

Legislative Analysis



SALES AND USE TAX: VENDING MACHINES

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House Bills 6219 & 6220

Sponsor: Rep. Mark Meadows

Committee: Tax Policy

Complete to 6-7-10

A SUMMARY OF HOUSE BILLS 6219 & 6220 AS INTRODUCED 5-27-10

The bills would amend the General Sales Tax Act and Use Tax Act, respectively, to eliminate exemptions from those acts for food sold through vending machines, after October 1, 2010.

Specifically, both acts currently provide that food or drink that is heated or cooled to certain temperatures – except for milk, non-alcoholic beverages in sealed containers, and fresh fruit – and sold from a vending machine is subject to the sales and use taxes. (This means that milk, non-alcoholic beverages, fresh fruit, and other food not heated or cooled – such as snack foods – sold from a vending machine are exempt from taxation under those acts.) Under the bills, after October 1, 2010, all food sold from a vending machine would be subject to taxation. Food and food ingredients sold from a vending machine would be considered to be "prepared food intended for immediate human consumption" and thus taxable.

House Bill 6219 would amend the General Sales Tax Act (MCL 205.54g).

House Bill 6220 would amend the Use Tax Act (MCL 205.94d).

BACKGROUND INFORMATION:

In the 1974 general election, voters approved Ballot Proposal C, which amended Article IX, Section 8 of the State Constitution to exempt from sales and use taxes, the sale or use of food for human consumption, ***except for prepared food intended for immediate consumption, as defined by law.*** Public Act 310 of 1974 amended the General Sales Tax Act to incorporate the constitutional provisions into statute and define "prepared food intended for immediate consumption" to mean, among other things, food or drink intended for immediate consumption sold from a vending machine or by a vendor from a mobile facility.

Since 1974, this section of the General Sales Tax Act has been amended on numerous occasions, typically to address complaints about the disparate treatment of food that occurs when food was not taxed when sold at a grocery or convenience store but was taxed when sold through a vending machine. Public Act 275 of 1978 exempted from the sales tax, the sale of milk, juices, fresh fruit, nuts, chewing gum, cookies, crackers, and chips from a vending machine. Public Act 63 of 1995 exempted bakery products sold

from a vending machine from the sales tax. Public Act 576 of 1996 rewrote the vending machine provision to specify that carbonated beverages and other food or drink heated or cooled to certain temperatures – except for milk, noncarbonated beverages with a juice content of at least 10 percent juice content, and fresh fruit – are considered to be intended for immediate consumption and, as such, are subject to taxation. Public Act 417 of 2000 subsequently extended the exemption to all nonalcoholic beverages, rather than just certain noncarbonated beverages, sold through a vending machine.

Public Act 309 of 1974 exempted the purchase of food for human consumption from the Use Tax Act, although the act did not contain an exception for prepared food intended for immediate consumption. Provisions related to food from vending machines were not added until the enactment of Public Act 172 of 2004, part of the Streamlined Sales Tax Agreement amendments.

FISCAL IMPACT:

As written, the bills would increase sales and use tax revenue by \$10 to \$15 million.

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