

By: Murphy

H.B. No. 4054

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the application of sales and use taxes to certain food  
3 items.

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

5 SECTION 1. Sections 151.314(c-2) and (c-3), Tax Code, are  
6 amended to read as follows:

7 (c-2) The exemption provided by Subsection (a) does not  
8 include the following prepared food:

9 (1) food, food products, and drinks, including meals,  
10 milk and milk products, fruit and fruit products, sandwiches,  
11 salads, processed meats and seafoods, vegetable juice, and ice  
12 cream in cones or small cups, served, prepared, or sold ready for  
13 immediate consumption by restaurants, lunch counters, cafeterias,  
14 delis, vending machines, hotels, or like places of business or sold  
15 ready for immediate consumption from pushcarts, motor vehicles, or  
16 any other form of vehicle;

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

19 (3) two or more food ingredients mixed or combined by  
20 the seller for sale as a single item, including items that are sold  
21 in an unheated state by weight or volume as a single item, but not  
22 including food that is only cut, repackaged, or pasteurized by the  
23 seller.

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

1           (1) bakery items, regardless of whether the item is  
2 heated by the consumer or seller [~~sold without plates or other~~  
3 ~~eating utensils~~], including bread, rolls, buns, biscuits, bagels,  
4 croissants, pastries, doughnuts, Danish, cakes, tortes, pies,  
5 tarts, muffins, bars, cookies, and tortillas; and

6           (2) eggs, fish, meat, and poultry, and foods  
7 containing these raw animal foods, that require cooking by the  
8 consumer as recommended by the Food and Drug Administration in  
9 Chapter 3, Section 401.11 of its Food Code to prevent food-borne  
10 illness and any other food that requires cooking by the consumer  
11 before the food is edible.

12           SECTION 2. The change in law made by this Act does not  
13 affect tax liability accruing before the effective date of this  
14 Act. That liability continues in effect as if this Act had not been  
15 enacted, and the former law is continued in effect for the  
16 collection of taxes due and for civil and criminal enforcement of  
17 the liability for those taxes.

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