

1 State of Arkansas
2 84th General Assembly
3 Second Extraordinary Session, 2003
4

As Engrossed: H2/6/04
A Bill

Call Item 6

HOUSE BILL 1172

5 By: Representatives Pace, Kenney, *Key*, *Matayo*
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For An Act To Be Entitled

9 AN ACT TO REDUCE THE STATE SALES AND USE TAX RATE
10 ON FOOD TO TWO AND SEVEN-EIGHTHS PERCENT
11 (2.875%); AND FOR OTHER PURPOSES.
12
13

Subtitle

15 TO REDUCE THE STATE SALES AND USE TAX
16 RATE ON FOOD TO TWO AND SEVEN-EIGHTHS
17 PERCENT (2.875%)
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19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code Title 26, Chapter 52, Subchapter 3 is amended
23 to add an additional section to read as follows:

24 26-52-316. Food and food ingredients.

25 (a) As used in this section:

26 (1) "Alcoholic beverages" means beverages that are suitable for
27 human consumption and contain one-half of one percent (0.5%) or more of
28 alcohol by volume;

29 (2) "Dietary supplement" means any product, other than tobacco,
30 intended to supplement the diet that:

31 (A) Contains one or more of the following dietary
32 ingredients:

33 (i) A vitamin;

34 (ii) A mineral;

35 (iii) An herb or other botanical;

36 (iv) An amino acid;



1 (v) A dietary substance for use by humans to
2 supplement the diet by increasing the total dietary intake; or

3 (vi) A concentrate, metabolite, constituent,
4 extract, or combination of any ingredient as described in this subdivision
5 (a)(2)(A);

6 (B) Is intended for ingestion in tablet, capsule, powder,
7 softgel, gelcap, or liquid form, or if not intended for ingestion in this
8 form, is not represented as conventional food and is not represented for use
9 as a sole item of a meal or of the diet; and

10 (C) Is required to be labeled as a dietary supplement,
11 identifiable by the "Supplemental Facts" box found on the label and as
12 required under 21 C.F.R. § 101.36 as in effect on January 1, 2004;

13 (3)(A) "Food and food ingredients" means:

14 (i) Substances, whether in liquid, concentrated,
15 solid, frozen, dried, or dehydrated form, that are sold for ingestion or
16 chewing by humans and are consumed for their taste or nutritional value;

17 (ii) Food sold in an unheated state by weight or
18 volume as a single item; and

19 (iii) Bakery items, including bread, rolls, buns,
20 biscuits, bagels, croissants, pastries, donuts, danish, cakes, tortes, pies,
21 tarts, muffins, bars, cookies, and tortillas.

22 (B) "Food and food ingredients" does not include alcoholic
23 beverages, dietary supplements, prepared foods, food sold through vending
24 machines, or tobacco;

25 (4) "Food sold through vending machines" means food dispensed
26 from a machine or other mechanical device that accepts payment;

27 (5)(A) "Prepared food" means:

28 (i) Food sold in a heated state or heated by the
29 seller;

30 (ii) Two (2) or more food ingredients mixed or
31 combined by the seller for sale as a single item; or

32 (iii)(a) Food sold with eating utensils provided by
33 the seller, including plates, knives, forks, spoons, glasses, cups, napkins,
34 or straws.

35 (b) The term "plate" does not include a
36 container or packaging used to transport prepared food.

1 (B) "Prepared food" under subdivision (5)(A)(ii) of this
2 section does not include:

3 (i) Food that is only cut, repackaged, or
4 pasteurized by the seller; or

5 (ii) Eggs, fish, meat, poultry, and foods containing
6 these raw animal foods that require cooking by the consumer as recommended by
7 the Food and Drug Administration in Chapter 3, Part 401.11 of its Food Code,
8 as in effect on January 1, 2004, so as to prevent food borne illnesses;

9 (6) "Tobacco" means cigarettes, cigars, chewing tobacco, pipe
10 tobacco, or any other item that contains tobacco.

11 (b) Beginning July 1, 2005, the gross receipts tax imposed by Arkansas
12 Gross Receipts Act of 1941, § 26-52-101 et seq., on the sale of food and food
13 ingredients shall be levied at the rate of two and seven-eighths percent
14 (2.875%).

15 (c) The gross receipts or gross proceeds derived from the sale of food
16 and food ingredients shall continue to be subject to all municipal and county
17 gross receipts taxes.

18 (d) The excise tax of one-eighth of one percent (0.125%) levied under
19 Arkansas Constitution, Amendment 75, § 2 is not affected by the provisions of
20 this section.

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22 SECTION 2. Arkansas Code Title 26, Chapter 53, Subchapter 1 is amended
23 to add an additional section to read as follows:

24 26-53-145. Food and food ingredients.

25 (a) Beginning July 1, 2005, the tax imposed by the Arkansas
26 Compensating Tax Act of 1949, § 26-53-101 et seq. on the sale of food and
27 food ingredients shall be levied at the rate of two and seven-eighths percent
28 (2.875%).

29 (b) All municipal and county use taxes shall continue to apply to the
30 sales price of food and food ingredients.

31 (c) The excise tax of one-eighth of one percent (0.125%) levied under
32 Arkansas Constitution, Amendment 75, § 2 is not affected by the provisions of
33 this section.

34 (d) "Food and food ingredients" has the same meaning as provided in §
35 26-52-316(a).

36 */s/ Pace, et al*