

BILL # SB 1106

TITLE: food tax; definition; clarification

SPONSOR: Bundgaard

STATUS: As Introduced

REQUESTED BY: Senate

PREPARED BY: Brian Schmitz

FISCAL YEAR

2002

2003

2004

REVENUES

General Fund – Transaction Privilege Tax

\$-0-

Cannot Be Determined

FISCAL ANALYSIS

Description

This bill would clarify that cold sandwiches packaged to have a shelf life of at least 24 hours or that are not made contemporaneous with a consumer’s order are not liable for sales taxation. The bill would become effective on the general effective date.

Estimated Impact

The fiscal impact of this bill cannot be determined but is probably minimal. We believe that the bill would result in the loss of some sales tax revenue, since certain grocery stores currently tax sales of cold sandwiches, but a lack of data renders us unable to quantify the bill’s fiscal impact. The Department of Revenue (DOR) estimates that this bill would have no fiscal impact.

Assumptions

Current law provides a sales tax exemption for food items intended to be consumed at home (e.g., most grocery store foods). However, food made for consumption on the premises where it is purchased (e.g., meals sold at restaurants) is taxed. The law specifies that food for consumption on the premises includes, among other items, hot or cold sandwiches. This bill would clarify that some types of cold sandwiches are tax-exempt.

The cold sandwiches that the bill would exempt from taxation are essentially the prepackaged sandwiches wrapped in cellophane, sold in various grocery stores and convenience stores, which are intended to be consumed off the premises. Based on conversations with DOR and a lobbyist for this bill, as well as an informal survey of 2 well-known retail stores it is apparent that there is inconsistent application of the sales tax on purchases of cold sandwiches. Some stores charge tax on prepackaged cold sandwiches, and some do not. This bill would eliminate the confusion by clarifying that prepackaged cold sandwiches are not taxable.

While it is evident that the state does currently receive some tax revenue from sales of prepackaged cold sandwiches, we have no data on the magnitude of these tax collections. It is likely that, though, that these tax revenues are minimal. The Department of Revenue reaches a similar conclusion, assuming that the bill would have no real fiscal impact.

Local Government Impact

A portion of state sales tax revenues is shared with the counties and cities, so any reduction in state tax revenues as a result of this bill would also cause a reduction in the monies shared with the local governments. However, as the impact of this bill on the state is indeterminable, so is the impact on the counties and cities.