

HOUSE BILL 959  
By Fitzhugh

AN ACT to amend Tennessee Code Annotated, Title 67,  
relative to taxation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 6, Part 3, is amended by  
adding the following new section:

67-6-393.

(a) During the period beginning at 12:00 a.m. on the last Friday of July of each year and continuing for a period of seventy-two (72) consecutive hours thereafter, and during the period beginning at 12:00 a.m. on the first Friday of August of each year and continuing for a period of seventy-two (72) consecutive hours thereafter:

(1) The sale of school supplies shall be exempt from the tax levied by this chapter.

(2) The sale or use of any single article of clothing shall be exempt from the tax levied by this chapter.

(3) The sale of protective equipment shall be exempt from the tax levied by this chapter.

(b) The exemption provided in subsection (a) shall not apply to the sale of clothing accessories or equipment and sport or recreational equipment.

(c) For purposes of this section, "school supplies" shall mean any item or good required for any class or program offered in grades K-12. Consistent with the requirements of this subsection, the department of revenue, in consultation with the state board of education, shall develop and publish a list of exempt

school supplies. The exemption shall not be available for any item that is not included on this list.

(d) For purposes of this section, "clothing" shall mean all human wearing apparel suitable for human use including, but not limited to:

- (1) Aprons, household and shop;
- (2) Athletic supporters;
- (3) Baby receiving blankets;
- (4) Bathing suits and caps;
- (5) Beach capes and coats;
- (6) Belts and suspenders;
- (7) Boots;
- (8) Coats and jackets;
- (9) Costumes;
- (10) Diapers (children and adults - including disposables);
- (11) Ear muffs;
- (12) Footlets;
- (13) Formal wear;
- (14) Garters and garter belts;
- (15) Girdles;
- (16) Gloves and mittens for general use;
- (17) Hats and caps;
- (18) Hosiery;
- (19) Insoles for shoes;
- (20) Lab coats;
- (21) Neckties;

- (22) Overshoes;
- (23) Pantyhose;
- (24) Rainwear;
- (25) Rubber pants;
- (26) Sandals;
- (27) Scarves;
- (28) Shoes and shoe laces;
- (29) Slippers;
- (30) Sneakers;
- (31) Socks and stockings;
- (32) Steel-toed shoes;
- (33) Underwear;
- (34) Uniforms, athletic and non-athletic; and
- (35) Wedding apparel.

(e) For purposes of this section, clothing shall not include:

- (1) Belt buckles sold separately;
- (2) Costume masks sold separately;
- (3) Patches and emblems sold separately;
- (4) Sewing equipment and supplies (knitting needles, patterns, pins, scissors, sewing machines, sewing needles, tape measures, thimbles);
- (5) Sewing materials that become part of clothing (buttons, fabric, lace, thread, yarn, zippers); and
- (6) Otherwise exempt items sold on the premises of a sports facility as provided in § 67-6-103(d).

(f) For purposes of this section, the following definitions are mutually exclusive of clothing and each other:

(1) "Clothing accessories or equipment" shall mean incidental items worn on the person or in conjunction with clothing. The following list is intended to be a list of examples and not an all-inclusive list of possibilities. Clothing accessories shall include:

- (A) Briefcases;
- (B) Cosmetics;
- (C) Hair notions, including barrettes, hair bows, hair nets, etc.;
- (D) Handbags;
- (E) Handkerchiefs;
- (F) Jewelry;
- (G) Sun glasses, non-prescription;
- (H) Umbrellas;
- (I) Wallets;
- (J) Watches; and
- (K) Wigs and hair pieces.

(2) "Sport or recreational equipment" shall mean items designed for human use and worn in conjunction with an athletic or recreational activity that are not suitable for general use. The following list is intended to be a list of examples and not an all-inclusive list of possibilities. Sport or recreational equipment shall include:

- (A) Ballet and tap shoes;
- (B) Cleated or spiked athletic shoes;

- (C) Gloves (baseball, bowling, boxing, hockey, golf, etc.);
- (D) Goggles;
- (E) Hand and elbow guards;
- (F) Life preservers and vests;
- (G) Mouth guards;
- (H) Roller and ice skates;
- (I) Shin guards;
- (J) Shoulder pads;
- (K) Ski boots;
- (L) Waders; and
- (M) Wetsuits and fins.

(3) "Protective equipment" shall mean items for human wear and designed as protection of the wearer against injury or disease or as protection against damage or injury of other persons or property but not suitable for general use. The following list is intended to be a list of examples and not an all-inclusive list of possibilities. Protective equipment shall include:

- (A) Breathing masks;
- (B) Clean room apparel and equipment;
- (C) Ear and hearing protectors;
- (D) Face shields;
- (E) Finger guards;
- (F) Hard hats;
- (G) Helmets;
- (H) Paint or dust respirators;

- (I) Protective gloves;
- (J) Safety glasses and goggles;
- (K) Safety belts;
- (L) Tool belts; and
- (M) Welders gloves and masks.

(g) For purposes of this section, "single article" shall mean that is regarded by common understanding as a separate unit exclusive of any accessories, extra parts, etc., and that is capable of being sold as an independent unit or as a common unit of measure, a regular billing or other obligation. Such independent units sold in sets, lots, suites, etc., at a single price shall not be considered a single article.

(h)

(1) Retailers shall be required to record and report to the department all exempt sales under this section.

(2) Failure to comply with the requirements of this subsection shall subject the retailer to a civil penalty in the amount of five hundred dollars (\$500) for each violation.

SECTION 2. Tennessee Code Annotated, Section 67-6-329(a), is amended by deleting subdivision (21) in its entirety.

SECTION 3. Tennessee Code Annotated, Section 67-6-103, is amended by deleting subsection (a) and by substituting instead the following:

(a) The commissioner shall deposit promptly to the credit of the state treasurer in state depositories all moneys received by the commissioner under the provisions of this chapter, and all such moneys shall be earmarked and allocated as follows:

(1) Sixty-five and ninety-seven thousandths percent (65.0970%) of such moneys shall be earmarked and allocated specifically and exclusively to educational purposes;

(2)

(A) The department of revenue, based upon the reporting of exempt sales under § 67-6-385, and any other data or information that the department deems relevant, shall substantially reimburse municipalities for net loss of state tax revenue resulting from the amendments to title 67, chapter 6, part 3 provided in this act. The aggregate sum of money available for distribution to municipalities shall be approximately equal to the aggregate amount that they would have received under this section prior to the amendments to title 67, chapter 6, part 3 provided in this act. A sum sufficient shall be earmarked and allocated from the general fund for the purpose of substantially reimbursing municipalities.

(B) The amounts determined under item (A) shall be distributed to municipalities pro rata by population determined according to the most recent federal decennial census or any interim local census as provided in items (D) and (E) .

(C)

(i) A municipality having a population of one thousand one hundred (1,100) or more persons, according to the federal census of 1970 or any subsequent federal census, in which at least forty percent (40%) of the

assessed valuation (as shown by the tax assessment rolls or books of the municipality) of the real estate in the municipality consists of hotels, motels, tourist courts accommodation, tourist shops and restaurants, is defined as a "premiere type tourist resort" for purposes of this chapter. As an alternative to and in lieu of the allocation prescribed in subdivision (a)(2)(A) and (B), a premiere type tourist resort may elect to receive six and forty-eight thousandths percent (6.0480%) of the tax actually collected and remitted by dealers within the boundaries of such resort. Any distribution made to a premiere type tourist resort pursuant to such election shall be earmarked and paid from the general fund. If, however, any such payment is made to a premiere type tourist resort pursuant to the election, the amount which would have been received by such resort had the resort not exercised the election shall be earmarked and allocated to the general fund;

(ii) A municipality meeting the criteria set forth in subdivision (a)(2)(C)(i) and also owning a golf course and ski slope shall also receive an amount equal to the amount distributed pursuant to subdivision (a)(2)(C)(i). Any distribution made to such a municipality shall be earmarked and paid from the general fund for the purpose of assisting in the retirement of the convention center

obligations in connection with the acquisition, construction and operation of the convention center;

(iii) A municipality meeting the criteria set forth in subdivision (a)(2)(C)(i) and also containing within its boundaries a theme park of not less than eighty (80) acres shall also receive an amount equal to the distribution pursuant to subdivision (a)(2)(C)(i);

(iv)

(a) A municipality meeting the criteria set forth in subdivision (a)(2)(C)(ii) shall also receive in addition to amounts authorized in this subsection in the 1988-1989 fiscal year, an amount equal to fifty-six percent (56%) of the amount distributed in the 1986-1987 fiscal year pursuant to subdivision (a)(2)(C)(ii), and an amount equal to ninety percent (90%) of the amount distributed in the 1986-1987 fiscal year in subsequent years;

(b) A municipality meeting the criteria set forth in subdivision (a)(2)(C)(iii) shall also receive, in addition to amounts authorized in this subsection in the 1988-1989 fiscal year, an amount equal to sixty percent (60%) of the amount distributed in the 1986-1987 fiscal year pursuant to subdivision (a)(2)(C)(iii), and an amount equal to ninety-six

percent (96%) of the amount distributed in the 1986-1987 fiscal year in subsequent years;

(v) The collective amounts paid under subdivisions (a)(2)(C)(i) through (a)(2)(C)(iv) shall be limited to the collective amounts paid under such subdivisions for the 1999-2000 fiscal year;

(D) Any municipality shall have the right to take not more than one (1) special census at its own expense at any time during the interim between the regular decennial federal censuses. Such right shall include the current decennium. Any such census shall be taken by the Federal Bureau of the Census, or in a manner directed by and satisfactory to the comptroller. The population of the municipality shall be revised in accordance with the special census for purposes of distribution of such funds, effective on the next July 1 following the certification of the census results by the federal bureau of the census or the comptroller to the commissioner of finance and administration; the aggregate population shall likewise be adjusted in accordance with any such special census, effective the same date as aforementioned;

(E) Any other such special census of the entire municipality taken in the same manner provided herein, under any other law, shall be used for the distribution of such funds, and in that case, no additional special census shall be taken under the provisions of this section;

(F) Before distributing moneys to incorporated municipalities as provided in this section, the commissioner of finance and administration shall make a deduction therefrom monthly of a sum equal to one percent (1%) of the amount allocated to incorporated municipalities. This sum, together with an appropriation per annum from the general fund of the state, shall be apportioned and transmitted to the University of Tennessee for use by the university in establishing and operating a municipal technical advisory service in its institute for public service, and shall be used for studies and research in municipal government, publications, educational conferences and attendance at such conferences and in furnishing technical, consultative and field services to municipalities in problems relating to fiscal administration, accounting, tax assessment and collection, law enforcement, improvements and public works, and in any and all matters relating to municipal government. This program shall be carried on in cooperation with and with the advice of cities and towns in the state acting through the Tennessee municipal league and its executive committee, which is recognized as their official agency or instrumentality;

(3) Thirty-six hundred seventy-four ten-thousandths percent (0.3674%), or so much thereof as may be required, is appropriated to the department of revenue in addition to its regular appropriation to be expended by it in the administration and enforcement of this chapter;

(4) Ninety-one hundred eighty-five ten-thousandths percent (0.9185%) is appropriated to the sinking fund account to be used by the state funding board for the payment of principal and interest becoming due on state bonds issued by the state; and

(5) The remainder of such moneys shall be earmarked and allocated to the general fund.

SECTION 4. Tennessee Code Annotated, Section 67-6-103(c), is amended by deleting subdivision (2) in its entirety and by substituting instead the following:

(2) Notwithstanding any other provision of law or this act to the contrary, the portion of the sales and use tax revenue dedicated to education, grades K-12 shall continue to be earmarked for such purposes as provided in § 49-3-357 and deposited in the education trust fund of 1992.

SECTION 5. Tennessee Code Annotated, Section 67-6-702, is amended by adding the following new, appropriately designated subsection:

(i) Notwithstanding any provision of this chapter to the contrary, no county or incorporated city or town is authorized to levy any tax on the sale of clothing or school supplies exempt from taxation under § 67-6-393 during the exempt periods provided in § 67-6-393.

SECTION 6. Tennessee Code Annotated, Title 67, Chapter 6, Part 7, is amended by adding the following new section:

67-6-717.

(a) Notwithstanding any provision of law to the contrary, the department of revenue, based upon the reporting of exempt sales under § 67-6-393, and any other data or information that the department deems relevant, shall substantially reimburse counties and municipalities for loss

of local revenue resulting from the amendments to title 67, chapter 6, provided in this act. Counties and municipalities shall receive an amount that is approximately equal to the amount that they would have received under this section prior to the amendments to title 67, chapter 6, provided in this act.

(b) A sum sufficient shall be earmarked and allocated from the general fund for the purpose of substantially reimbursing counties and municipalities as provided in this section.

SECTION 7. This act shall take effect July 1, 2005, the public welfare requiring it.