

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005

# A Bill

SENATE BILL 211

4  
5 By: Senator Altes  
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## For An Act To Be Entitled

8  
9 AN ACT TO REDUCE THE STATE SALES AND USE TAX ON  
10 FOOD AND FOOD INGREDIENTS; TO CONTINUE THE  
11 IMPOSITION OF LOCAL SALES AND USE TAX ON FOOD AND  
12 FOOD INGREDIENTS; AND FOR OTHER PURPOSES.  
13

## Subtitle

14  
15 AN ACT TO REDUCE THE STATE SALES AND USE  
16 TAX ON FOOD AND FOOD INGREDIENTS.  
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Title 26, Chapter 52, Subchapter 4 is amended to add an  
22 additional section to read as follows:

23 26-52-438. Food and food ingredients.

24 (a) Beginning July 1, 2007, the gross receipts or gross proceeds  
25 derived from the sale of food and food ingredients shall be exempt from the  
26 three percent (3%) gross receipts tax levied under § 26-52-301 and the three  
27 percent (3%) compensating use tax levied under § 26-53-106.

28 (b) The gross receipts or gross proceeds derived from the sale of food  
29 and food ingredients shall continue to be subject to all other state gross  
30 receipts taxes and to all municipal and county gross receipts taxes.

31 (c) As used in this section:

32 (1) "Alcoholic beverages" means beverages that are suitable for  
33 human consumption and contain one-half of one percent (0.5%) or more of  
34 alcohol by volume;

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



1                   (A) Contains one (1) or more of the following dietary  
 2 ingredients:

3                   (i) A vitamin;

4                   (ii) A mineral;

5                   (iii) An herb or other botanical;

6                   (iv) An amino acid;

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

9                   (vi) A concentrate, metabolite, constituent,  
 10 extract, or combination of any ingredient described in this subdivision  
 11 (c)(2)(A) of this section;

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

16                   (C) Is required to be labeled as a dietary supplement,  
 17 identifiable by the "Supplemental Facts" box found on the label and as  
 18 required by 21 C.F.R § 101.36 as in effect on January 1, 2005;

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

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

24                   (ii) Bakery items, including breads, rolls, buns,  
 25 biscuits, bagels, croissants, pastries, donuts, Danish pastries, cakes,  
 26 tortes, pies, tarts, muffins, bars, cookies, or tortillas.

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

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

32                   (5)(A) "Prepared food" means:

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

35                   (ii) Two (2) or more food ingredients mixed or  
 36 combined by the seller for sale as a single item; or

1                   (iii)(a) Food sold with eating utensils provided by  
2 the seller, including plates, knives, forks, spoons, glasses, cups, napkins,  
3 or straws.

4                   (b) As used in subdivision (5)(A)(iii)(a) of  
5 this section, "plates" does not include containers or packaging used to  
6 transport the food.

7                   (B) "Prepared food" does not include:

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

10                   (ii) Eggs, fish, meat, poultry, and foods containing  
11 these raw animal ingredients that require cooking by the consumer as  
12 recommended by the Food and Drug Administration in Chapter 3, Part 401.11 of  
13 its Food Code as in effect on January 1, 2005, so as to prevent food-borne  
14 illnesses; and

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

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