

An Act

SENATE BILL 12-094

BY SENATOR(S) Hodge, Carroll, Aguilar, Boyd, Giron, Guzman, Harvey, Hudak, Jahn, Mitchell, Neville, Newell, Nicholson, Schwartz, Steadman, Tochtrop, White, Cadman, Grantham, Heath, Johnston, King K., Lambert, Lundberg, Morse, Renfroe, Scheffel, Williams S., Shaffer B.;
also REPRESENTATIVE(S) Szabo, Acree, Balmer, Baumgardner, Becker, Beezley, Bradford, Brown, Casso, Conti, DelGrosso, Ferrandino, Gardner B., Holbert, Hullinghorst, Jones, Joshi, Kerr J., Liston, Looper, Murray, Nikkel, Pabon, Priola, Ramirez, Scott, Swalm, Swerdfeger, Todd, Tyler, Waller, Williams A., Barker, Fields, Labuda, Sonnenberg, Stephens, Summers, Vigil.

CONCERNING CLARIFICATION OF THE DEFINITION OF FOOD USED IN STATE SALES TAX LAWS TO ENSURE THAT THE TREATMENT FOR SALES TAX PURPOSES OF A FOOD PRODUCT SOLD FOR DOMESTIC HOME CONSUMPTION BY A GROCERY STORE, SUPERMARKET, OR CONVENIENCE STORE DOES NOT CHANGE SOLELY BECAUSE THE STORE SELLS THE FOOD PRODUCT OR MARKETS THE FOOD PRODUCT FOR SALE AS A CONVENIENCE FOOD.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 39-26-102, **amend** (4.5) as follows:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

39-26-102. Definitions - repeal. As used in this article, unless the context otherwise requires:

(4.5) (a) "Food" means food for domestic home consumption as defined in 7 U.S.C. sec. 2012 (k), as amended, for purposes of the federal food stamp program, or any successor program, as defined in 7 U.S.C. sec. 2012 (l), as amended; except that "food" does not include carbonated water marketed in containers; chewing gum; seeds and plants to grow foods; prepared salads and salad bars; packaged and unpackaged cold sandwiches; deli trays; and hot or cold beverages served in unsealed containers or cups that are vended by or through machines or non-coin-operated coin-collecting food and snack devices on behalf of a vendor.

(b) IN DETERMINING WHETHER A FOOD PRODUCT IS FOR DOMESTIC HOME CONSUMPTION, UNLESS THE VENDOR IS DESCRIBED IN SECTION 39-26-104 (1) (e), NO INFERENCE SHALL BE DRAWN FROM THE TYPE OF VENDOR SELLING THE PRODUCT, THE LOCATION OF THE PRODUCT WITHIN A STORE, OR THE MANNER IN WHICH THE PRODUCT IS MARKETED.

SECTION 2. In Colorado Revised Statutes, 39-26-104, **amend** (1) (e) as follows:

39-26-104. Property and services taxed. (1) There is levied and there shall be collected and paid a tax in the amount stated in section 39-26-106 as follows:

(e) Upon the amount paid for food or drink served or furnished in or by restaurants, cafes, lunch counters, cafeterias, hotels, ~~drugstores~~, social clubs, nightclubs, cabarets, resorts, snack bars, caterers, carryout shops, and other like places of business at which prepared food or drink is regularly sold, including sales from pushcarts, motor vehicles, and other mobile facilities. Cover charges shall be included as part of the amount paid for such food or drink. However, meals provided to employees of the places mentioned in this paragraph (e) at no charge or at a reduced charge shall be exempt from taxation under the provisions of this part 1.

SECTION 3. Effective date - applicability. This act takes effect July 1, 2012, and applies to sales of food occurring on or after said date.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Frank McNulty
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO