

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2352 Session of
1986

INTRODUCED BY SAURMAN, SEVENTY, FOX, NAHILL, STABACK, DISTLER,
GEIST, HERSHEY, COLAFELLA, BOOK, TRELLO, JOHNSON, KOSINSKI,
DeLUCA, BUNT, FISCHER, ANGSTADT, MORRIS, E. Z. TAYLOR,
GREENWOOD, STEVENS, MERRY, LASHINGER, J. TAYLOR, OLASZ,
BELFANTI AND PETRARCA, APRIL 14, 1986

REFERRED TO COMMITTEE ON FINANCE, APRIL 14, 1986

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 defining "tangible personal property";
11 and further providing for the food and beverage exception to
12 the sales tax.

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

15 Section 1. Section 201(m) of the act of March 4, 1971
16 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended
17 August 31, 1971 (P.L.362, No.93), is amended to read:

18 Section 201. Definitions.--The following words, terms and
19 phrases when used in this Article II shall have the meaning
20 ascribed to them in this section, except where the context
21 clearly indicates a different meaning:

1 * * *

2 (m) "Tangible personal property." Corporeal personal
3 property including, but not limited to, goods, wares,
4 merchandise, steam and natural and manufactured and bottled gas
5 for non-residential use, electricity for non-residential use,
6 intrastate telephone and telegraph service for non-residential
7 use, spirituous or vinous liquor and malt or brewed beverages
8 and soft drinks; but the term shall not include household
9 supplies purchased at retail establishments for residential
10 consumption, including but not limited to, soaps, detergents,
11 cleaning and polishing preparations, paper goods, household
12 wrapping supplies and items of similar nature, or sanitary
13 napkins, tampons or similar items used for feminine hygiene. Nor
14 shall said term include steam, natural and manufactured and
15 bottled gas, fuel oil, electricity or intrastate telephone or
16 telegraph service when purchased directly by the user thereof
17 solely for his own residential use or when provided in a
18 pseudoresidential situation, such as a hospital room or nursing
19 care facility.

20 * * *

21 Section 2. Section 204(29) of the act is amended to read:

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

24 * * *

25 (29) The sale at retail or use of food and beverages for
26 human consumption including candy, gum and similar confections,
27 except that this exclusion shall not apply with respect to--

28 (i) Soft drinks;

29 (ii) Malt and brewed beverages and spirituous and vinous
30 liquors;

1 (iii) Food and beverages (except when purchased at, or from
2 a school or church in the ordinary course of activities of such
3 organization) when the purchase price of the total transaction
4 is more than ten cents (10¢), when purchased (i) from persons
5 engaged in the business of catering, or (ii) from persons
6 engaged in the business of operating restaurants, cafes, lunch
7 counters, private and social clubs, taverns, dining cars, hotels
8 and other eating places. For the purpose of this subclause
9 (iii), beverages shall not include malt and brewed beverages and
10 spirituous and vinous liquors, but shall include soft drinks,
11 and the price of such soft drinks shall be considered together
12 with the price of other beverages and food in determining
13 whether the purchase price of the total transaction is more than
14 ten cents (10¢), except in hospitals or nursing care facilities.

15 * * *

16 Section 3. This act shall take effect in 60 days.