

Senate Bill No. 25—Committee on
Revenue and Economic Development

CHAPTER.....

AN ACT relating to taxation; revising provisions governing the determination of whether food for human consumption is subject to sales and use taxes; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Nevada Tax Commission to enter into the Streamlined Sales and Use Tax Agreement and to take any other actions reasonably required to implement the provisions of the Agreement, such as adopting necessary regulations. (NRS 360B.110)

Existing law generally exempts food for human consumption from sales and use taxes in this State. However, existing law excludes from this exemption, and imposes sales and use taxes on, prepared food intended for immediate consumption. (Nev. Const. Art. 10, § 3[A]; NRS 372.284, 374.289) Consistent with the Agreement, existing law defines “prepared food” to include food sold with eating utensils provided by the seller. (NRS 360B.460) In accordance with its obligation to adopt regulations to implement the Agreement, the Nevada Tax Commission adopted, and the Legislative Commission approved, LCB File No. R056-18 which establishes a method to determine whether food sold at retail is deemed to be sold with eating utensils provided by the seller. Under LCB File No. R056-18, this determination is based on the percentage of food sold by the seller that qualifies as prepared food. This methodology was derived from interpretive guidance on the meaning of “prepared food” as used in the Agreement, which was adopted by the Streamlined Sales Tax Governing Board, of which Nevada is a member state. (Streamlined Sales Tax Governing Board, Interpretation 2006-04, April 18, 2006)

This bill eliminates a requirement of existing law which predates this State’s adoption of the Streamlined Sales and Use Tax Agreement and which requires the Department of Taxation, in determining whether food intended for human consumption is subject to the sales and use tax, to base its determination on whether the food is intended for immediate consumption and not on the type of establishment where the food is sold. (NRS 372.2841, 374.2891)

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- Section 1.** NRS 372.2841 and 374.2891 are hereby repealed.
Sec. 2. This act becomes effective upon passage and approval.

