

By: Delegates Bonsack and Heller

Requested: July 18, 1995

Introduced and read first time: January 10, 1996

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Sales and Use Tax - Snack Food**

3 FOR the purpose of repealing an exception for certain snack food to a certain exemption
4 under the sales and use tax; and exempting from the sales and use tax the sale of
5 certain snack food through vending machines.

6 BY repealing and reenacting, with amendments,
7 Article - Tax - General
8 Section 11-206(a) and (c)
9 Annotated Code of Maryland
10 (1988 Volume and 1995 Supplement)

11 BY adding to
12 Article - Tax - General
13 Section 11-206(g)
14 Annotated Code of Maryland
15 (1988 Volume and 1995 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article - Tax - General**

19 11-206.

20 (a) (1) In this section the following words have the meanings indicated.

21 (2) "Food for immediate consumption" means:

22 (i) food obtained from a salad, soup, or dessert bar;

23 (ii) party platters;

24 (iii) heated food;

25 (iv) sandwiches suitable for immediate consumption; or

2

1 (v) ice cream, frozen yogurt, and other frozen desserts, sold in
2 containers of less than 1 pint.

3 (3) "Facility for food consumption" does not include parking spaces for
4 vehicles as the sole accommodation.

5 (4) (i) "Food" means food for human consumption.

6 (ii) "Food" includes the following foods and their products:

7 1. beverages, including coffee, coffee substitutes, cocoa, fruit
8 juices, and tea;

9 2. condiments;

10 3. eggs;

11 4. fish, meat, and poultry;

12 5. fruit, grain, and vegetables;

13 6. milk, including ice cream; and

14 7. sugar.

15 (iii) "Food" does not include:

16 1. an alcoholic beverage as defined in § 5-101 of this article;

17 2. a soft drink or carbonated beverage; or

18 3. candy or confectionery.

19 (5) "Premises" includes any building, grounds, parking lot, or other area
20 that:

21 (i) a food vendor owns or controls; or

22 (ii) another person makes available primarily for the use of the patrons
23 of 1 or more food vendors.

24 [(6) "Snack food" means:

25 (i) potato chips and sticks;

26 (ii) cornchips;

27 (iii) pretzels;

28 (iv) cheese puffs and curls;

29 (v) pork rinds;

30 (vi) extruded pretzels and chips;

31 (vii) popped popcorn;

(viii) nuts and edible seeds; or

3

1 (ix) snack mixtures that contain any 1 or more of the foods listed in
2 items (i) through (viii) of this paragraph.

3 (7)] (6) "Substantial grocery or market business" means a business at
4 which at least 10% of all sales of food are sales of grocery or market food items, not
5 including food normally consumed on the premises even though it is packaged to carry
6 out.

7 (c) (1) Except as provided in paragraph (2) of this subsection, the sales and use
8 tax does not apply to a sale of food for consumption off the premises by a food vendor
9 who operates a substantial grocery or market business at the same location where the
10 food is sold.

11 (2) The exemption under paragraph (1) of this subsection does not apply to:

12 (i) food that the vendor serves for consumption on the premises of the
13 buyer or of a third party; OR

14 (ii) food for immediate consumption[; or

15 (iii) snack food].

16 (G) (1) IN THIS SUBSECTION, "SNACK FOOD" MEANS:

17 (I) POTATO CHIPS AND STICKS;

18 (II) CORNCHIPS;

19 (III) PRETZELS;

20 (IV) CHEESE PUFFS AND CURLS;

21 (V) PORK RINDS;

22 (VI) EXTRUDED PRETZELS AND CHIPS;

23 (VII) POPPED POPCORN;

24 (VIII) NUTS AND EDIBLE SEEDS; OR

25 (IX) SNACK MIXTURES THAT CONTAIN ANY ONE OR MORE OF THE
26 FOODS LISTED IN ITEMS (I) THROUGH (VIII) OF THIS PARAGRAPH.

27 (2) THE SALES AND USE TAX DOES NOT APPLY TO THE SALE OF SNACK
28 FOOD THROUGH A VENDING MACHINE.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 July 1, 1996.