

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 7

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

9 AN ACT TO PHASE OUT THE STATE SALES AND USE TAX  
10 ON 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.

## Subtitle

14 AN ACT TO PHASE OUT THE STATE SALES AND  
15 USE 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 a new  
22 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) Beginning July 1, 2009, the gross receipts or gross proceeds  
29 derived from the sale of food and food ingredients shall be exempt from all  
30 gross receipts tax levied under § 26-52-302 and the compensating use tax  
31 levied under § 26-53-107.

32 (2) Beginning on July 1, 2009, the gross receipts or gross proceeds  
33 derived from the sale of food and food ingredients shall be exempt from the  
34 excise tax of one-eighth of one percent (0.125%) levied under the Arkansas  
35 Constitution, Amendment 75.

36 (c) The gross receipts or gross proceeds derived from the sale of food



1 and food ingredients shall continue to be subject to all municipal and county  
 2 gross receipts taxes.

3 (d) As used in this section:

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

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

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

11 (i) A vitamin;

12 (ii) A mineral;

13 (iii) An herb or other botanical;

14 (iv) An amino acid;

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

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

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

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

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

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

32 (ii) Bakery items, including bread, rolls, buns,  
 33 biscuits, bagels, croissants, pastries, donuts, danish, cakes, tortes, pies,  
 34 tarts, muffins, bars, cookies, or tortillas.

35 (B) "Food and food ingredients" does not include alcoholic  
 36 beverages, dietary supplements, prepared foods, food sold through vending

1 machines, or tobacco;

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

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

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

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

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

12 (b) As used in this subdivision (d)(5),  
13 "plate" does not include a container or packaging used to transport the food.

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

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

17 (ii) Eggs, fish, meat, poultry, and foods containing  
18 these raw animal foods requiring cooking by the consumer as recommended by  
19 the Food and Drug Administration in Chapter 3, Part 401.11 of its Food Code  
20 so as to prevent food-borne illnesses; and

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

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