

The Senate Committee on Finance offered the following substitute to HB 170:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 3 of the Official Code of Georgia Annotated, relating to alcoholic beverages,
2 so as to expand the area in which packaged good retailers can deliver certain alcoholic
3 beverages; to prohibit certain deliveries; to amend Title 48 of the Official Code of Georgia
4 Annotated, relating to revenue and taxation, so as to provide for the taxation of the sale or
5 purchase of specified digital products, other digital goods, and digital codes; to provide for
6 procedures, conditions, and limitations; to revise and provide for definitions and exemptions;
7 to provide for related matters; to provide for effective dates and applicability; to repeal
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **PART I**
11 **SECTION 1-1.**

12 Title 3 of the Official Code of Georgia Annotated, relating to alcoholic beverages, is
13 amended in subsection (b) of Code Section 3-3-10, relating to delivery of malt beverages,
14 wine, and distilled spirits for personal use, marketing, receiving, and processing orders,
15 regulation, and penalty, by revising paragraphs (4), (10), and (13) as follows:

16 "(4) All malt beverages and wine that leave the licensed premises of the packaged goods
17 retailer for delivery shall:

18 (A) Remain in the possession of the individual, either the packaged goods retailer, the
19 employee, or the third party, that removed it from the licensed premises for delivery
20 and shall not be transferred to any other person until the time of delivery in compliance
21 with the requirements of this subsection or until the time of the return to the packaged
22 goods retailer if delivery is not made;

23 (B) Only be transported in a vehicle or other transportation device containing products
24 or goods traveling in intrastate commerce for delivery ~~in the local licensing jurisdiction~~
25 within 25 miles of the licensed premises of such packaged goods retailer; and

26 (C) Not be carried, commingled, or stored with, or transported in any vehicle or other
27 transportation device containing, products or goods traveling in interstate commerce for
28 delivery;"

29 "(10) The delivery address shall be located within ~~the local licensing jurisdiction~~ 25
30 miles of the licensed premises of the packaged goods retailer;"

31 "(13) No delivery shall knowingly be made to any address or to any property that is ~~part~~
32 ~~of~~:

33 (A) Located within a county or municipality in which sales in unbroken packages of
34 the alcoholic beverages to be delivered are unlawful; or

35 ~~(A)~~(B) Part of:

36 (i) Any public or private elementary or secondary educational school, including
37 without limitation any dormitory, housing, or common space located on the campus
38 of any elementary or secondary educational school;

39 ~~(B)~~(ii) Any prison, reformatory, and other correctional facilities;

40 ~~(C)~~(iii) Any addiction or substance abuse facilities;

41 ~~(D)~~(iv) Any locker, mailbox, package shipping location, or similar service or storage
42 facility business; or

43 ~~(E)(v)~~ Any retailer."

44

PART II

45

SECTION 2-1.

46 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
47 amended in Code Section 48-8-2, relating to definitions, by adding a new subparagraph to
48 paragraph (31) and by adding new paragraphs to read as follows:

49 "(11.2) 'Digital audio-visual works' means any series of related images, together with
50 accompanying sounds, if any and which, when shown in succession, impart an
51 impression of motion.

52 (11.3) 'Digital audio works' means digitized works that result from the fixation of a series
53 of musical, spoken, or other sounds. Such term shall include digitized sound files that are
54 downloaded onto a device and that may be used to alert an end user with respect to a
55 communication.

56 (11.4) 'Digital code' means a key, activation, or enabling code that conveys a right to
57 obtain one or more specified digital goods or other digital goods. Such term shall not
58 include a code that represents a stored monetary value that is deducted from a total as it
59 is used by the purchaser or a redeemable card, gift card, or gift certificate that entitles the
60 holder to select specified digital goods or other digital goods of an indicated cash value."

61 "(15.1) 'End user' means any person other than a person that receives by contract a
62 product transferred electronically for further commercial broadcast, rebroadcast,
63 transmission, retransmission, licensing, relicensing, distribution, redistribution, or
64 exhibition of the product, in whole or in part, to another person or persons."

65 "(16.05) 'Internet access service' shall have the same meaning as such term is defined in
66 47 U.S.C. Section 151, note."

67 "(20.05) 'Other digital goods' means the following items transferred electronically to an
 68 end user:

69 (A) Artwork;

70 (B) Photographs;

71 (C) Periodicals;

72 (D) Newspapers;

73 (E) Magazines;

74 (F) Video or audio greeting cards; or

75 (G) Video games or electronic entertainment."

76 "(E.1)(i) Sales of digital codes.

77 (ii) Sales of specified digital products or other digital goods;"

78 "(34.1)(A) 'Specified digital products' means the following items transferred
 79 electronically to an end user:

80 (i) Digital audio-visual works;

81 (ii) Digital audio works; or

82 (iii) Digital books."

83 "(39.2) 'Transferred electronically' means obtained, accessed, or available to be accessed
 84 by means other than tangible storage media."

85 **SECTION 2-2.**

86 Said title is further amended in Code Section 48-8-3, relating to exemptions from sales and
 87 use tax, by revising paragraphs (90) and (91) as follows:

88 "(90) ~~Internet access service~~ Reserved;

89 (91) The sale of prewritten ~~computer~~ software ~~which has been~~ transferred electronically
 90 to the purchaser or delivered to the purchaser electronically ~~or by means of load and~~
 91 leave; provided, however, that the exemption granted by this paragraph shall not include
 92 sales of specified digital products, other digital goods, or digital codes;"

93

SECTION 2-3.

94 Said title is further amended in Code Section 48-8-30, relating to imposition of tax, rates, and
95 collection, by revising subsection (a) as follows:

96 "(a)(1) There is levied and imposed a tax on the retail purchase, retail sale, rental,
97 storage, use, or consumption of tangible personal property and on the services described
98 in this article.

99 (2)(A) There is levied and imposed a tax on the retail purchase or retail sale of
100 specified digital products, other digital goods, or digital codes sold to an end user in this
101 state, provided that such end user receives or will receive the right of permanent use of
102 such products, goods, or codes and the transaction is not conditioned upon continued
103 payment by the end user.

104 (B) The tax levied under this paragraph shall apply regardless of whether possession
105 of the specified digital goods, other digital goods, or digital codes is maintained by the
106 seller or a third party.

107 (C) Except as provided otherwise in this article, the tax imposed by this article on
108 specified digital products, other digital goods, and digital codes shall be levied,
109 collected, remitted, and administered in the same manner and at the same rate as is
110 provided in this article for the retail purchase, retail sale, rental, storage, use, or
111 consumption of tangible personal property."

112

SECTION 2-4.

113 Said title is further amended in Code Section 48-8-38, relating to burden of proof on seller
114 as to taxability, certificate that property purchased for resale, requirements of purchaser
115 having certificate, contents, and proof of claimed exemption, by adding a new subsection to
116 read as follows:

117 "(f) A sale of any specified digital product, other digital good, or digital code shall be
118 considered a sale for resale if the specified digital product, other digital good, or digital

119 code is subsequently sold, licensed, leased, broadcast, transmitted, or distributed, in whole
120 or in part, as an integral, inseparable component part of a service or another such product,
121 good, or code by the purchaser of the specified digital product, other digital good, or digital
122 code to an ultimate consumer. The purchaser of the specified digital product, other digital
123 good, or digital code for resale shall maintain records that substantiate such resale in a
124 manner consistent with this subsection, as determined by the commissioner."

125

PART III

126

SECTION 3-1.

127 This Act shall become effective upon its approval by the Governor or upon its becoming law
128 without such approval; provided, however, that Part II of this Act shall become effective on
129 January 1, 2024, and shall be applicable to transactions occurring on or after January 1, 2024.

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SECTION 3-2.

131 All laws and parts of laws in conflict with this Act are repealed.