

By: Bonnen of Brazoria

H.B. No. 3484

A BILL TO BE ENTITLED

AN ACT

relating to the application of sales and use taxes to certain food items; adding a provision subject to a criminal penalty.

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

SECTION 1. Section 151.314, Tax Code, is amended by amending Subsections (b-1), (c-2), and (h) and adding Subsection (c-4) to read as follows:

(b-1) For purposes of this section, "snack items" means ~~[includes]~~:

(1) breakfast bars, granola bars, nutrition bars, sports bars, protein bars, or yogurt bars, unless labeled and marketed as candy;

(2) snack mix or trail mix;

(3) nuts, but not including pine nuts or ~~[unless]~~ candy-coated nuts;

(4) popcorn; ~~and~~

(5) chips, crackers, ~~[or]~~ hard pretzels, pork rinds, or corn nuts;

(6) sunflower seeds or pumpkin seeds;

(7) ice cream, sherbet, or frozen yogurt; and

(8) ice pops, juice pops, sorbet, or other frozen fruit items containing not more than 50 percent fruit juice by volume.

(c-2) The exemption provided by Subsection (a) does not

1 include the following prepared food:

2 (1) food, food products, and drinks, including meals,
3 milk and milk products, fruit and fruit products, sandwiches,
4 salads, processed meats and seafoods, vegetable juice, and ice
5 cream in cones or small cups, served, prepared, or sold ready for
6 immediate consumption [~~in or~~] by restaurants, lunch counters,
7 cafeterias, delis, vending machines, hotels, or like places of
8 business or sold ready for immediate consumption from pushcarts,
9 motor vehicles, or any other form of vehicle;

10 (2) food sold in a heated state or heated by the
11 seller; or

12 (3) two or more food ingredients mixed or combined by
13 the seller for sale as a single item, including items that are sold
14 in an unheated state by weight or volume as a single item,
15 regardless of where prepared, but not including food that is only
16 cut, repackaged, or pasteurized by the seller.

17 (c-4) For purposes of Subdivision (c-2)(1), if a grocery
18 store or convenience store contains a type of location listed in
19 that subdivision, the store is considered a like place of business
20 for purposes of that subdivision, but only in relation to items sold
21 at that location.

22 (h) The exemption provided by Subsection (a) does not apply
23 to a snack item if the item is sold through a vending machine or is
24 sold in individual-sized portions. For purposes of this
25 subsection, an individual-sized portion is a portion that:

26 (1) is labeled as having not more than one serving; or
27 (2) contains less than 2.5 ounces[, ~~if the package~~

1 ~~does not specify the number of servings]~~.

2 SECTION 2. The change in law made by this Act does not
3 affect tax liability accruing before the effective date of this
4 Act. That liability continues in effect as if this Act had not been
5 enacted, and the former law is continued in effect for the
6 collection of taxes due and for civil and criminal enforcement of
7 the liability for those taxes.

8 SECTION 3. This Act takes effect September 1, 2015.