

By: Howard

H.B. No. 55

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the imposition of a tax on certain beverages and snack
3 foods and to the use of the revenue from the tax for public
4 education.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subtitle E, Title 2, Tax Code, is amended by
7 adding Chapter 164 to read as follows:

8 CHAPTER 164. TAX ON DISCRETIONARY FOOD AND DRINK ITEMS

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 164.001. DEFINITIONS. In this chapter:

11 (1) "Ale," "beer," "malt liquor," and "wine" have the
12 meanings assigned by Section 1.04, Alcoholic Beverage Code.

13 (2) "Snack food" means any item that is ordinarily
14 sold for consumption without further preparation and that is not
15 generally considered a major component of a well-balanced meal.

16 The term includes:

17 (A) bakery items, including pastries, donuts,
18 cakes, tortes, pies, tarts, bars, and cookies;

19 (B) candy;

20 (C) chips, including chips made from potatoes,
21 flour, or corn;

22 (D) popcorn;

23 (E) pretzels; and

24 (F) roasted nuts.

1 (3) "Soft drink" means a nonalcoholic beverage that
2 contains natural or artificial sweeteners. The term does not
3 include a beverage that:

4 (A) contains:

5 (i) milk or milk products;

6 (ii) soy, rice, or similar milk
7 substitutes; or

8 (iii) more than 50 percent of vegetable or
9 fruit juice by volume;

10 (B) is intended by the manufacturer for
11 consumption by an infant and that is commonly referred to as "infant
12 formula"; or

13 (C) is intended by the manufacturer for use for
14 weight reduction.

15 [Sections 164.002-164.050 reserved for expansion]

16 SUBCHAPTER B. IMPOSITION AND COLLECTION OF TAX

17 Sec. 164.051. TAX IMPOSED. (a) A tax is imposed on each
18 sale at retail of ale, malt liquor, beer, soft drinks, snack food,
19 or wine.

20 (b) The tax rate is one percent of the sales price of the
21 ale, malt liquor, beer, soft drinks, snack food, or wine.

22 (c) The tax imposed under this chapter is in addition to any
23 other tax imposed by state law.

24 Sec. 164.052. EXCEPTIONS TO APPLICATION OF TAX. The tax
25 imposed under this chapter does not apply to:

26 (1) food or a beverage sold in or by a restaurant,
27 lunch counter, cafeteria, hotel, or other business for consumption

1 on the premises of the business; or

2 (2) a beverage if the receipts from the sale of the
3 beverage are taxable under Chapter 183.

4 Sec. 164.053. APPLICATION OF OTHER LAW. Except as
5 otherwise provided by this chapter, the tax imposed under this
6 chapter is administered, imposed, collected, and enforced in the
7 same manner as the tax under Chapter 151 is administered, imposed,
8 collected, and enforced.

9 [Sections 164.054-164.100 reserved for expansion]

10 SUBCHAPTER C. ALLOCATION OF TAX

11 Sec. 164.101. ALLOCATION OF TAX. The revenue from the tax
12 imposed under this chapter shall be deposited to the credit of the
13 foundation school fund.

14 SECTION 2. This Act takes effect September 1, 2004.