

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 adding Subsection (b-2) and amending Subsections (c-2) and (c-3) to read as follows:

(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 include the following prepared food:

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

1 vehicle;

2 (2) except as provided by Subsection (c-3)(1), food
3 sold in a heated state or heated by the seller; or

4 (3) two or more food ingredients mixed or combined by
5 the seller for sale as a single item, including items that are sold
6 in an unheated state by weight or volume as a single item, but not
7 including food that is only cut, repackaged, or pasteurized by the
8 seller.

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

10 (1) bakery items sold by a bakery, regardless of
11 whether the items are:

12 (A) heated by the consumer or seller; or

13 (B) served with plates or other eating utensils;

14 (2) bakery items sold at a retail location other than a
15 bakery without plates or other eating utensils[~~, including bread,~~
16 ~~rolls, buns, biscuits, bagels, croissants, pastries, doughnuts,~~
17 ~~Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and~~
18 ~~tortillas~~]; and

19 (3) [(2)] eggs, fish, meat, and poultry, and foods
20 containing these raw animal foods, that require cooking by the
21 consumer as recommended by the Food and Drug Administration in
22 Chapter 3, Section 401.11 of its Food Code to prevent food-borne
23 illness and any other food that requires cooking by the consumer
24 before the food is edible.

25 SECTION 2. The change in law made by this Act does not
26 affect tax liability accruing before the effective date of this
27 Act. That liability continues in effect as if this Act had not been

1 enacted, and the former law is continued in effect for the
2 collection of taxes due and for civil and criminal enforcement of
3 the liability for those taxes.

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

President of the Senate

Speaker of the House

I certify that H.B. No. 4054 was passed by the House on May 3, 2017, by the following vote: Yeas 146, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 4054 on May 21, 2017, by the following vote: Yeas 140, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 4054 was passed by the Senate, with amendments, on May 19, 2017, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor