
A BILL FOR AN ACT

RELATING TO GENERAL EXCISE TAX EXEMPTION FOR FOOD.

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

1 SECTION 1. The legislature finds that Hawaii has the
2 highest cost of living in the nation. The general excise tax is
3 levied on nearly all economic activity, which creates a highly
4 regressive tax system by disproportionately affecting low-income
5 and middle-class families as a percentage of total
6 income. Although businesses are required to pay general excise
7 taxes out of their gross receipts, those taxes are passed on to
8 customers in the form of higher prices.

9 Food is a major expense for Hawaii families. In 2014, the
10 average spent on food annually for a two-person household was
11 \$9,978 in Maui county, \$9,901 in Kauai county, \$9,467 in
12 Honolulu county, and \$7,676 in Hawaii county. An average two-
13 person household would save over \$400 each year if food were
14 exempt from the general excise tax, which is significantly more
15 than the existing food income tax credit for low-income
16 families. Larger households would have an even greater savings.

17 Thirty-two states plus the District of Columbia exempt
18 groceries from their sales taxes, and another six states tax



1 groceries at lower rates than other goods. The legislature
2 finds that it is time for Hawaii to join this majority.

3 Because the general excise tax affects almost all areas of
4 economic activity, it can make it difficult for average families
5 to afford basic life expenses like food. The purpose of this Act
6 is to help alleviate the general excise tax burden on local
7 households by exempting food.

8 SECTION 2. Chapter 237, Hawaii Revised Statutes, is
9 amended by adding a new section to be appropriately designated
10 and to read as follows:

11 "§237- Amounts not taxable for food. (a) The excise tax
12 assessed under this chapter shall not apply to amounts received
13 for food or food ingredients.

14 (b) The excise tax assessed under this chapter shall apply
15 to food or food ingredients that are furnished, prepared, or
16 served as meals, except:

17 (1) In the case of persons sixty years of age or over,
18 or who receive supplemental security income benefits,
19 or disability or blindness payments under Title I, II,
20 X, XIV, or XVI or the Social Security Act (42 U.S.C.
21 301 et seq., 401 et seq., 1201 et seq., 1351 et seq.,
22 1381 et seq.) and their spouses, meals prepared by and
23 served in senior citizen's centers, apartment



1 buildings occupied primarily by such persons, public
2 or private nonprofit establishments, eating or
3 otherwise, that feed such persons, private
4 establishments that contract with the appropriate
5 agency of the State to offer meals for such persons at
6 concessional prices, and meals prepared for and served
7 to residents of federally subsidized housing for the
8 elderly;

9 (2) In the case of persons sixty years of age or over
10 and persons who are physically or mentally handicapped
11 or otherwise disabled that they are unable to
12 adequately prepare all of their meals, meals prepared
13 for and delivered to them and their spouses at their
14 home by a public or private nonprofit organization or
15 by a private establishment that contracts with the
16 appropriate state agency to perform such services at
17 concessional prices;

18 (3) In the case of disabled or blind recipients of
19 benefits under Title I, II, X, XIV, or XVI or the
20 Social Security Act (42 U.S.C. 301 et seq., 401 et
21 seq., 1201 et seq., 1351 et seq., 1381 et seq.), who
22 are residents in a public or private nonprofit group
23 living arrangement that serves no more than sixteen



1 residents and is certified by the appropriate state
2 agency or agencies, meals prepared and served under
3 such arrangement;

4 (4) In the case of women and children temporarily
5 residing in public or private nonprofit shelters for
6 battered women and children, meals prepared and served
7 by such shelters; and

8 (5) In the case of households that do not reside in
9 permanent dwellings and households that have no fixed
10 mailing addresses, meals prepared for and served by a
11 public or private nonprofit establishment approved by
12 an appropriate state or local agency that feeds such
13 individuals by private establishments that contract
14 with the appropriate agency of the State to offer
15 meals for such individuals at concessional prices.

16 (c) As used in this section:

17 "Alcoholic beverages" means beverages that are suitable for
18 human consumption and contain one-half of one percent or more of
19 alcohol by volume.

20 "Dietary supplement" means any product, other than tobacco,
21 intended to supplement the diet that:

22 (1) Contains one or more of the following dietary
23 ingredients:



- 1 (A) A vitamin;
- 2 (B) A mineral;
- 3 (C) An herb or other botanical element;
- 4 (D) An amino acid;
- 5 (E) A dietary supplement for use by humans to
- 6 supplement a person's diet by increasing the
- 7 total dietary intake; or a concentrate
- 8 metabolite, constituent, extract, or combination
- 9 of any ingredient described in this definition;

10 (2) Is intended for ingestion in tablet, capsule,
11 powder, softgel, gelcap, or liquid form, or if not
12 intended for ingestion in such form, is not
13 represented as conventional food and is not
14 represented for use as a sole item of a meal or of a
15 diet; and

16 (3) Is required to be labeled as a dietary supplement,
17 identifiable by the "supplemental facts" box found on
18 the label as required pursuant to title 21 Code of
19 Federal Regulations section 101.36, as amended or
20 renumbered.

21 "Food" or "food ingredients" mean substances, whether in
22 liquid, concentrated, solid, frozen, dried, or dehydrated form,
23 that are sold for their ingestion or chewing by humans and are



1 consumed for their taste or nutritional value. Food or food
2 ingredients does not include alcoholic beverages, tobacco,
3 prepared food, soft drinks, dietary supplements, or food or food
4 ingredients sold from a vending machine, whether cold or hot;
5 provided that food or food ingredients sold from a vending
6 machine that is subsequently heated shall be subject to this
7 chapter.

8 "Prepared food" means:

- 9 (1) Food sold in a heated state or heated in by the
10 seller;
- 11 (2) Food sold with eating utensils provided by the seller,
12 including plates, knives, forks, spoons, chopsticks,
13 glasses, cups, napkins, or straws. A plate does not
14 include a container or packaging used to transport the
15 food; or
- 16 (3) Two or more food ingredients mixed or combined by the
17 seller for sale as a single item, except:
- 18 (A) Food that is only cut, repackaged, or pasteurized
19 by the seller; or
- 20 (B) Raw eggs, meat, poultry, or foods containing
21 these raw animal foods requiring cooking by the
22 consumer as recommended by the federal Food and
23 Drug Administration in Chapter 3, part 401.11 of



1 the Food Code, published by the Food and Drug
2 Administration, as amended or renumbered, to
3 prevent foodborne illness.

4 Prepared food does not include the following food or food
5 ingredients:

6 (1) Food sold in an unheated state by weight or volume as a
7 single item; or

8 (2) Bakery items, such as bread, rolls, buns, biscuits,
9 bagels, croissants, pastries, donuts, danish, cakes,
10 tortes, pies, tarts, muffins, bars, cookies or tortillas.

11 "Soft drinks" means nonalcoholic beverages that contain
12 natural or artificial sweeteners. Soft drinks do not include
13 beverages that contain:

- 14 (1) Milk or milk products;
- 15 (2) Soy, rice or similar milk substitutes; or
- 16 (3) Greater than fifty percent vegetable or fruit juice by
17 volume.

18 "Tobacco" means cigarettes, cigars, chewing or pipe
19 tobacco, or any other item that contains tobacco."

20 SECTION 3. In codifying the new section added by section 2
21 of this Act, the revisor of statutes shall substitute
22 appropriate section numbers for the letters used in designating
23 the new sections in this Act.



1 SECTION 4. New statutory material is underscored.

2 SECTION 5. This act shall take effect upon its approval

3 and shall apply to taxable years beginning after December 31,

4 2023.

5

INTRODUCED BY:

Jawon Mitchell
JAN 20 2023



H.B. NO. 687

Report Title:

General Excise Tax; Food Exemption

Description:

Exempts food products from the general excise tax.

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