

HOUSE BILL 328

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2000 Regular Session
0lr0993
CF 0lr0992

By: **Delegates Healey and Clagett**

Introduced and read first time: January 31, 2000

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Sales and Use Tax - Exemption for Bottled Water**

3 FOR the purpose of including certain bottled water within the definition of "food" for
4 purposes of certain sales and use tax exemptions for sales of food; and
5 exempting from the sales and use tax the sale of certain bottled water through
6 a vending machine.

7 BY repealing and reenacting, with amendments,
8 Article - Tax - General
9 Section 11-206
10 Annotated Code of Maryland
11 (1997 Replacement Volume and 1999 Supplement)

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

14 **Article - Tax - General**

15 11-206.

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

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

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

19 (ii) party platters;

20 (iii) heated food;

21 (iv) sandwiches suitable for immediate consumption; or

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

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

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

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

- 5 1. beverages, including coffee, coffee substitutes, cocoa, fruit
6 juices, and tea;
- 7 2. condiments;
- 8 3. eggs;
- 9 4. fish, meat, and poultry;
- 10 5. fruit, grain, and vegetables;
- 11 6. milk, including ice cream; [and]
- 12 7. sugar; AND
- 13 8. BOTTLED WATER, NOT INCLUDING FLAVORED OR
14 SPARKLING WATER.

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
23 patrons of 1 or more food vendors.

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

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

30 (c) (1) Except as provided in paragraph (2) of this subsection, the sales and
31 use tax does not apply to a sale of food for consumption off the premises by a food

1 vendor who operates a substantial grocery or market business at the same location
2 where the food is sold.

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

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

7 (ii) food for immediate consumption.

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

9 (1) a sale of food:

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

12 (ii) by a church or religious organization;

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

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

20 (v) by a nonprofit food vendor if there are no facilities for food
21 consumption on the premises, unless the food is sold within an enclosure for which a
22 charge is made for admission;

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

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

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

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

35 (1) crabs; or

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

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

3 (i) potato chips and sticks;

4 (ii) cornchips;

5 (iii) pretzels;

6 (iv) cheese puffs and curls;

7 (v) pork rinds;

8 (vi) extruded pretzels and chips;

9 (vii) popped popcorn;

10 (viii) nuts and edible seeds; or

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

13 (2) The sales and use tax does not apply to the sale of snack food through
14 a vending machine.

15 (h) The sales and use tax does not apply to the sale through a vending
16 machine of milk, fresh fruit, fresh vegetables, [or] yogurt, OR BOTTLED WATER, NOT
17 INCLUDING FLAVORED OR SPARKLING WATER.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 July 1, 2000.