

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE BILL

## No. 2364

Session of  
1996

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

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,  
AS AMENDED, MARCH 18, 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 OR VENDING MACHINE <—

20 shall not be considered an establishment from which food or  
21 beverages ready to eat are sold except for the sale of meals,  
22 sandwiches, food from salad bars, hand-dipped or hand-served  
23 iced based products including ice cream and yogurt, hot soup,  
24 hot pizza and other hot food items, brewed coffee and hot  
25 beverages. For purposes of this subclause, beverages shall not  
26 include malt and brewed beverages and spirituous and vinous  
27 liquors but shall include soft drinks. The sale at retail of  
28 food and beverages at or from a school or church in the ordinary  
29 course of the activities of such organization is not subject to  
30 tax. ~~The sale at retail or use of food and beverages for human~~ <—

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

4 \* \* \*

5 Section 2. This act shall take effect ~~in 60 days~~ JULY 1, <—  
6 1996.