

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

# A Bill

HOUSE BILL 1384

5 By: Representative L. Johnson  
6

## For An Act To Be Entitled

8 AN ACT TO AMEND THE SALES AND USE TAX LAWS REGARDING  
9 THE APPLICATION OF SALES AND USE TAXES TO CANDY; TO  
10 PROVIDE FOR SALES AND USE TAXES TO BE LEVIED ON CANDY  
11 AT THE SAME RATE AS IS LEVIED ON FOOD AND FOOD  
12 INGREDIENTS; AND FOR OTHER PURPOSES.  
13  
14

## Subtitle

15 TO AMEND THE SALES AND USE TAX LAWS  
16 REGARDING THE APPLICATION OF SALES AND  
17 USE TAXES TO CANDY; AND TO PROVIDE FOR  
18 SALES AND USE TAXES TO BE LEVIED ON CANDY  
19 AT THE SAME RATE AS IS LEVIED ON FOOD AND  
20 FOOD INGREDIENTS.  
21  
22  
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
25

26 SECTION 1. Arkansas Code § 26-52-103(3), concerning the definitions  
27 used under the Arkansas Gross Receipts Act of 1941, is repealed.

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

31 ~~(B) "Candy" shall not include a preparation containing~~  
32 ~~flour and shall require no refrigeration;~~  
33

34 SECTION 2. Arkansas Code § 26-52-103(17)(B), concerning the  
35 definitions used under the Arkansas Gross Receipts Act of 1941, is amended to  
36 read as follows:



1 (B) "Food" and "food ingredients" do not include ~~candy~~, a  
 2 soft drink, an alcoholic beverage, tobacco, or a dietary supplement;

3  
 4 SECTION 3. Arkansas Code § 26-52-323 is amended to read as follows:

5 26-52-323. Application of tax to ~~candy and~~ soft drinks.

6 The Secretary of the Department of Finance and Administration shall  
 7 either:

8 (1)(A) Publish a list of the Universal Product Codes for items  
 9 that meet the definition of+

10 ~~(i) A candy under § 26-52-103(3) or § 26-53-102(3);~~

11 ~~or~~

12 ~~(ii) A a soft drink under § 26-52-103(33) or § 26-~~  
 13 ~~53-102(21).~~

14 (B) The list published by the secretary under subdivision  
 15 (1)(A) of this section shall provide guidance to retailers, sellers, and  
 16 vendors regarding which items are defined as ~~a candy or~~ a soft drink but not  
 17 defined as food and food ingredients under ~~the Arkansas Gross Receipts Act of~~  
 18 ~~1941, § 26-52-101 et seq.,~~ this chapter or the Arkansas Compensating Tax Act  
 19 of 1949, § 26-53-101 et seq.

20 (C) The list published by the secretary under subdivision  
 21 (1)(A) of this section is exempt from the Arkansas Administrative Procedure  
 22 Act, § 25-15-201 et seq.; or

23 (2) Not subject a retailer, seller, or vendor to the penalties  
 24 under § 26-18-201, § 26-18-202, § 26-18-208, § 26-18-209, § 26-52-512, or §  
 25 26-53-125 if the retailer, seller, or vendor:

26 (A) Collects and remits tax payments to the Department of  
 27 Finance and Administration on the gross receipts and gross proceeds derived  
 28 from the sale of items that meet the definition of+

29 ~~(i) A candy under § 26-52-103(3) or § 26-53-102(3)~~  
 30 ~~at the taxable rate for food and food ingredients under § 26-52-317 or § 26-~~  
 31 ~~53-145; or~~

32 ~~(ii) A a soft drink under § 26-52-103(33) or § 26-~~  
 33 ~~53-102(21) at the taxable rate for food and food ingredients under § 26-52-~~  
 34 ~~317 or § 26-53-145; and~~

35 (B) Demonstrates a good faith effort to collect and remit  
 36 tax payments to the department on the gross receipts and gross proceeds

1 derived from the sale of items that meet the definition of+

2 ~~(i) A candy under § 26-52-103(3) or § 26-53-102(3)~~  
 3 ~~at the taxable rate under § 26-52-301, § 26-52-302, § 26-53-106, or § 26-53-~~  
 4 ~~107; or~~

5 ~~(ii) A a soft drink under § 26-52-103(33) or § 26-~~  
 6 ~~53-102(21) at the taxable rate under § 26-52-301, § 26-52-302, § 26-53-106,~~  
 7 ~~or § 26-53-107.~~

8  
 9 SECTION 4. Arkansas Code § 26-53-102(3), concerning the definitions  
 10 used under the Arkansas Compensating Tax Act of 1949, is repealed.

11 ~~(3)(A) “Candy” means a preparation of sugar, honey, or other~~  
 12 ~~natural or artificial sweeteners in combination with chocolate, fruits, nuts,~~  
 13 ~~or other ingredients or flavorings in the form of bars, drops, or pieces.~~

14 ~~(B) “Candy” shall not include a preparation containing~~  
 15 ~~flour and shall require no refrigeration;~~

16  
 17 SECTION 5. Arkansas Code § 26-53-102(10)(B), concerning the  
 18 definitions used under the Arkansas Compensating Tax Act of 1949, is amended  
 19 to read as follows:

20 (B) “Food” and “food ingredients” do not include ~~candy~~, a  
 21 soft drink, an alcoholic beverage, tobacco, or a dietary supplement;

22  
 23 SECTION 6. EFFECTIVE DATE. Sections 1-5 of this act are effective on  
 24 the first day of the calendar quarter following the effective date of this  
 25 act.