Article - Tax - General

§11–206.

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

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

(3) (i) "Food" means food for human consumption.

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

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

2. condiments;

3. eggs;

4. fish, meat, and poultry;

5. fruit, grain, and vegetables;

6. milk, including ice cream; and

7. sugar.

(iii) "Food" does not include:

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

2. a soft drink or carbonated beverage; or

3. candy or confectionery.

(4) "Food for immediate consumption" means:

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

(ii) party platters;

(iii) heated food;

(iv) sandwiches suitable for immediate consumption; or

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

(5) "Premises" includes any building, grounds, parking lot, or other area

that:

(i) a food vendor owns or controls; or

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

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

(b) The sales and use tax does not apply to a sale of food stamp eligible food, as defined in 7 U.S.C. § 2012, bought with a food coupon issued in accordance with 7 U.S.C. § 2016.

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

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

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

(ii) food for immediate consumption.

(d) The sales and use tax does not apply to:

(1) a sale of food:

(i) to patients in a hospital when the food charge is included in the regular room rate;

(ii) by a church or religious organization;

(iii) by a school other than an institution of postsecondary education, including sales at a school by a food concessionaire that is under contract with the school or with its designated contract agent, but not including sales at events that are not sponsored by the school or are not educationally related;

(iv) to students at an institution of postsecondary education if the food charge is for a meal plan or is included in the regular charge for room and board; or

(v) by a nonprofit food vendor if there are no facilities for food consumption on the premises, unless the food is sold within an enclosure for which a

charge is made for admission;

(2) if the proceeds of the sale are used to support a bona fide nationally organized and recognized organization of veterans of the armed forces of the United States or auxiliary of the organization or 1 of its units, a sale of food or meals for consumption only on the premises, served by the organization or auxiliary;

(3) if the proceeds of the sale are used to support a volunteer fire company or department or its auxiliary or a volunteer ambulance company or rescue squad or its auxiliary, a sale of food served by the company, department, squad, or auxiliary; or

(4) a sale of food, bottled water, soft drink or carbonated beverage, or candy or confectionery by a nonprofit food vendor at a youth sporting event or 4–H youth event for individuals under the age of 18 years if there are no facilities for food consumption on the premises, unless the sale is within an enclosure for which a charge is made for admission.

(e) The sales and use tax does not apply to a sale of food or any beverage in a vehicle that is being operated in the State while in the course of interstate commerce.

(f) The sales and use tax does not apply to a sale for consumption off the premises of:

(1) crabs; or

(2) seafood that is not prepared for immediate consumption.

(g) (1) In this subsection, "snack food" means:

(i) potato chips and sticks;

(ii) corn chips;

(iii) pretzels;

(iv) cheese puffs and curls;

(v) pork rinds;

(vi) extruded pretzels and chips;

(vii) popped popcorn;

(viii) nuts and edible seeds; or

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

(2) The sales and use tax does not apply to the sale of snack food through

a vending machine.

(h) The sales and use tax does not apply to the sale through a vending machine of milk, fresh fruit, fresh vegetables, or yogurt.