

SENATE BILL 428

By Southerland

AN ACT to amend Tennessee Code Annotated, Title 67,  
Chapter 6, relative to taxation of retail sales of  
food and food ingredients.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-6-228, is amended by deleting the section in its entirety and by substituting instead the following:

67-6-228.

(a)

(1) Notwithstanding any provision of this part to the contrary, except as otherwise provided in subdivision (a)(2) and subsection (b), the retail sale of food and food ingredients for human consumption shall be taxed at the rate of five and one half percent (5.5%) of the sales price.

(2)

(A) On April 15 each year, the commissioner of finance and administration, in consultation with the commissioner of revenue, shall certify the amount of surplus state revenue collected above budgeted estimates during the then current fiscal year and notify the governor, speaker of the senate, speaker of the house of representatives, state treasurer, and commissioner of revenue of that amount.

(B) If the surplus amount exceeds fifty million dollars (\$50,000,000), the rate of taxation on food and food ingredients shall be reduced by one-half percent (0.5%) on the next July 1. By June 15 in any year in which this surplus amount is available, the commissioner of revenue shall publish the rate of taxation at which the retail sale of food

and food ingredients for human consumption shall be taxed beginning July 1 of such year. This reduced rate, if any, shall be a percentage of the sales price and shall remain effective until the commissioner's next reduced rate.

(C) The department of revenue is authorized to promulgate rules and regulations as the department may deem necessary to effectuate the purposes of this subdivision (a)(2). All such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. Notwithstanding §§ 4-5-208 and 4-5-209 or any other law to the contrary, the department of revenue is authorized to promulgate public necessity rules to implement this subdivision (a)(2).

(b) The retail sale of food and food ingredients sold as prepared food, alcoholic beverages, candy, dietary supplements, and tobacco shall be taxed at the rate levied on the sale of tangible personal property at retail by § 67-6-202.

SECTION 2. This act shall take effect on July 1, 2011, the public welfare requiring it.