

By: Howard

H.B. No. 1105

A BILL TO BE ENTITLED

AN ACT

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

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

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

CHAPTER 164. TAX ON DISCRETIONARY FOOD AND DRINK ITEMS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 164.001. DEFINITIONS. In this chapter:

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

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

The term includes:

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

(B) candy;

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

(D) popcorn;

(E) pretzels; and

(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 three cents on each individual bottle,
21 container, or package of ale, malt liquor, beer, soft drinks, snack
22 food, or wine, regardless of whether the bottle, container, or
23 package is sold individually.

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

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

1 (1) food or a beverage sold in or by a restaurant,
2 lunch counter, cafeteria, hotel, or other business for consumption
3 on the premises of the business; or

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

6 Sec. 164.053. RULES. The comptroller by rule shall
7 prescribe the manner in which the tax imposed under this chapter is
8 administered, imposed, and collected.

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, 2005.