

**SENATE BILL No. 21**

By Committee on Assessment and Taxation

1-10

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

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. (a) On and after July 1, 2024, the following shall be  
7 exempt from the tax imposed under the Kansas retailers' sales tax act: All  
8 sales of any school supplies, school instructional materials or school art  
9 supplies having a sales price of \$100 or less per item during a two-day  
10 period beginning at 12:01 a.m. on the first Friday in August and ending at  
11 midnight on the Saturday following. Only items priced below the price  
12 threshold established in this subsection shall be exempt from taxation  
13 pursuant to this subsection. There shall be no exemption pursuant to this  
14 subsection for only a portion of the price of an individual item. The seller  
15 of items specified in this subsection is not required to obtain an exemption  
16 certificate from the purchaser of such items as provided pursuant to K.S.A.  
17 79-3692, and amendments thereto, during the period of time specified in  
18 this subsection.

19 (b) As used in this section:

20 (1) "Eligible property" means an item of a type, such as school  
21 supplies, that qualifies for the sales tax exemption as provided in this  
22 section;

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

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

32 (4) "school art supply" means an item commonly used by a student in  
33 a course of study for artwork. The following is an all-inclusive list: Clay  
34 and glazes; paints, acrylic, tempera and oil; paintbrushes for artwork;  
35 sketch and drawing pads; and watercolors;

36 (5) "school instructional material" means written material commonly

1 used by a student in a course of study as a reference and to learn the  
2 subject being taught. The following is an all-inclusive list: Reference  
3 books; reference maps and globes; textbooks; and workbooks; and

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

14 (c) The secretary of revenue shall provide notice of the exemption  
15 period to retailers at least 60 days prior to the first day of the calendar  
16 quarter in which the exemption period established in this section  
17 commences.

18 (d) The following procedures shall be used in administering the  
19 exemption provided in this section:

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

22 (A) Final payment on a layaway order is made by, and the property is  
23 given to, the purchaser during the exemption period; or

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

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

30 (3) a discount by the seller reduces the sales price of the property and  
31 the discounted sales price determines whether the sales price is within the  
32 price threshold provided in subsection (a). A coupon that reduces the sales  
33 price is treated as a discount if the seller is not reimbursed for the coupon  
34 amount by a third party. If a discount applies to the total amount paid by a  
35 purchaser rather than to the sales price of a particular item and the  
36 purchaser has purchased both eligible property and taxable property, the  
37 seller should allocate the discount based on the total sales prices of the  
38 taxable property compared to the total sales prices of all property sold in  
39 that same transaction;

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

43 (5) a rain check allows a customer to purchase an item at a certain

1 price at a later time because the particular item was out of stock. Eligible  
2 property that customers purchase during the exemption period with use of  
3 a rain check will qualify for the exemption regardless of when the rain  
4 check was issued. Issuance of a rain check during the exemption period  
5 shall not qualify eligible property for the exemption if the property is  
6 actually purchased after the exemption period;

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

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

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

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

22 (7) delivery charges, including shipping, handling and service  
23 charges, are part of the sales price of eligible property unless such delivery  
24 charges are excluded from the definition of "sales or selling price" in  
25 K.S.A. 79-3602, and amendments thereto. For the purpose of determining  
26 the price threshold, if all the property in a shipment qualifies as eligible  
27 property and the sales price for each item in the shipment is within the  
28 price threshold, then the seller does not have to allocate the delivery,  
29 handling or service charge to determine if the price threshold is exceeded.  
30 The shipment will be considered a sale of eligible products. If the  
31 shipment includes eligible property and taxable property, including an  
32 eligible item with a sales price in excess of the price threshold, the seller  
33 should allocate the delivery charge, unless excluded from the "sales or  
34 selling price," by using:

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

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

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

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

1 exemption if:

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

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

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

24 (10) the time zone of the seller's location determines the authorized  
25 time period for the exemption period when the purchaser is located in one  
26 time zone and a seller is located in another.

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

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