

HOUSE BILL 261

Q4

5lr2527
CF 5lr1659

By: **Delegates Turner, Atterbeary, Ebersole, Hill, Lam, and Pendergrass**

Introduced and read first time: February 4, 2015

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Sales and Use Tax – Bottled Water – Exemption**

3 FOR the purpose of providing an exemption from the sales and use tax for certain sales of
4 bottled water; clarifying that the exemption does not apply to certain sales of bottled
5 water; defining a certain term; and generally relating to the application of the sales
6 and use tax to bottled water.

7 BY repealing and reenacting, with amendments,
8 Article – Tax – General
9 Section 11–206
10 Annotated Code of Maryland
11 (2010 Replacement Volume and 2014 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
13 That the Laws of Maryland read as follows:

14 **Article – Tax – General**

15 11–206.

16 (a) (1) In this section the following words have the meanings indicated.

17 (2) **“BOTTLED WATER” MEANS WATER THAT:**

18 (I) **COMES PACKAGED IN ANY CLOSED OR SEALED CONTAINER**
19 **OF ANY SIZE OR SHAPE;**

20 (II) **CONTAINS NO:**

21 **1. CALORIES;**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 2. ADDED NUTRITIVE OR NONNUTRITIVE SWEETENERS;
- 2 3. ARTIFICIAL FLAVORS, NATURAL FLAVORS, OR
- 3 ESSENCES;
- 4 4. PRESERVATIVES;
- 5 5. DYES; OR
- 6 6. STIMULANTS OR DEPRESSANTS; AND

7 (III) IS STILL OR NOT CARBONATED.

8 (3) “Facility for food consumption” does not include parking spaces for
9 vehicles as the sole accommodation.

10 [(3)] (4) (i) “Food” means food for human consumption.

11 (ii) “Food” includes the following foods and their products:

- 12 1. beverages, including coffee, coffee substitutes, cocoa, fruit
- 13 juices, and tea;
- 14 2. condiments;
- 15 3. eggs;
- 16 4. fish, meat, and poultry;
- 17 5. fruit, grain, and vegetables;
- 18 6. milk, including ice cream; and
- 19 7. sugar.

20 (iii) “Food” does not include:

- 21 1. an alcoholic beverage as defined in § 5–101 of this article;
- 22 2. a soft drink or carbonated beverage; or
- 23 3. candy or confectionery.

24 [(4)] (5) “Food for immediate consumption” means:

- 1 (i) food obtained from a salad, soup, or dessert bar;
- 2 (ii) party platters;
- 3 (iii) heated food;
- 4 (iv) sandwiches suitable for immediate consumption; or
- 5 (v) ice cream, frozen yogurt, and other frozen desserts, sold in
- 6 containers of less than 1 pint.

7 [(5)] (6) "Premises" includes any building, grounds, parking lot, or other
 8 area that:

- 9 (i) a food vendor owns or controls; or
- 10 (ii) another person makes available primarily for the use of the
- 11 patrons of 1 or more food vendors.

12 [(6)] (7) "Substantial grocery or market business" means a business at
 13 which at least 10% of all sales of food are sales of grocery or market food items, not including
 14 food normally consumed on the premises even though it is packaged to carry out.

15 (b) The sales and use tax does not apply to a sale of food stamp eligible food, as
 16 defined in 7 U.S.C. § 2012, bought with a food coupon issued in accordance with 7 U.S.C. §
 17 2016.

18 (c) (1) Except as provided in paragraph (2) of this subsection, the sales and
 19 use tax does not apply to a sale of **BOTTLED WATER OR** food for consumption off the
 20 premises by a food vendor who operates a substantial grocery or market business at the
 21 same location where the **BOTTLED WATER OR** food is sold.

22 (2) The exemption under paragraph (1) of this subsection does not apply to:

23 (i) food **OR BOTTLED WATER** that the vendor serves for
 24 consumption on the premises of the buyer or of a third party; [or]

25 (ii) food for immediate consumption; **OR**

26 **(III) BOTTLED WATER SOLD WITH FOOD FOR IMMEDIATE**
 27 **CONSUMPTION.**

28 (d) The sales and use tax does not apply to:

29 (1) a sale of food:

1 (i) to patients in a hospital when the food charge is included in the
2 regular room rate;

3 (ii) by a church or religious organization;

4 (iii) by a school other than an institution of postsecondary education,
5 including sales at a school by a food concessionaire that is under contract with the school
6 or with its designated contract agent, but not including sales at events that are not
7 sponsored by the school or are not educationally related;

8 (iv) to students at an institution of postsecondary education if the
9 food charge is for a meal plan or is included in the regular charge for room and board; or

10 (v) by a nonprofit food vendor if there are no facilities for food
11 consumption on the premises, unless the food is sold within an enclosure for which a charge
12 is made for admission;

13 (2) if the proceeds of the sale are used to support a bona fide nationally
14 organized and recognized organization of veterans of the armed forces of the United States
15 or auxiliary of the organization or 1 of its units, a sale of food or meals for consumption only
16 on the premises, served by the organization or auxiliary;

17 (3) if the proceeds of the sale are used to support a volunteer fire company
18 or department or its auxiliary or a volunteer ambulance company or rescue squad or its
19 auxiliary, a sale of food served by the company, department, squad, or auxiliary; or

20 (4) a sale of food, bottled water, soft drink or carbonated beverage, or candy
21 or confectionery by a nonprofit food vendor at a youth sporting event or 4-H youth event
22 for individuals under the age of 18 years if there are no facilities for food consumption on
23 the premises, unless the sale is within an enclosure for which a charge is made for
24 admission.

25 (e) The sales and use tax does not apply to a sale of food or any beverage in a
26 vehicle that is being operated in the State while in the course of interstate commerce.

27 (f) The sales and use tax does not apply to a sale for consumption off the premises
28 of:

29 (1) crabs; or

30 (2) seafood that is not prepared for immediate consumption.

31 (g) (1) In this subsection, "snack food" means:

32 (i) potato chips and sticks;

33 (ii) corn chips;

- 1 (iii) pretzels;
- 2 (iv) cheese puffs and curls;
- 3 (v) pork rinds;
- 4 (vi) extruded pretzels and chips;
- 5 (vii) popped popcorn;
- 6 (viii) nuts and edible seeds; or
- 7 (ix) snack mixtures that contain any one or more of the foods listed
- 8 in items (i) through (viii) of this paragraph.

9 (2) The sales and use tax does not apply to the sale of snack food through
10 a vending machine.

11 (h) The sales and use tax does not apply to the sale through a vending machine of
12 milk, fresh fruit, fresh vegetables, or yogurt.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
14 1, 2015.