tradeshow, that the fee for such registration is \$500, that the registration must be submitted prior to 30 days of the date of the convention or tradeshow, and that the department shall administer and enforce the franchise/recreational vehicle dealer disputes in the same manner as franchise/automobile dealer disputes. This bill is effective immediately upon approval by the Governor, which occurred on March 14, 2008, and is applicable to any agreement entered into on or after such date, and to any renewal, modification, or amendment made to any such agreement on or after such date.

House Bill 297 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb297.pdf

HB 945 (O.C.G.A. §§ 40-2-130, 40-3-23 and 40-11-2) Amends Code Section 40-2-130 relating to records for certificates of registration by adding a new paragraph in subsection (c) to include “a person or entity authorized by the commissioner” to the list of persons authorized to provide notice to owners of impounded or towed vehicles. In Code Section 40-11-2 this bill amends subsections (a), (b) and (c) to allow “Owners”, which includes Tow Truck Operators, Impound Lot Owners, Repair Facility Operators, Vehicle Owners, and Security Interest Owners to have “direct electronic access as provided through [the state’s] agencies and authorities [to] the identity and address of all known owners.” This bill is effective July 1, 2008.

House Bill 945 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb945.pdf

HB 961 (O.C.G.A. § 40-2-74.1) Amends the Code Section relating to the issuance of disabled person parking permits to provide the permit shall be laminated to prevent alteration of the information printed, allows a color other than blue for temporary parking permits, requires that permanent and temporary permits be machine-printed upon issuance, not handwritten, and in boldface type of sufficient size so as to be legible. This bill also provides that the color of temporary permits that are issued shall periodically change and that the expiration dates on a placard must be machine-printed. This bill is effective July 1, 2008.

House Bill 961 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb961.pdf

HB 963 (O.C.G.A. § 40-2-86.21) Provides for a special license plate commemorating and supporting the sport of soccer in Georgia and that a portion of the funds generated by the sale of such license plates be disbursed to the Georgia State Soccer Association, Inc. This bill is effective July 1, 2008.

House Bill 963 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb963.pdf

HB 1220 (O.C.G.A. §§ 40-2-78 and 40-2-86.21) Amends the Code Section relating to a special license plate for firefighters, to provide that such license plates may be retained by a firefighter’s spouse upon the death of the firefighter as long as the surviving spouse does not remarry. This bill also amends the Code Section relating to a special license plate for “Support Our Troops.” The amendment directs that money raised from the sale of that license plate shall be disbursed to the Georgia National Guard Family Support Foundation, Inc. rather than to Georgia Support Our Troops, Inc. This bill amends the Code Section relating to a special license plate for “Georgia Sea Turtle Center.” The amendment directs that money

raised from the sale of that license plate shall be disbursed to the Nongame Wildlife Conservation and Wildlife Habitat Acquisition Fund. The amended Code Section further describes how the license plate should be designed. This bill is effective immediately upon approval by the Governor, which occurred on May 14, 2008.

House Bill 1220 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb1220.pdf

HB 1235 (O.C.G.A. § 40-6-10) Amends the Code Section relating to motor vehicles and traffic. The bill sets forth the minimum requirements for fleet proof of insurance policies and stipulates that any enforcement agency or its subdivision who impounds a vehicle with a valid proof of insurance card shall be liable for fees incurred for wrongful impoundment or towing. This bill is effective July 1, 2008.

House Bill 1235 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb1235.pdf

SB 369 (O.C.G.A. § 40-2-74.1) Amends § 40-2-74.1 to provide that the Department of Revenue accept the affidavit of active duty military physicians in support of a request for a parking permit for a disabled person on active military duty or for retired military personnel, regardless of whether or not the physician is licensed to practice in Georgia. Current law states that the military doctor issuing the affidavit must be licensed in Georgia for the affidavit to be effective. This bill is effective July 1, 2008.

Senate Bill 369 can be viewed at the following link:

http://www.legis.ga.gov/legis/2007_08/pdf/sb369.pdf

SB 437 (O.C.G.A. §§ 40-2-9, 40-2-11, 40-2-151, 40-2-152, 40-3-30.1, 40-3-51 and 43-47-2) Creates a new Code Section to define the terms “assembled motor vehicle or motorcycle” or “kit motor vehicle or motorcycle” and the term “unconventional motor vehicle or motorcycle,” and provides for inspection, issuance of a certificate of title, and registration of the defined motor vehicles or motorcycles. The bill allows for handcrafted motor vehicles to be registered in the state. The bill amends Code Section 40-2-9 to provide for an exemption from the requirement for space for the county name on license plates for veterans and persons with disabilities. It creates a new Code Section 40-2-11 that will enable the Department to provide rules for guidance relative to Chapter 2 of Title 40, Registration and Licensing of Motor Vehicles. The bill amends Code Sections 40-2-151 and 40-2-152 to conform with the International Registration Plan so that the state of Georgia, at the option of the registrant, is required to issue an IRP license for vehicles that weigh less than 26,000 lbs. It amends Code Section 40-3-51 to enable it to conform to the General Assembly’s 2007 enactment which standardized all statutory time periods to 30 days. This requires all lienholders to file within 30 days of the creation of the lien or security interest. The bill amends Code Section 43-47-2 to modify the definition of the term “rebuilder” by adding the phrases “more than two” and “per year” with respect to a person in the business of buying salvaged or wrecked vehicles for the purpose of restoring or rebuilding them with new or used parts, or both, for eventual sale as a motor vehicle. A person not falling within the definition of “rebuilder” would not have to be licensed. There are various effective dates; see the bill at the link below for more information.

Senate Bill 437 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/sb437.pdf

SB 517 (O.C.G.A. § 40-2-74) Provides that a disabled person license plate may be issued to a small business if the business employs a disabled person and the employee operates the vehicle in the course of business. The bill also provides that the employer must provide an affidavit attesting to such facts. This bill is effective July 1, 2008.

Senate Bill 517 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/sb517.pdf

PROPERTY TAX

HB 1024 (O.C.G.A. § 36-64-15) Amends Chapter 64 of Title 36 by adding a new Code Section to allow a local governing body to take action to remove a minimum recreation tax, a maximum recreation tax, or both, subject to approval of local voters. After the voters have approved the removal of such tax or taxes, the amount of taxes that can be levied to support the local government recreation system will be left to the discretion of the levying authority. Any funds remaining in the recreation fund after the removal of the recreation tax will be turned over to the local governing authority.

This bill is effective immediately upon approval by the Governor, which occurred on May 14, 2008.

House Bill 1024 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb1024.pdf

HB 1046 (§ 48-5-504.40) Amends the Code Section by extending the sunset provision for the property tax exemption of watercraft inventory owned by a dealer from December 31, 2008 until December 31, 2010, thus making the exemption applicable for tax years 2009 and 2010. This bill is effective January 1, 2009.

House Bill 1046 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb1046.pdf

HB 1081 (O.C.G.A. §§ 48-5-7.4 and 48-5-311) Sections 1 – 3 of the bill amend Code Section 48-5-7.4 to change certain provisions regarding property that qualifies for Conservation Use covenants. Sections 4 – 6 amend Code Section 48-5-311 to cap the amount of interest due on an unpaid portion of a tax bill after a property tax appeal is settled at the board of equalization or superior court level. This bill is effective immediately upon approval by the Governor, which occurred on May 14, 2008.

House Bill 1081 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb1081.pdf

HR 1276 and HB 1211 (O.C.G.A. §§ 48-5-2, 48-5-7.7, 48-5-271, 48-5A-1, 48-5A-2, 48-5A-3, and 48-5A-4) This legislation is intended to provide preferential tax treatment to property owners who do not currently qualify for Conservation Use and for those owners who have met the 2000 acres limitation for property in conservation use and have additional qualifying acreage.

HR 1276 will amend the state Constitution to create a new class of property called “forest land conservation use property.” The Resolution provides for the special assessment and taxation of this class of property and for grants to local governments. Further, the Resolution provides that “forest land conservation use property” must be a minimum of 200 acres and be subject to a 15-year covenant, and provides for a penalty if the covenant is breached.

HB 1211 is the enabling legislation which provides definitions, procedures, and valuation tables for this new class of property. It sets forth the procedures and guidelines for administration of local government assistance grants. This bill amends Code Section 48-5-2 by adding a new paragraph (5) to define “forest land conservation use value” and provides for this value to be determined in accordance with new Code Section 48-5-271. It further adds a new paragraph (6) to define “forest land fair market value” as the 2008 fair market value with limited annual changes. New Code Section 48-5-7.7, to be cited as the “Georgia Forest Land Protection Act of 2008”, creates definitions, qualifications, and additional rules, and provides for a penalty in the event of breach. Property will be separately classified and clearly identified on the tax

digest and public notice is required to be posted in the tax assessors' office and in the office of the tax commissioner.

New Code Section 48-5-271 provides for the method for establishing the "forest land conservation use" values to be developed as provided for in Code Section 48-4-269, which will be the same as the conservation use values for property as set forth in Code Section 48-5-7.4. A new chapter 5A, to be added to Title 48, will include the following new Code Sections: 48-5A-1, setting forth definitions; 48-5A-2, providing that the General Assembly will fund the Department of Revenue for the payment of assistance grants to local governments; 48-5A-3, providing for grants to counties, municipalities, and county or independent school districts to offset losses in revenue; and 48-5A-4, granting authority for the Revenue Commissioner to promulgate rules and regulations.

This bill will become effective January 1, 2009, but only if the HR 1276 resolution to amend the state Constitution is ratified by the citizens of Georgia at the November 2008 state-wide general election.

House Resolution 1276 can be viewed at the following link:

http://www.legis.ga.gov/legis/2007_08/pdf/hr1276.pdf

House Bill 1211 can be viewed at the following link:

http://www.legis.ga.gov/legis/2007_08/pdf/hb1211.pdf

SB 159 (O.C.G.A. § 48-5-45) Changes the application deadline for homestead exemptions from March 1 statewide to any time during the calendar year subsequent to the property becoming the primary residence of the applicant, up to and including the date for the closing of the books for the return of taxes for that year (which would be the same date as the deadline for filing ad valorem tax returns in the particular county). This bill is effective July 1, 2008.

Senate Bill 159 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/sb159.pdf

SALES TAX

HB 237 (O.C.G.A. § 48-8-3) Broadens existing sales and use tax exemptions for certain manufacturing machinery by expanding the current manufacturing machinery exemption to include "equipment," and by expanding the exemption to include machinery or equipment that performs a *necessary and integral* function in the manufacturing process, regardless of whether the machinery is incorporated into a facility or causes a chemical or physical change to the raw materials during the manufacturing process. This legislation eliminates the "used directly" requirement for purchases of certain machinery and equipment (and related repair or replacement parts) and expands the exemption by rejecting the more rigid "physical change" rule now in effect. This is generally referred to as the "Integrated Plant Theory" or "Integrated Plant Approach."

This legislation also expands the exemption regarding sales of certain primary material handling equipment and racking systems used in warehouse or distribution facilities located in Georgia by removing the "used directly" requirement. The requirement that the equipment be either part of an expansion worth \$5 million or more, or part of the construction of a new warehouse or distribution facility worth \$5 million or more has not changed. The "used directly" requirement would also be removed for the exemption related to the remanufacture of aircraft engines, parts, or components.

Finally, this legislation also adds "waxes" as repair or replacement parts eligible for exemption, and adds an exemption for "repair, replacement, or component parts" related to certain air and water pollution reducing machinery and equipment. This bill is effective beginning January 1, 2009.

House Bill 237 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb237.pdf

HB 272 (O.C.G.A. § 48-8-3) Creates a new 2 ½ year (July 1, 2008 – December 31, 2010) partial state (4%) sales and use tax exemption for sales of energy commodities used directly or indirectly in the manufacture or processing of tangible personal property in a manufacturing plant located in Georgia. The tangible personal property must be manufactured or processed primarily for resale. This bill would exempt from the 4% state sales and use tax the portion of the sales or cost price exceeding the following:

- \$7.60 per decatherm of the sales or cost price of natural or artificial gas
- \$2.48 per gallon of the sales price or cost price of No. 2 fuel oil
- \$1.72 per gallon of the sales or cost price of No. 6 fuel oil
- \$1.44 per gallon of the sales or cost price of propane
- \$57.90 per ton of petroleum coke
- \$57.90 per ton of coal
- 3.44¢ per kilowatt hour of the fuel cost recovery component of retail electricity rates, whether such fuel recovery charges are charged separately or are embedded in such electric rates

This legislation requires the purchaser to notify and certify to the seller that such exemption is applicable (i.e., the purchaser must provide an exemption certificate to the seller/dealer). This bill is effective beginning July 1, 2008.

House Bill 272 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb272.pdf

HB 948 (O.C.G.A. §§ 48-8-3 and 48-8-45) This bill changes the dates for the annual 4-day school supplies sales tax holiday exemption to July 31, 2008 through August 3, 2008. Covered items have not changed. For the general/school sales tax holiday, the covered items include clothing or footwear costing \$100 or less per item, a single purchase of computer items for \$1,500 or less, and school supplies costing \$20 or less per item.

This bill also changes the dates for the 4-day energy efficient products sales tax holiday exemption to October 2, 2008 through October 5, 2008, to provide for a current year holiday period. Covered items for the energy efficient products sales tax holiday include Energy Star rated doors, windows, dishwashers, clothes washers, air conditioners, ceiling fans, fluorescent light bulbs, dehumidifiers, programmable thermostats, or refrigerators with a sales price of \$1,500 or less

Finally, this legislation expands the provision which currently authorizes a bad debt *deduction* to certain taxpayers reporting on an accrual basis (dealers; assignees of credit card debt purchased directly from dealers without recourse; and credit card banks extending credit under private label credit card programs) by authorizing assignees or credit card banks to claim a deduction on a sales tax return of a related entity that is also a member of the same federal income tax affiliated group. In other words, if the taxpayer/entity does not have taxable sales against which the deduction can be applied, the taxpayer may take the bad debt deduction on a return filed by a member of their affiliated group (as defined under the Internal Revenue Code). Also, the requirement that the assignee report on the accrual basis has been removed. The sales tax holiday portion of this bill is effective immediately upon approval by the Governor, which occurred on May 12, 2008, while the bad debt portion of the bill is effective July 1, 2008.

House Bill 948 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb948.pdf

HB 957 (O.C.G.A. § 48-8-3) Creates a new two-year state (4%) sales and use tax exemption for the sale or use of tangible personal property sold to “nonprofit health centers” that have been established under the

authority of, and are receiving funds pursuant to, the United States Public Health Service Act, 42 U. S. C. Section 254b. For the purposes of that section, the term “health center” means an entity that serves a population that is medically underserved, or a special medically underserved population comprised of migratory and seasonal agricultural workers, the homeless, or residents of public housing. Nonprofit health centers must obtain an exemption determination letter from the commissioner in order to qualify for the exemption. Note that local sales and use taxes are not exempted. The exemption is limited to the period July 1, 2008 through June 30, 2010.

This bill also creates a new two-year sales and use tax exemption (both state and local) for sales of tangible personal property or services to “nonprofit volunteer health clinics” which primarily treat indigent persons with incomes below 200% of the federal poverty level. The property and services purchased must be used exclusively by volunteer health clinics in performing a general treatment function. The nonprofit volunteer health clinic must also be a tax exempt organization under the Internal Revenue Code and obtain an exemption determination letter from the commissioner. The exemption is limited to the period July 1, 2008 through June 30, 2010.

Finally, HB 957 extends the sunset provision related to the current state (4%) sales and use tax exemption for sales of tangible personal property and services to “qualified job training organizations” from July 1, 2008 to July 1, 2010. This bill is effective July 1, 2008.

House Bill 957 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb957.pdf

HB 1023 (O.C.G.A. § 48-8-3) Extends the current sales and use tax exemption for purchases of overhead materials by government contractors for another two years (from January 1, 2009 to January 1, 2011). This exemption applies to overhead materials used by United States Defense or National Aeronautics and Space Administration Contractors on qualifying government contracts. This bill is effective immediately upon approval by the Governor, which occurred on May 14, 2008.

House Bill 1023 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb1023.pdf

HB 1065 (O.C.G.A. § 48-8-144) This bill allows boards of education to include “local charter schools” and “state chartered special schools” as capital outlay projects in projects specified in the ballot language for a proposed Education Local Option Sales Tax (ELOST). This bill is effective immediately upon approval by the Governor, which occurred on May 6, 2008.

House Bill 1065 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb1065.pdf

HB 1078 (O.C.G.A. § 48-8-3[54.1]) Removes the requirement that durable medical equipment (DME) be defined under Titles XVIII and XIX of the federal Social Security Act for purposes of the exemption from sales and use tax for such items. This bill also eliminates the requirement that DME be paid for directly by funds from the State of Georgia or the US Government under Medicare or Medicaid for purposes of the exemption, thereby broadening the exemption in terms of DME that may qualify and expanding the methods for payment.

This legislation also repeals the current prosthetic device exemption provided in Code Section 48-8-3(54.1); however, the exemption is retained by adding the exemption back as part of the DME exemption. A prescription for the prosthetic devices is still required to qualify for the exemption. However, like DME, prosthetic devices would no longer have to be defined under Titles XVIII and XIX of the federal Social Security Act. This bill is effective July 1, 2008.

House Bill 1078 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb1078.pdf

HB 1110 (O.C.G.A. § 48-8-3) Extends the current sunset provision by two years for the sales and use tax exemption for sales of eligible food and beverages to “qualified food banks.” The current sunset provision date of June 30, 2008 is changed to June 30, 2010. This bill is effective July 1, 2008.

House Bill 1110 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb1110.pdf

HB 1178 (O.C.G.A. § 48-8-3) Extends for another two years the current state (4%) sales and use tax exemption for the sale or use of liquefied petroleum gas or other fuel used in a structure in which swine are raised (from June 30, 2008 to June 30, 2010). This bill is effective July 1, 2008.

House Bill 1178 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/hb1178.pdf

SB 342 (O.C.G.A. § 48-8-3) Part III, Section 3-1 of this bill, which primarily relates to the "Water Conservation and Drought Relief Act," changes the dates for the 4-day energy efficient products sales tax holiday exemption to October 2, 2008 through October 5, 2008, thus providing for a current year sales tax holiday period. Covered items for the energy efficient products sales tax holiday include Energy Star rated doors, windows, dishwashers, clothes washers, air conditioners, ceiling fans, fluorescent light bulbs, dehumidifiers, programmable thermostats, or refrigerators with a sales price of \$1,500 or less. This legislation also provides additional qualifying items eligible for the exemption that are in the category of “water efficient products”, which includes items such as toilets, bathroom sink faucets, showerheads, and weather or sensor-based landscape irrigation control technologies. This bill is effective immediately upon approval by the Governor, which occurred on May 13, 2008.

Senate Bill 342 can be viewed at the following link:

http://www.legis.state.ga.us/legis/2007_08/pdf/sb342.pdf