

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

Subtitle of Senate Bill No. 7

"AN ACT TO EXEMPT FOOD FROM STATE SALES TAX; TO PHASE IN THE TAX
EXEMPTION OVER SIX (6) YEARS BEGINNING ON JULY 1, 2006."

Amendment No. 1 to Senate Bill No. 7.

Amend Senate Bill No. 7 as originally introduced:

Page 1, delete lines 9 through 12, and substitute the following:
"AN ACT TO EXEMPT FOOD FROM SALES TAX; TO PHASE IN THE TAX EXEMPTION OVER
FOUR (4) FISCAL YEARS BEGINNING ON JULY 1, 2006; AND FOR OTHER PURPOSES."

AND

Page 1, delete line 17 and substitute the following:
"FOUR (4) FISCAL YEARS BEGINNING ON JULY 1, 2006."

AND

Delete all language after the enacting clause 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 are 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; or



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

(B) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in this 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 under 21 C.F.R. § 101.36 as in effect on January 1, 2003;

(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; and

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

(B) "Food and food ingredients" does 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 §§ 26-52-301 and 26-52-302, Amendment 75 to the Arkansas Constitution, and any other state gross receipts taxes enacted beginning on 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)(a) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws.

(b) A plate does not include a container or packaging used to transport the food.

(B) "Prepared food" under subdivision (6)(A)(ii) of this section does not include:

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

(ii) Eggs, fish, meat, poultry, and foods containing these raw animal foods that require cooking by the consumer as recommended by the Food and Drug Administration in Chapter 3, Part 401.11 of its Food Code, as in effect on January 1, 2003, so as to prevent food borne illnesses;

(7)(A) "Soft drinks" mean 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 tobacco, 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 one percent (1%) and the revenue distributed as provided in subsection (e) of this section;

(2) Beginning July 1, 2007, the gross receipts tax rate shall be reduced by an additional one percent (1%) and the revenue distributed as provided in subsection (e) of this section;

(3) Beginning July 1, 2008, the gross receipts tax rate shall be reduced by an additional one percent (1%) and the revenue distributed as provided in subsection (e) of this section;

(4) Beginning July 1, 2009, the gross receipts tax rate shall be reduced by an additional one percent (1%) and the revenue distributed as provided in subsection (e) of this section; and

(5) Beginning July 1, 2010, food and food ingredients shall be fully exempt from all state gross receipts taxes, including any additional gross receipts taxes that may be levied between July 1, 2006, and July 1, 2010, 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 under § 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 of the State Apportionment Fund shall be distributed under § 19-6-484(b).

(2) The amount of tax certified under § 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 (1/8 of 1%) shall be transferred to the Special Revenue Fund Account of the State Apportionment Fund for subsequent distribution to the Conservation Tax Fund under § 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; and

(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.”

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

By: Senator Glover
JSE/RCK - 031420031407
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Secretary