
By: **Delegates V. Clagett, Myers, Boschert, Costa, Haddaway, Lawton, Love,
McConkey, and Shank**

Introduced and read first time: February 8, 2006

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 exempting from the sales and use tax certain bottled water; and
4 generally relating to a sales and use tax exemption for sales of certain bottled
5 water.

6 BY repealing and reenacting, with amendments,
7 Article - Tax - General
8 Section 11-206
9 Annotated Code of Maryland
10 (2004 Replacement Volume and 2005 Supplement)

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

13 **Article - Tax - General**

14 11-206.

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

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

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

18 (ii) party platters;

19 (iii) heated food;

20 (iv) sandwiches suitable for immediate consumption; or

21 (v) ice cream, frozen yogurt, and other frozen desserts, sold in
22 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.

13 (iii) "Food" does not include:

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

15 2. a soft drink or carbonated beverage; or

16 3. candy or confectionery.

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

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

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

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

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

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

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

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

5 (ii) food for immediate consumption.

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

7 (1) a sale of food:

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

10 (ii) by a church or religious organization;

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

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

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

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

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

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

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

33 (1) crabs; or

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

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

- 1 (i) potato chips and sticks;
- 2 (ii) corn chips;
- 3 (iii) pretzels;
- 4 (iv) cheese puffs and curls;
- 5 (v) pork rinds;
- 6 (vi) extruded pretzels and chips;
- 7 (vii) popped popcorn;
- 8 (viii) nuts and edible seeds; or
- 9 (ix) snack mixtures that contain any one or more of the foods listed
- 10 in items (i) through (viii) of this paragraph.

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

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

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

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 July 1, 2006.