

By: Murphy

H.B. No. 4054

A BILL TO BE ENTITLED

AN ACT

relating to the application of sales and use taxes to certain food items.

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

SECTION 1. Section 151.314, Tax Code, is amended by amending Subsections (b), (c-2), and (c-3) and adding Subsection (b-2) to read as follows:

(b) "Food products" shall include, except as otherwise provided herein, but shall not be limited to cereals and cereal products; milk and milk products, including ice cream; oleomargarine; meat and meat products; poultry and poultry products; fish and fish products; eggs and egg products; vegetables and vegetable products; fruit and fruit products; spices, condiments, and salt; sugar and sugar products; coffee and coffee substitutes; tea; cocoa products; snack items; bakery items; or any combination of the above.

(b-2) For purposes of this section:

(1) "Bakery" means a retail location that primarily sells bakery items from a display case or counter, predominantly for consumption off the premises.

(2) "Bakery items" means bread, rolls, buns, biscuits, bagels, croissants, pastries, doughnuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, tortillas, and similar items.

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

1 include the following prepared food:

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

11 (2) except as provided by Subsection (c-3), food sold  
12 in a heated state or heated by the seller; or

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

18 (c-3) The exemption provided by Subsection (a) includes:

19 (1) bakery items sold by a bakery, regardless of  
20 whether heated by the consumer or seller [~~without plates or other~~  
21 ~~eating utensils, including bread, rolls, buns, biscuits, bagels,~~  
22 ~~croissants, pastries, doughnuts, Danish, cakes, tortes, pies,~~  
23 ~~tarts, muffins, bars, cookies, and tortillas~~]; and

24 (2) eggs, fish, meat, and poultry, and foods  
25 containing these raw animal foods, that require cooking by the  
26 consumer as recommended by the Food and Drug Administration in  
27 Chapter 3, Section 401.11 of its Food Code to prevent food-borne

1 illness and any other food that requires cooking by the consumer  
2 before the food is edible.

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

9         SECTION 3. This Act takes effect September 1, 2017.