

**Second Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO**

**REVISED**

*This Version Includes All Amendments Adopted  
on Second Reading in the Second House*

LLS NO. 12-0306.01 Jason Gelender x4330

**SENATE BILL 12-094**

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**Senate Committees**

Business, Labor and Technology

**House Committees**

Local Government

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**A BILL FOR AN ACT**

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

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at*

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

HOUSE  
Am ended 2nd Reading  
February 21, 2012

SENATE  
3rd Reading Unam ended  
January 31, 2012

SENATE  
2nd Reading Unam ended  
January 30, 2012

[http://www.leg.state.co.us/bills/summaries.](http://www.leg.state.co.us/bills/summaries/))

The bill amends 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.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-26-102, **amend**  
3 (4.5) as follows:

4 **39-26-102. Definitions - repeal.** As used in this article, unless the  
5 context otherwise requires:

6 (4.5) (a) "Food" means food for domestic home consumption as  
7 defined in 7 U.S.C. sec. 2012 (k), as amended, for purposes of the federal  
8 food stamp program, or any successor program, as defined in 7 U.S.C.  
9 sec. 2012 (l), as amended; except that "food" does not include carbonated  
10 water marketed in containers; chewing gum; seeds and plants to grow  
11 foods; prepared salads and salad bars; packaged and unpackaged cold  
12 sandwiches; deli trays; and hot or cold beverages served in unsealed  
13 containers or cups that are vended by or through machines or  
14 non-coin-operated coin-collecting food and snack devices on behalf of a  
15 vendor.

16 (b) IN DETERMINING WHETHER A FOOD PRODUCT IS FOR DOMESTIC  
17 HOME CONSUMPTION, UNLESS THE VENDOR IS DESCRIBED IN SECTION  
18 39-26-104 (1) (e), NO INFERENCE SHALL BE DRAWN FROM THE TYPE OF  
19 VENDOR SELLING THE PRODUCT, THE LOCATION OF THE PRODUCT WITHIN  
20 A STORE, OR THE MANNER IN WHICH THE PRODUCT IS MARKETED.

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

1           **39-26-104. Property and services taxed.** (1) There is levied and  
2 there shall be collected and paid a tax in the amount stated in section  
3 39-26-106 as follows:

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

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

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