

HOUSE BILL 328

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Q4

2000 Regular Session
0lr0993
CF 0lr0992

By: **Delegates Healey and Clagett**
Introduced and read first time: January 31, 2000
Assigned to: Ways and Means

Committee Report: Favorable with amendments
House action: Adopted
Read second time: April 5, 2000

CHAPTER _____

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~~ exempting from the sales and use tax certain bottled water;
7 and generally relating to a sales and use tax exemption for sales of certain
8 bottled water.

9 BY repealing and reenacting, with amendments,
10 Article - Tax - General
11 Section 11-206
12 Annotated Code of Maryland
13 (1997 Replacement Volume and 1999 Supplement)

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

16 **Article - Tax - General**

17 11-206.

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

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

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

- 1 (ii) party platters;
- 2 (iii) heated food;
- 3 (iv) sandwiches suitable for immediate consumption; or
- 4 (v) ice cream, frozen yogurt, and other frozen desserts, sold in
5 containers of less than 1 pint.

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

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

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

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

20 (iii) "Food" does not include:

- 21 1. an alcoholic beverage as defined in § 5-101 of this article;
- 22 2. a soft drink or carbonated beverage; or
- 23 3. candy or confectionery.

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

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

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

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

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

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

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

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

15 (ii) food for immediate consumption.

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

17 (1) a sale of food:

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

20 (ii) by a church or religious organization;

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

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

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

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

35 (3) if the proceeds of the sale are used to support a volunteer fire
36 company or department or its auxiliary or a volunteer ambulance company or rescue

1 squad or its auxiliary, a sale of food served by the company, department, squad, or
2 auxiliary.

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

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

7 (1) crabs; or

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

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

10 (i) potato chips and sticks;

11 (ii) cornchips;

12 (iii) pretzels;

13 (iv) cheese puffs and curls;

14 (v) pork rinds;

15 (vi) extruded pretzels and chips;

16 (vii) popped popcorn;

17 (viii) nuts and edible seeds; or

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

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

22 (h) The sales and use tax does not apply to the sale through a vending
23 machine of milk, fresh fruit, fresh vegetables, {or} yogurt, ~~OR BOTTLED WATER, NOT~~
24 ~~INCLUDING FLAVORED OR SPARKLING WATER.~~

25 (I) THE SALES AND USE TAX DOES NOT APPLY TO THE SALE OF WATER FOR
26 HUMAN CONSUMPTION SOLD IN CONTAINERS OF 1 GALLON OR MORE.

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

