

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2364 Session of  
1996

INTRODUCED BY SAYLOR, TRELLO, BOYES AND GRUPPO, FEBRUARY 2, 1996

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 2, 1996

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An  
2 act relating to tax reform and State taxation by codifying  
3 and enumerating certain subjects of taxation and imposing  
4 taxes thereon; providing procedures for the payment,  
5 collection, administration and enforcement thereof; providing  
6 for tax credits in certain cases; conferring powers and  
7 imposing duties upon the Department of Revenue, certain  
8 employers, fiduciaries, individuals, persons, corporations  
9 and other entities; prescribing crimes, offenses and  
10 penalties," further providing for exclusions for sales tax  
11 relating to food and beverages.

12 The General Assembly of the Commonwealth of Pennsylvania  
13 hereby enacts as follows:

14 Section 1. Section 204(29) of the act of March 4, 1971  
15 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended  
16 August 4, 1991 (P.L.97, No.22) and December 13, 1991 (P.L.373,  
17 No.40), is amended to read:

18 Section 204. Exclusions from Tax.--The tax imposed by  
19 section 202 shall not be imposed upon

20 \* \* \*

21 (29) The sale at retail or use of food and beverages for  
22 human consumption, including candy and gum, except that this

1 exclusion shall not apply with respect to--

2 (i) Soft drinks;

3 (ii) Malt and brewed beverages and spirituous and vinous

4 liquors;

5 (iii) Food or beverages, whether sold for consumption on or

6 off the premises or on a "take-out" or "to go" basis or

7 delivered to the purchaser or consumer, when purchased (A) from

8 persons engaged in the business of catering; or (B) from persons

9 engaged in the business of operating establishments from which

10 ready-to-eat food and beverages are sold, including, but not

11 limited to, restaurants, cafes, lunch counters, private and

12 social clubs, taverns, dining cars, hotels, night clubs, fast

13 food operations, pizzerias, fairs, carnivals, lunch carts, ice

14 cream stands, snack bars, cafeterias, employe cafeterias,

15 theaters, stadiums, arenas, amusement parks, carryout shops,

16 coffee shops and other establishments whether mobile or

17 immobile. For purposes of this clause, a bakery, a pastry shop,

18 a donut shop, a delicatessen, grocery store, supermarket,

19 farmer's market or a convenience store shall not be considered

20 an establishment from which food or beverages ready to eat are

21 sold except for the sale of meals, sandwiches, food from salad

22 bars, hand-dipped or hand-served iced based products including

23 ice cream and yogurt, hot soup, hot pizza and other hot food

24 items, brewed coffee and hot beverages. For purposes of this

25 subclause, beverages shall not include malt and brewed beverages

26 and spirituous and vinous liquors but shall include soft drinks.

27 The sale at retail of food and beverages at or from a school or

28 church in the ordinary course of the activities of such

29 organization is not subject to tax. The sale at retail or use of

30 food and beverages for human consumption when sold through

1 vending machines in the same form, condition and quantity as are  
2 sold in convenience stores is exempt from taxation.

3 \* \* \*

4 Section 2. This act shall take effect in 60 days.