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SENATE BILL 5928

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State of Washington

58th Legislature

2003 Regular Session

By Senators Franklin and Winsley

Read first time 02/20/2003. Referred to Committee on Ways & Means.

1 AN ACT Relating to the retail sales and use taxation of candy;  
2 amending RCW 82.08.0293 and 82.12.0293; adding a new section to chapter  
3 82.32 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature recognizes that public  
6 health programs are the first line of defense against threats of  
7 bioterrorism and epidemics. The legislature also recognizes that  
8 federal funding for protection against bioterrorism and other safety  
9 measures are primarily for planning, not for implementation.

10 Furthermore, the legislature finds that poor nutrition contributes  
11 to significant and expensive health problems in our society, including  
12 obesity, tooth decay, cardiovascular disease, diabetes, and cancer.  
13 The legislature recognizes the value of creating disincentives for  
14 unhealthy behavior, including poor eating habits.

15 The state's public health system is an important resource for  
16 protecting the population as well as promoting good nutrition and  
17 helping to reduce the incidence of disease in the population. The  
18 legislature recognizes that public health programs are not adequately  
19 funded to carry out their job of protecting the public's health.

1       The legislature declares that paying for programs that will help  
2 protect the public against disease and bioterrorism is a necessary and  
3 worthy cause.

4       **Sec. 2.** RCW 82.08.0293 and 1988 c 103 s 1 are each amended to read  
5 as follows:

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

8       "Food products" include cereals and cereal products, oleomargarine,  
9 meat and meat products including livestock sold for personal  
10 consumption, fish and fish products, eggs and egg products, vegetables  
11 and vegetable products, fruit and fruit products, spices and salt,  
12 sugar and sugar products, coffee and coffee substitutes, tea, cocoa and  
13 cocoa products.

14       "Food products" include milk and milk products, milk shakes, malted  
15 milks, and any other similar type beverages which are composed at least  
16 in part of milk or a milk product and which require the use of milk or  
17 a milk product in their preparation.

18       "Food products" include all fruit juices, vegetable juices, and  
19 other beverages except bottled water, spirituous, malt or vinous  
20 liquors or carbonated beverages, whether liquid or frozen.

21       "Food products" do not include medicines and preparations in  
22 liquid, powdered, granular, tablet, capsule, lozenge, and pill form  
23 sold as dietary supplements or adjuncts.

24       (2) The exemption of "food products" provided for in subsection (1)  
25 of this section shall not apply: (a) When the food products are  
26 ordinarily sold for immediate consumption on or near a location at  
27 which parking facilities are provided primarily for the use of patrons  
28 in consuming the products purchased at the location, even though such  
29 products are sold on a "takeout" or "to go" order and are actually  
30 packaged or wrapped and taken from the premises of the retailer, or (b)  
31 when the food products are sold for consumption within a place, the  
32 entrance to which is subject to an admission charge, except for  
33 national and state parks and monuments, or (c) to a food product, when  
34 sold by the retail vendor, which by law must be handled on the vendor's  
35 premises by a person with a food and beverage service worker's permit  
36 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) Notwithstanding anything in this section to the contrary, the  
18 exemption of "food products" provided in this section shall apply to  
19 food products which are furnished, prepared, or served as meals:

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

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

26 (4) Subsection (1) of this section notwithstanding, the retail sale  
27 of food products is subject to sales tax under RCW 82.08.020 if the  
28 food products are sold through a vending machine, and in this case the  
29 selling price for purposes of RCW 82.08.020 is fifty-seven percent of  
30 the gross receipts.

31 This subsection does not apply to hot prepared food products, other  
32 than food products which are heated after they have been dispensed from  
33 the vending machine.

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

37 (5) The exemption of "food products" provided for in subsection (1)  
38 of this section shall not apply to candy. For purposes of this

1 subsection, "candy" means a preparation of sugar, honey, or other  
2 natural or artificial sweeteners in combination with chocolate, fruits,  
3 nuts, or other ingredients or flavorings in the form of bars, drops, or  
4 pieces. Candy does not include any preparation containing flour nor  
5 shall it include any products that require refrigeration.

6 **Sec. 3.** RCW 82.12.0293 and 1988 c 103 s 2 are each amended to read  
7 as follows:

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

10 "Food products" include cereals and cereal products, oleomargarine,  
11 meat and meat products including livestock sold for personal  
12 consumption, fish and fish products, eggs and egg products, vegetables  
13 and vegetable products, fruit and fruit products, spices and salt,  
14 sugar and sugar products, coffee and coffee substitutes, tea, cocoa and  
15 cocoa products.

16 "Food products" include milk and milk products, milk shakes, malted  
17 milks, and any other similar type beverages which are composed at least  
18 in part of milk or a milk product and which require the use of milk or  
19 a milk product in their preparation.

20 "Food products" include all fruit juices, vegetable juices, and  
21 other beverages except bottled water, spirituous, malt or vinous  
22 liquors or carbonated beverages, whether liquid or frozen.

23 "Food products" do not include medicines and preparations in  
24 liquid, powdered, granular, tablet, capsule, lozenge, and pill form  
25 sold as dietary supplements or adjuncts.

26 (2) The exemption of "food products" provided for in subsection (1)  
27 of this section shall not apply: (a) When the food products are  
28 ordinarily sold for immediate consumption on or near a location at  
29 which parking facilities are provided primarily for the use of patrons  
30 in consuming the products purchased at the location, even though such  
31 products are sold on a "takeout" or "to go" order and are actually  
32 packaged or wrapped and taken from the premises of the retailer, or (b)  
33 when the food products are sold for consumption within a place, the  
34 entrance to which is subject to an admission charge, except for  
35 national and state parks and monuments, or (c) to a food product, when  
36 sold by the retail vendor, which by law must be handled on the vendor's  
37 premises by a person with a food and beverage service worker's permit

1 under RCW 69.06.010, including but not ((be)) limited to sandwiches  
2 prepared or chicken cooked on the premises, deli trays, home-delivered  
3 pizzas or meals, and salad bars but excluding:

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

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

10 (iii) Bakeries which only sell baked goods;

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

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

18 (3) Notwithstanding anything in this section to the contrary, the  
19 exemption of "food products" provided in this section shall apply to  
20 food products which are furnished, 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 (4) The exemption of "food products" provided for in subsection (1)  
28 of this section shall not apply to candy. For purposes of this  
29 subsection, "candy" means a preparation of sugar, honey, or other  
30 natural or artificial sweeteners in combination with chocolate, fruits,  
31 nuts, or other ingredients or flavorings in the form of bars, drops, or  
32 pieces. Candy does not include any preparation containing flour nor  
33 shall it include any products that require refrigeration.

34 NEW SECTION. Sec. 4. A new section is added to chapter 82.32 RCW  
35 to read as follows:

36 The department of revenue shall deposit twenty-five one-hundredths

1 of one percent of the revenues collected under chapters 82.08 and 82.12  
2 RCW into the county public health account in RCW 70.05.125.

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