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# A BILL FOR AN ACT

RELATING TO GENERAL EXCISE TAX.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The purpose of this Act is to offset the  
2 regressive nature of the general excise tax by exempting from  
3 the state general excise tax the sale of food qualifying under  
4 The Special Supplemental Foods Program for Women, Infants, and  
5 Children (WIC program) administered by the federal Food and  
6 Nutrition Service of the United States Department of  
7 Agriculture.

8           The legislature finds that Hawaii is among a minority of  
9 states that provide no exemption from the state excise or sales  
10 tax for the sale of food. This Act, which exempts the sale of  
11 certain types of food from the general excise tax, would allow  
12 Hawaii to join the majority of states in recognizing the  
13 societal benefit of providing targeted tax relief for food  
14 purchases.

15           Food items to be exempted from the general excise tax are  
16 those listed in the Hawaii WIC program food list. These food  
17 items have been chosen for exemption from the general excise tax



1 because they have been recognized by the Hawaii WIC program as  
2 being highly nutritious components of a healthy diet.

3 SECTION 2. Section 237-24.3, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§237-24.3 Additional amounts not taxable.** In addition to  
6 the amounts not taxable under section 237-24, this chapter shall  
7 not apply to:

8 (1) Amounts received from the loading, transportation, and  
9 unloading of agricultural commodities shipped for a  
10 producer or produce dealer on one island of this State  
11 to a person, firm, or organization on another island  
12 of this State. The terms "agricultural commodity",  
13 "producer", and "produce dealer" shall be defined in  
14 the same manner as they are defined in section 147-1;  
15 provided that agricultural commodities need not have  
16 been produced in the State;

17 (2) Amounts received from sales of:

18 (A) Intoxicating liquor as the term "liquor" is  
19 defined in chapter 244D;

20 (B) Cigarettes and tobacco products as defined in  
21 chapter 245; and

22 (C) Agricultural, meat, or fish products;



1 to any person or common carrier in interstate or  
2 foreign commerce, or both, whether ocean-going or air,  
3 for consumption out-of-state on the shipper's vessels  
4 or airplanes;

5 (3) Amounts received by the manager or board of directors  
6 of:

7 (A) An association of apartment owners of a  
8 condominium property regime established in  
9 accordance with chapter 514B; or

10 (B) A nonprofit homeowners or community association  
11 incorporated in accordance with chapter 414D or  
12 any predecessor thereto and existing pursuant to  
13 covenants running with the land,

14 in reimbursement of sums paid for common expenses;

15 (4) Amounts received or accrued from:

16 (A) The loading or unloading of cargo from ships,  
17 barges, vessels, or aircraft, whether or not the  
18 ships, barges, vessels, or aircraft travel  
19 between the State and other states or countries  
20 or between the islands of the State;

21 (B) Tugboat services including pilotage fees  
22 performed within the State, and the towage of



1           ships, barges, or vessels in and out of state  
2           harbors, or from one pier to another; and  
3       (C) The transportation of pilots or governmental  
4           officials to ships, barges, or vessels offshore;  
5           rigging gear; checking freight and similar  
6           services; standby charges; and use of moorings  
7           and running mooring lines;  
8       (5) Amounts received by an employee benefit plan by way of  
9           contributions, dividends, interest, and other income;  
10          and amounts received by a nonprofit organization or  
11          office, as payments for costs and expenses incurred  
12          for the administration of an employee benefit plan;  
13          provided that this exemption shall not apply to any  
14          gross rental income or gross rental proceeds received  
15          after June 30, 1994, as income from investments in  
16          real property in this State; and provided further that  
17          gross rental income or gross rental proceeds from  
18          investments in real property received by an employee  
19          benefit plan after June 30, 1994, under written  
20          contracts executed prior to July 1, 1994, shall not be  
21          taxed until the contracts are renegotiated, renewed,  
22          or extended, or until after December 31, 1998,



1           whichecker is earlier. For the purposes of this  
2           paragraph, "employee benefit plan" means any plan as  
3           defined in section 1002(3) of title 29 of the United  
4           States Code, as amended;

5           (6) Amounts received for [~~purchases~~]:

6           (A) Purchases made with United States Department of  
7           Agriculture food coupons under the federal food  
8           stamp program[, ~~and amounts received for~~  
9           ~~purchases~~];

10          (B) Purchases made with United States Department of  
11          Agriculture food vouchers under the Special  
12          Supplemental Foods Program for Women, Infants and  
13          Children; and

14          (C) Purchases by any purchaser of items that qualify  
15          under the Special Supplemental Food Program for  
16          Women, Infants, and Children as of January 1,  
17          2008, and as amended thereafter; provided that if  
18          the Special Supplemental Foods Program for Women,  
19          Infants, and Children ceases, proceeds from  
20          purchases of the most recent qualifying items  
21          shall remain exempt amounts under this  
22          subsection;



1 (7) Amounts received by a hospital, infirmary, medical  
2 clinic, health care facility, pharmacy, or a  
3 practitioner licensed to administer the drug to an  
4 individual for selling prescription drugs or  
5 prosthetic devices to an individual; provided that  
6 this paragraph shall not apply to any amounts received  
7 for services provided in selling prescription drugs or  
8 prosthetic devices. As used in this paragraph:

9 (A) "Prescription drugs" are those drugs defined  
10 under section 328-1 and dispensed by filling or  
11 refilling a written or oral prescription by a  
12 practitioner licensed under law to administer the  
13 drug and sold by a licensed pharmacist under  
14 section 328-16 or practitioners licensed to  
15 administer drugs; and

16 (B) "Prosthetic device" means any artificial device  
17 or appliance, instrument, apparatus, or  
18 contrivance, including their components, parts,  
19 accessories, and replacements thereof, used to  
20 replace a missing or surgically removed part of  
21 the human body, which is prescribed by a licensed  
22 practitioner of medicine, osteopathy, or podiatry



1 and which is sold by the practitioner or which is  
2 dispensed and sold by a dealer of prosthetic  
3 devices; provided that "prosthetic device" shall  
4 not mean any auditory, ophthalmic, dental, or  
5 ocular device or appliance, instrument,  
6 apparatus, or contrivance;

7 (8) Taxes on transient accommodations imposed by chapter  
8 237D and passed on and collected by operators holding  
9 certificates of registration under that chapter;

10 (9) Amounts received as dues by an unincorporated  
11 merchants association from its membership for  
12 advertising media, promotional, and advertising costs  
13 for the promotion of the association for the benefit  
14 of its members as a whole and not for the benefit of  
15 an individual member or group of members less than the  
16 entire membership;

17 (10) Amounts received by a labor organization for real  
18 property leased to:

19 (A) A labor organization; or

20 (B) A trust fund established by a labor organization  
21 for the benefit of its members, families, and  
22 dependents for medical or hospital care, pensions



1           on retirement or death of employees,  
2           apprenticeship and training, and other membership  
3           service programs.

4           As used in this paragraph, "labor organization" means  
5           a labor organization exempt from federal income tax  
6           under section 501(c)(5) of the Internal Revenue Code,  
7           as amended;

8           (11) Amounts received from foreign diplomats and consular  
9           officials who are holding cards issued or authorized  
10          by the United States Department of State granting them  
11          an exemption from state taxes; and

12          (12) Amounts received as rent for the rental or leasing of  
13          aircraft or aircraft engines used by the lessees or  
14          renters for interstate air transportation of  
15          passengers and goods. For purposes of this paragraph,  
16          payments made pursuant to a lease shall be considered  
17          rent regardless of whether the lease is an operating  
18          lease or a financing lease. The definition of  
19          "interstate air transportation" is the same as in 49  
20          U.S.C. 40102."

21          SECTION 3. Statutory material to be repealed is bracketed  
22          and stricken. New statutory material is underscored.





1 SECTION 4. This Act shall take effect upon its approval  
2 and shall apply to proceeds received on or after January 1,  
3 2008.



**Report Title:**

General Excise Tax Exemption; WIC Recommended Foods

**Description:**

Provides a general excise tax exemption for amounts received for the purchase of any food recommended by the Women, Infants, and Children Food Program. (HB1942 HD1)

