
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1464 Session of
2019

INTRODUCED BY GROVE, METCALFE, BERNSTINE, JAMES, RYAN, PYLE,
KAUFFMAN, HERSHEY, IRVIN, ROTHMAN, MOUL, BARRAR, DIAMOND,
SIMMONS, MACKENZIE, READSHAW, KEEFER, BURNS, TOPPER AND
STEPHENS, MAY 15, 2019

REFERRED TO COMMITTEE ON COMMERCE, MAY 15, 2019

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 relating
4 to food and beverages; and 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 BEVERAGES

12 Sec.

13 8731. Scope of subchapter.

14 8732. Definitions.

15 8733. Food and beverages.

16 8734. Exclusions.

17 § 8731. Scope of subchapter.

18 This subchapter relates to actions by political subdivisions

1 regarding food and beverages.

2 § 8732. Definitions.

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

6 "Distributor." A person that supplies food and beverages to
7 a retail establishment.

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

14 (1) Ice.

15 (2) Malt or brewed alcoholic beverages.

16 (3) Spirituous and vinous liquors.

17 (4) Medicines.

18 (5) Prescription drugs.

19 "Retail establishment." An establishment that sells or
20 offers to sell tangible personal property to the public at
21 retail, including:

22 (1) A restaurant.

23 (2) A convenience store.

24 (3) A street vendor.

25 (4) A grocery store.

26 (5) A vending machine.

27 § 8733. Food and beverages.

28 (a) Prohibition.--Except as provided under section 8734
29 (relating to exclusions), a political subdivision may not impose
30 a fee, surcharge, sales tax, tax on gross receipts, excise tax

1 or other tax on any of the following:

2 (1) Food and beverages.

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

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

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

9 (2) Any amount due to a political subdivision under a
10 fee, surcharge, sales tax, tax on gross receipts, excise tax
11 or other tax under paragraph (1) shall be due and paid to the
12 political subdivision in accordance with payment procedures
13 established by the political subdivision.

14 § 8734. Exclusions.

15 This subchapter does not apply to the following:

16 (1) A tax on persons, transactions, occupations,
17 privileges, subjects and personal property within a city of
18 the first class under the act of August 5, 1932 (Sp.Sess.,
19 P.L.45, No.45), referred to as the Sterling Act, which is
20 general in nature and not intended to tax the following:

21 (i) Food and beverages.

22 (ii) The supply, acquisition, delivery, distribution
23 or transport of food and beverages.

24 (2) A tax under section 3152-B of the act of July 28,
25 1953 (P.L.723, No.230), known as the Second Class County
26 Code.

27 (3) A tax on persons, transactions, occupations,
28 privileges, subjects and personal property within the limits
29 of the political subdivision under the act of December 31,
30 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act,

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

3 (i) Food and beverages.

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

6 (4) A tax under section 201-B of the act of March 4,
7 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

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

11 (6) A tax under Chapter 86 (relating to taxation for
12 public transportation).

13 (7) A tax under section 8722 (relating to local option
14 cigarette tax in school districts of the first class).

15 Section 2. Repeals are as follows:

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

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

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

24 Section 3. This act shall take effect immediately.