

1-1 By: Murphy (Senate Sponsor - Bettencourt) H.B. No. 4054  
 1-2 (In the Senate - Received from the House May 3, 2017;  
 1-3 May 5, 2017, read first time and referred to Committee on Finance;  
 1-4 May 12, 2017, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 10, Nays 0; May 12, 2017,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12			X	
1-13	X			
1-14	X			
1-15			X	
1-16	X			
1-17			X	
1-18	X			
1-19			X	
1-20	X			
1-21	X			
1-22			X	
1-23	X			

1-24 COMMITTEE SUBSTITUTE FOR H.B. No. 4054 By: Nelson

1-25 A BILL TO BE ENTITLED  
 1-26 AN ACT

1-27 relating to the application of sales and use taxes to certain food  
 1-28 items.

1-29 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-30 SECTION 1. Section 151.314, Tax Code, is amended by adding  
 1-31 Subsection (b-2) and amending Subsections (c-2) and (c-3) to read  
 1-32 as follows:

1-33 (b-2) For purposes of this section:

1-34 (1) "Bakery" means a retail location that primarily  
 1-35 sells bakery items from a display case or counter, predominantly  
 1-36 for consumption off the premises.

1-37 (2) "Bakery items" means bread, rolls, buns, biscuits,  
 1-38 bagels, croissants, pastries, doughnuts, Danish, cakes, tortes,  
 1-39 pies, tarts, muffins, bars, cookies, tortillas, and similar items.

1-40 (c-2) The exemption provided by Subsection (a) does not  
 1-41 include the following prepared food:

1-42 (1) except as provided by Subsection (c-3)(1), food,  
 1-43 food products, and drinks, including meals, milk and milk products,  
 1-44 fruit and fruit products, sandwiches, salads, processed meats and  
 1-45 seafoods, vegetable juice, and ice cream in cones or small cups,  
 1-46 served, prepared, or sold ready for immediate consumption by  
 1-47 restaurants, lunch counters, cafeterias, delis, vending machines,  
 1-48 hotels, or like places of business or sold ready for immediate  
 1-49 consumption from pushcarts, motor vehicles, or any other form of  
 1-50 vehicle;

1-51 (2) except as provided by Subsection (c-3)(1), food  
 1-52 sold in a heated state or heated by the seller; or

1-53 (3) two or more food ingredients mixed or combined by  
 1-54 the seller for sale as a single item, including items that are sold  
 1-55 in an unheated state by weight or volume as a single item, but not  
 1-56 including food that is only cut, repackaged, or pasteurized by the  
 1-57 seller.

1-58 (c-3) The exemption provided by Subsection (a) includes:

1-59 (1) bakery items sold by a bakery, regardless of  
 1-60 whether the items are:

2-1 (A) heated by the consumer or seller; or  
 2-2 (B) served with plates or other eating utensils;  
 2-3 (2) bakery items sold at a retail location other than a  
 2-4 bakery without plates or other eating utensils[~~, including bread,~~  
 2-5 ~~rolls, buns, biscuits, bagels, croissants, pastries, doughnuts,~~  
 2-6 ~~Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and~~  
 2-7 ~~tortillas]; and~~

2-8 (3) [~~(2)~~] eggs, fish, meat, and poultry, and foods  
 2-9 containing these raw animal foods, that require cooking by the  
 2-10 consumer as recommended by the Food and Drug Administration in  
 2-11 Chapter 3, Section 401.11 of its Food Code to prevent food-borne  
 2-12 illness and any other food that requires cooking by the consumer  
 2-13 before the food is edible.

2-14 SECTION 2. The change in law made by this Act does not  
 2-15 affect tax liability accruing before the effective date of this  
 2-16 Act. That liability continues in effect as if this Act had not been  
 2-17 enacted, and the former law is continued in effect for the  
 2-18 collection of taxes due and for civil and criminal enforcement of  
 2-19 the liability for those taxes.

2-20 SECTION 3. This Act takes effect September 1, 2017.

2-21 \* \* \* \* \*