
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2241 Session of
2018

INTRODUCED BY MUSTIO, GROVE, DIAMOND, BARRAR, PHILLIPS-HILL,
STAATS, ORTITAY, MENTZER, TALLMAN, KEEFER, DOWLING, D. COSTA,
ELLIS, CONKLIN, MOUL, SANKEY, JOZWIAK, KORTZ, A. HARRIS,
TOPPER, SAINATO, MARSICO, ROTHMAN, ZIMMERMAN, BURNS, NELSON
AND REESE, APRIL 9, 2018

REFERRED TO COMMITTEE ON COMMERCE, APRIL 9, 2018

AN ACT

1 Amending Title 53 (Municipalities Generally) of the Pennsylvania
2 Consolidated Statutes, in other subjects of taxation,
3 providing for prohibited fees, surcharges and taxes; and
4 making inconsistent repeals.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Chapter 87 of Title 53 of the Pennsylvania
8 Consolidated Statutes is amended by adding a subchapter to read:

9 SUBCHAPTER D

10 PROHIBITED FEES, SURCHARGES AND TAXES

11 RELATING TO FOOD AND BEVERAGE AND

12 FOOD AND BEVERAGE CONTAINERS

13 Sec.

14 8731. Scope of subchapter.

15 8732. Definitions.

16 8733. Food and beverage and food and beverage containers.

17 8734. Exclusions.

1 § 8731. Scope of subchapter.

2 This subchapter relates to actions by political subdivisions
3 regarding food and beverages and food and beverage containers.

4 § 8732. Definitions.

5 The following words and phrases when used in this subchapter
6 shall have the meanings given to them in this section unless the
7 context clearly indicates otherwise:

8 "Distributor." A person that supplies food and beverages to
9 a retail establishment.

10 "Food and beverage." A substance, whether in liquid,
11 concentrated, powder, solid, frozen, dried or dehydrated form,
12 that is intended for human consumption and supplied, delivered
13 or transferred by a distributor to a retail establishment or
14 sold by a retail establishment to a consumer purchaser of food
15 and beverages. The term does not include the following:

16 (1) Ice.

17 (2) Malt or brewed alcoholic beverages.

18 (3) Spirituous and vinous liquors.

19 (4) Medicines.

20 (5) Prescription drugs.

21 "Food and beverage container." Any of the following:

22 (1) An object designed to be used by manufacturers,
23 distributors or wholesalers of food and beverages for
24 transporting or protecting food and beverages.

25 (2) An object designed to be used by consumers for
26 consuming or transporting food and beverages.

27 "Retail establishment." An establishment that sells or
28 offers to sell tangible personal property to the public at
29 retail, including:

30 (1) A restaurant.

1 (2) A convenience store.

2 (3) A street vendor.

3 (4) A grocery store.

4 (5) A vending machine.

5 § 8733. Food and beverage and food and beverage containers.

6 (a) Prohibition.--Except as provided under section 8734
7 (relating to exclusions), a political subdivision may not impose
8 a fee, surcharge, sales tax, tax on gross receipts, excise tax
9 or other tax on any of the following:

10 (1) Food and beverages.

11 (2) Food and beverage containers.

12 (3) The supply, acquisition, delivery, distribution or
13 transport of food and beverages.

14 (4) The supply, acquisition, delivery, distribution or
15 transport of food and beverage containers.

16 (b) Expiration of fees, surcharges or taxes.--

17 (1) A fee, surcharge, sales tax, tax on gross receipts,
18 excise tax or other tax which is prohibited under subsection
19 (a) shall expire on the effective date of this section.

20 (2) Any amount due to a political subdivision under a
21 fee, surcharge, sales tax, tax on gross receipts, excise tax
22 or other tax under paragraph (1) shall be due and paid to the
23 political subdivision in accordance with payment procedures
24 established by the political subdivision.

25 § 8734. Exclusions.

26 This subchapter does not apply to the following:

27 (1) A tax on persons, transactions, occupations,
28 privileges, subjects and personal property within a city of
29 the first class under the act of August 5, 1932 (Sp.Sess.,
30 P.L.45, No.45), referred to as the Sterling Act, which is

1 general in nature and not intended to tax the following:

2 (i) Food and beverages.

3 (ii) Food and beverage containers.

4 (iii) The supply, acquisition, delivery,
5 distribution or transport of food and beverages.

6 (iv) The supply, acquisition, delivery, distribution
7 or transport of food and beverage containers.

8 (2) A tax under section 3152-B of the act of July 28,
9 1953 (P.L.723, No.230), known as the Second Class County
10 Code.

11 (3) A tax on persons, transactions, occupations,
12 privileges, subjects and personal property within the limits
13 of the political subdivision under the act of December 31,
14 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act,
15 which is general in nature and not intended to tax the
16 following:

17 (i) Food and beverages.

18 (ii) Food and beverage containers.

19 (iii) The supply, acquisition, delivery,
20 distribution or transport of food and beverages.

21 (iv) The supply, acquisition, delivery, distribution
22 or transport of food and beverage containers.

23 (4) A tax under section 201-B of the act of March 4,
24 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

25 (5) A tax under section 503 of the act of June 5, 1991
26 (P.L.9, No.6), known as the Pennsylvania Intergovernmental
27 Cooperation Authority Act for Cities of the First Class.

28 (6) A tax under Chapter 86 (relating to taxation for
29 public transportation).

30 (7) A tax under section 8722 (relating to local option

1 cigarette tax in school districts of the first class).

2 Section 2. Repeals are as follows:

3 (1) The act of August 5, 1932 (Sp.Sess., P.L.45, No.45),
4 referred to as the Sterling Act, insofar as it is
5 inconsistent with this act.

6 (2) The act of December 31, 1965 (P.L.1257, No.511),
7 known as The Local Tax Enabling Act, insofar as it is
8 inconsistent with this act.

9 (3) Any other acts or parts of acts insofar as they are
10 inconsistent with this act.

11 Section 3. This act shall take effect immediately.