

**ARKANSAS SENATE**  
84th General Assembly - Regular Session, 2003  
**Amendment Form**

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**Subtitle of Senate Bill No. 51**  
"EXEMPTS FOOD FROM STATE SALES AND USE TAX."  
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**Amendment No. 2 to Senate Bill No. 51.**

Amend Senate Bill No. 51 as originally introduced:

Page 1, delete lines 24 through 36 and substitute the following:

"26-52-433. Food and food ingredients.

(a) As provided in this section, the gross receipts derived from the sale of food and food ingredients shall be exempt from the Arkansas Gross Receipts Act of 1941, §§ 26-52-101 et seq.

(b) Definitions.

As used in this section:

(1)(A) "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops, or pieces.

(B) "Candy" shall not include any preparation containing flour and shall require no refrigeration;

(2) "Dietary supplement" means any product, other than "tobacco," intended to supplement the diet that:

(A) Contains one or more of the following dietary ingredients:

(i) A vitamin;

(ii) A mineral;

(iii) An herb or other botanical;

(iv) An amino acid;

(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake;

(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in this subdivision (b)(2)(A); and

(B) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such a form, is not represented as conventional food, and is not represented for use as a sole item of a meal or of the diet; and

(C) Is required to be labeled as a dietary supplement, identifiable by the "Supplemental Facts" box found on the label and as required pursuant to 21 C.F.R § 101.36;

(3) (A) "Food and food ingredients" means:



(i) Substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value;

(ii) Candy and soft drinks;

(iii) Food sold in an unheated state by weight or volume as a single item;

(iv) Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, tortillas.

(B) "Food and food ingredients" do not include alcoholic beverages, dietary supplements, prepared foods, food sold through vending machines or tobacco;

(4) "Food sold through vending machines" means food dispensed from a machine or other mechanical device that accepts payment;

(5) "Gross receipts tax rate" means the sum of the state gross receipts taxes levied by §§ 26-51-301 and 26-52-302, Amendment 75 to the Arkansas Constitution and any other state gross receipts taxes enacted on or after January 1, 2003;

(6)(A) "Prepared food" means:

(i) Food sold in a heated state or heated by the seller;

(ii) Two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food.

(B) "Prepared food" identified by subdivision (6)(A)(ii) does not include:

(i) Food that is only cut, repackaged, or pasteurized by the seller; and,

(ii) Eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration in chapter 3, part 401.11 of its Food Code delegation so as to prevent food borne illnesses;

(7) (A) "Soft drinks" means non-alcoholic beverages that contain natural or artificial sweeteners.

(B) "Soft drinks" do not include beverages that contain milk or milk products, soy, rice or similar milk substitutes, or greater than fifty percent (50%) of vegetable or fruit juice by volume; and

(8) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

(c) The gross receipts derived from the sale of food and food ingredients shall not be exempt from municipal or county gross receipts taxes.

(d) Tax rates.

The gross receipts tax imposed by the Arkansas Gross Receipts Act of 1941, §§ 26-52-101 et seq. on the sale of food and food ingredients shall be phased out as follows:

(1) Beginning July 1, 2006, the gross receipts tax rate shall be reduced by two and one-half percent (2.5%) and the revenue distributed as provided in subsection (e);

(2) Beginning July 1, 2007, food and food ingredients shall be fully exempt from all state gross receipts taxes, including any additional gross receipts taxes that may have been levied between July 1, 2006 and July 1, 2007, and shall be exempt from the gross receipts tax levied by Amendment 75 to the Arkansas Constitution.

(e) Revenue distribution.

(1)(A) On the last day of each month, the Chief Fiscal Officer of the State shall certify to the State Treasurer the amount of gross receipts and compensating tax attributable to the sale of food and food ingredients that was:

(i) Deposited to the Revenue Holding Fund Account of the State Apportionment Fund pursuant to § 19-6-484(a); and

(ii) Derived from the levy of all state gross receipts and compensating taxes in effect on January 1, 2003, including Amendment 75 to the Arkansas Constitution.

(B) The remainder of gross receipts and compensating tax deposited to the Revenue Holding Fund Account shall be distributed pursuant to § 19-6-484(b)

(2) The amount of tax certified pursuant to § 26-52-433(e)(1)(A) shall be distributed as follows:

(A)(i) That percentage of tax equal to a fraction in which the denominator is the reduced gross receipts tax rate and the numerator is one-eighth of one percent (0.125%) shall be transferred to the Special Revenue Fund Account for subsequent distribution to the Conservation Tax Fund in accordance with § 19-6-484.

(ii) "Reduced gross receipts tax rate" means the total rate of state gross receipts tax in effect during the month in which the sale of food and food ingredients occurred, as provided in § 26-52-433(d), including the gross receipts tax levied by Amendment 75 to the Arkansas Constitution.

(B) The State Treasurer shall credit the remaining tax as follows:

(i) Ninety percent (90%) to the General Revenue Fund Account of the State Apportionment Fund; and

(ii) Ten percent (10%) to the Property Tax Relief Trust Fund."

AND

Page 2, delete lines 1 through 3.

The Amendment was read the first time, rules suspended and read the second time and \_\_\_\_\_

By: Senator Altes

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Secretary