

HOUSE BILL 2202

State of Washington

52nd Legislature 1991 1st Special Session

By Representative Appelwick.

Read first time June 10, 1991. Referred to Committee on Revenue.

1 AN ACT Relating to funding nonemployee-related costs of the
2 superintendent of public instruction; amending RCW 82.08.0293 and
3 82.12.0293; adding a new section to chapter 82.32 RCW; and making an
4 appropriation.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 82.08.0293 and 1988 c 103 s 1 are each amended to read
7 as follows:

8 (1) (a) The tax levied by RCW 82.08.020 shall not apply to sales of
9 food products for human consumption.

10 (b) "Food products" include cereals and cereal products other than
11 those expressly excluded under (g) or (i) of this subsection,
12 oleomargarine, meat and meat products including livestock sold for
13 personal consumption, fish and fish products, eggs and egg products,

1 vegetables and vegetable products, fruit and fruit products, spices and
2 salt, sugar and sugar products, coffee and coffee substitutes, tea,
3 cocoa and cocoa products.

4 (c) "Food products" include milk and milk products (, ~~milk shakes,~~
5 ~~maltese milks,~~ and any other similar type beverages which are composed
6 at least in part of milk or a milk product and which require the use of
7 milk or a milk product in their preparation) other than those
8 expressly excluded under (h) of this subsection.

9 (d) "Food products" include all fruit juices, vegetable juices, and
10 other beverages except ~~milk shakes, maltese milks,~~ bottled water,
11 spirituous, malt or vinous liquors or carbonated beverages, whether
12 liquid or frozen.

13 (e) "Food products" do not include medicines and preparations in
14 liquid, powdered, granular, tablet, capsule, lozenge, and pill form
15 sold as dietary supplements or adjuncts.

16 (f) "Food products" do not include candy and gum products. "Candy
17 products" include, but are not limited to loose, bulk, and individually
18 packaged confections that are commonly considered candy, including hard
19 candy, caramel, chocolate candy, nuts and fruit coated in natural or
20 artificial sweeteners, caramel-coated popcorn, licorice, jelly beans,
21 breath mints, and cotton candy. Confections that are primarily sold for
22 cooking purposes shall not be considered candy for the purposes of this
23 section and are not subject to tax. Candy products do not include
24 sweet bakery products, ice cream or other sweet dairy products, jams,
25 jellies, preserves, honey, syrup, frosting, breakfast cereals, granola
26 and other breakfast bars, dried fruit and preparations of fruit in a
27 sugar or similar base, or candy and chocolate primarily intended for
28 the preparation or decorating of baked goods. "Gum products" include
29 all forms of chewing gum, whether sweetened with natural or artificial
30 sweeteners. Gum products shall not include gum or other products

1 alleged by the manufacturer to contain aspirin, laxative, anti-acidity,
2 or other medicinal properties.

3 (g) "Food products" do not include fresh or frozen doughnuts,
4 cakes, cupcakes, cookies, and pies, other than those baked in the
5 retail store for sale in that store.

6 (h) "Food products" do not include ice cream, ice cream bars, ice
7 milk and ice milk products, or other products made from natural or
8 artificial frozen dairy products, milk shakes, malted milk, and similar
9 beverages made from natural or artificial frozen dairy products, frozen
10 yogurt and frozen yogurt products, including beverages made with frozen
11 yogurt, sherbet, popsicles and similar frozen drink bars, frozen fruit
12 juice bars, frozen pudding, frozen gelatin, or any other similar frozen
13 dessert that the general consuming public would consider to be an ice
14 cream or similar product.

15 (i) "Food products" do not include potato chips, corn chips,
16 tortilla chips, pretzels, puffed cheese, or similar snack products
17 other than crackers and nuts.

18 (2) The department of revenue, by rule, shall further identify food
19 items, consistent with subsection (1) (b) through (i) of this section,
20 that are not included within the definition of "food products" for
21 purposes of sales tax exemption under this chapter.

22 (3) The exemption of "food products" provided for in subsection (1)
23 of this section shall not apply: (a) When the food products are
24 ordinarily sold for immediate consumption on or near a location at
25 which parking facilities are provided primarily for the use of patrons
26 in consuming the products purchased at the location, even though such
27 products are sold on a "takeout" or "to go" order and are actually
28 packaged or wrapped and taken from the premises of the retailer, or (b)
29 when the food products are sold for consumption within a place, the
30 entrance to which is subject to an admission charge, except for

1 national and state parks and monuments, or (c) to a food product, when
2 sold by the retail vendor, which by law must be handled on the vendor's
3 premises by a person with a food and beverage service worker's permit
4 under RCW 69.06.010, including but not be limited to sandwiches
5 prepared or chicken cooked on the premises, deli trays, home-delivered
6 pizzas or meals, and salad bars but excluding:

7 (i) Raw meat prepared by persons who slaughter animals, including
8 fish and fowl, or dress or wrap slaughtered raw meat such as fish
9 mongers, butchers, or meat wrappers;

10 (ii) Meat and cheese sliced and/or wrapped, in any quantity
11 determined by the buyer, sold by vendors such as meat markets,
12 delicatessens, and grocery stores;

13 (iii) Bakeries which only sell baked goods;

14 (iv) Combination bakery businesses, as prescribed by rule of the
15 department, to the extent that sales of baked goods are separately
16 accounted for and the baked goods claimed for exemption are not sold as
17 part of meals or with beverages in unsealed containers; or

18 (v) Bulk food products sold from bins or barrels, including but not
19 limited to flour, fruits, vegetables, sugar, salt, ((candy, chips,))
20 and cocoa.

21 ((+3))) (4) Notwithstanding anything in this section to the
22 contrary, the exemption of "food products" provided in this section
23 shall apply to ((food products)) all food items which are furnished,
24 prepared, or served as meals:

25 (a) Under a state administered nutrition program for the aged as
26 provided for in the Older Americans Act (P.L. 95-478 Title III) and RCW
27 74.38.040(6); or

28 (b) Which are provided to senior citizens, disabled persons, or
29 low-income persons by a not-for-profit organization organized under
30 chapter 24.03 or 24.12 RCW.

1 ((+4)) (5) Subsection (1) of this section notwithstanding, the
2 retail sale of food products and all other food items excluded from the
3 definition of "food products" under this section is subject to sales
4 tax under RCW 82.08.020 if ((the food products are)) sold through a
5 vending machine, and in this case the selling price for purposes of RCW
6 82.08.020 is ((fifty-seven)) seventy-five percent of the gross
7 receipts.

8 This ((subsection)) special selling price does not apply to
9 carbonated beverages or to hot prepared food products, ((other than
10 food products)) which are heated after they have been dispensed from
11 the vending machine.

12 For tax collected under this subsection, the requirements that the
13 tax be collected from the buyer and that the amount of tax be stated as
14 a separate item are waived.

15 **Sec. 2.** RCW 82.12.0293 and 1988 c 103 s 2 are each amended to read
16 as follows:

17 (1)(a) The provisions of this chapter shall not apply in respect to
18 the use of food products for human consumption.

19 (b) "Food products" include cereals and cereal products other than
20 those expressly excluded under (g) or (i) of this subsection,
21 oleomargarine, meat and meat products including livestock sold for
22 personal consumption, fish and fish products, eggs and egg products,
23 vegetables and vegetable products, fruit and fruit products, spices and
24 salt, sugar and sugar products, coffee and coffee substitutes, tea,
25 cocoa and cocoa products.

26 (c) "Food products" include milk and milk products((, milk shakes,
27 malted milks, and any other similar type beverages which are composed

1 at least in part of milk or a milk product and which require the use of
2 milk or a milk product in their preparation) other than those
3 expressly excluded under (h) of this subsection.

4 (d) "Food products" include all fruit juices, vegetable juices, and
5 other beverages except milk shakes, malted milks, bottled water,
6 spirituous, malt or vinous liquors or carbonated beverages, whether
7 liquid or frozen.

8 (e) "Food products" do not include medicines and preparations in
9 liquid, powdered, granular, tablet, capsule, lozenge, and pill form
10 sold as dietary supplements or adjuncts.

11 (f) "Food products" do not include candy and gum products. "Candy
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13 packaged confections that are commonly considered candy, including hard
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15 artificial sweeteners, caramel-coated popcorn, licorice, jelly beans,
16 breath mints, and cotton candy. Confections that are primarily sold for
17 cooking purposes shall not be considered candy for the purposes of this
18 section and are not subject to tax. Candy products do not include
19 sweet bakery products, ice cream or other sweet dairy products, jams,
20 jellies, preserves, honey, syrup, frosting, breakfast cereals, granola
21 and other breakfast bars, dried fruit and preparations of fruit in a
22 sugar or similar base, or candy and chocolate primarily intended for
23 the preparation or decorating of baked goods. "Gum products" include
24 all forms of chewing gum, whether sweetened with natural or artificial
25 sweeteners. Gum products shall not include gum or other products
26 alleged by the manufacturer to contain aspirin, laxative, anti-acidity,
27 or other medicinal properties.

28 (g) "Food products" do not include fresh or frozen doughnuts,
29 cakes, cupcakes, cookies, and pies, other than those baked in the
30 retail store for sale in that store.

1 (h) "Food products" do not include ice cream, ice cream bars, ice
2 milk and ice milk products, or other products made from natural or
3 artificial frozen dairy products, milk shakes, malted milk, and similar
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5 yogurt and frozen yogurt products, including beverages made with frozen
6 yogurt, sherbet, popsicles and similar frozen drink bars, frozen fruit
7 juice bars, frozen pudding, frozen gelatin, or any other similar frozen
8 dessert that the general consuming public would consider to be an ice
9 cream or similar product.

10 (i) "Food products" do not include potato chips, corn chips,
11 tortilla chips, pretzels, puffed cheese, or similar snack products
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13 (2) The department of revenue, by rule, shall further identify food
14 items, consistent with subsection (1) (b) through (i) of this section,
15 that are not included within the definition of "food products" for
16 purposes of sales tax exemption under this chapter.

17 (3) The exemption of "food products" provided for in subsection (1)
18 of this section shall not apply: (a) When the food products are
19 ordinarily sold for immediate consumption on or near a location at
20 which parking facilities are provided primarily for the use of patrons
21 in consuming the products purchased at the location, even though such
22 products are sold on a "takeout" or "to go" order and are actually
23 packaged or wrapped and taken from the premises of the retailer, or (b)
24 when the food products are sold for consumption within a place, the
25 entrance to which is subject to an admission charge, except for
26 national and state parks and monuments, or (c) to a food product, when
27 sold by the retail vendor, which by law must be handled on the vendor's
28 premises by a person with a food and beverage service worker's permit
29 under RCW 69.06.010, including but not be limited to sandwiches

1 prepared or chicken cooked on the premises, deli trays, home-delivered
2 pizzas or meals, and salad bars but excluding:

3 (i) Raw meat prepared by persons who slaughter animals, including
4 fish and fowl, or dress or wrap slaughtered raw meat such as fish
5 mongers, butchers, or meat wrappers;

6 (ii) Meat and cheese sliced and/or wrapped, in any quantity
7 determined by the buyer, sold by vendors such as meat markets,
8 delicatessens, and grocery stores;

9 (iii) Bakeries which only sell baked goods;

10 (iv) Combination bakery businesses, as prescribed by rule of the
11 department, to the extent that sales of baked goods are separately
12 accounted for and the baked goods claimed for exemption are not sold as
13 part of meals or with beverages in unsealed containers; or

14 (v) Bulk food products sold from bins or barrels, including but not
15 limited to flour, fruits, vegetables, sugar, salt, ((candy, chips,))
16 and cocoa.

17 ((+3))) (4) Notwithstanding anything in this section to the
18 contrary, the exemption of "food products" provided in this section
19 shall apply to ((food products)) all food items which are furnished,
20 prepared, or served as meals:

21 (a) Under a state administered nutrition program for the aged as
22 provided for in the Older Americans Act (P.L. 95-478 Title III) and RCW
23 74.38.040(6); or

24 (b) Which are provided to senior citizens, disabled persons, or
25 low-income persons by a not-for-profit organization organized under
26 chapter 24.03 or 24.12 RCW.

27 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.32 RCW
28 to read as follows:

1 (1) The intent of this section is to provide a dedicated revenue
2 source. Since it is not practical to determine precisely the revenues
3 derived from the termination of tax exemptions for certain items
4 excluded from the definition of food products under RCW 82.08.0293(1)
5 (f), (g), (h), and (i) and 82.12.0293(1) (f), (g), (h), and (i), a
6 fixed percentage of all sales and use taxes shall be dedicated in lieu
7 thereof.

8 (2) On or before January 1 of each year, the department of revenue
9 shall provide the legislature with an updated estimate of the
10 percentage of sales and use tax revenues attributable to the
11 termination of tax exemptions for certain items excluded from the
12 definition of food products under RCW 82.08.0293(1) (f), (g), (h), and
13 (i) and 82.12.0293(1) (f), (g), (h), and (i).

14 (3) Until July 1, 1993, thirty-nine hundredths of one percent of
15 all receipts from the taxes imposed in RCW 82.08.020 and 82.12.020
16 shall be deposited in the general fund and sixty-one hundredths of one
17 percent of all receipts from the taxes imposed in RCW 82.08.020 and
18 82.12.020 shall be deposited in the common school construction fund.
19 On and after July 1, 1993, one percent of all receipts from the taxes
20 imposed in RCW 82.08.020 and 82.12.020 shall be deposited in the common
21 school construction fund.

22 NEW SECTION. **Sec. 4.** The sum of thirty million dollars, or as
23 much thereof as may be necessary, is appropriated for the biennium
24 ending June 30, 1993, from the general fund to the superintendent of
25 public instruction for the purposes of nonemployee-related costs.