
HOUSE BILL 2338

State of Washington

55th Legislature

1998 Regular Session

By Representatives Romero, Wolfe, Gardner, Anderson, Dunn and Smith

Prefiled 01/07/98. Read first time 01/12/98. Referred to Committee on Finance.

1 AN ACT Relating to sales and use tax exemptions for uncooked pizza;
2 amending RCW 82.08.0293 and 82.12.0293; creating a new section; and
3 providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The exemption from sales and use tax granted
6 to certain food is based in large part on what is considered basic
7 groceries versus what is restaurant food. The legislature adopted a
8 method of distinguishing between these two categories of food, with
9 some exceptions, based on whether a food handler's permit is required
10 for the handling or preparation of the item. Current law imposes a tax
11 on uncooked fresh pizza prepared by the retailer and sold at retail but
12 no tax on frozen pizza sold at retail. Given pizza's prominent place
13 in modern daily life, the legislature finds that the present tax
14 treatment results in an unfair and inequitable taxation of persons who
15 buy uncooked pizza. It is therefore the intent of the legislature to
16 exempt from the sales and use tax pizza prepared by a retailer and sold
17 in a raw and uncooked form.

1 **Sec. 2.** RCW 82.08.0293 and 1988 c 103 s 1 are each amended to read
2 as follows:

3 (1) The tax levied by RCW 82.08.020 shall not apply to sales of
4 food products for human consumption.

5 "Food products" include cereals and cereal products, oleomargarine,
6 meat and meat products including livestock sold for personal
7 consumption, fish and fish products, eggs and egg products, vegetables
8 and vegetable products, fruit and fruit products, spices and salt,
9 sugar and sugar products, coffee and coffee substitutes, tea, cocoa and
10 cocoa products.

11 "Food products" include milk and milk products, milk shakes, malted
12 milks, and any other similar type beverages which are composed at least
13 in part of milk or a milk product and which require the use of milk or
14 a milk product in their preparation.

15 "Food products" include all fruit juices, vegetable juices, and
16 other beverages except bottled water, spirituous, malt or vinous
17 liquors or carbonated beverages, whether liquid or frozen.

18 "Food products" do not include medicines and preparations in
19 liquid, powdered, granular, tablet, capsule, lozenge, and pill form
20 sold as dietary supplements or adjuncts.

21 (2) The exemption of "food products" provided for in subsection (1)
22 of this section shall not apply: (a) When the food products are
23 ordinarily sold for immediate consumption on or near a location at
24 which parking facilities are provided primarily for the use of patrons
25 in consuming the products purchased at the location, even though such
26 products are sold on a "takeout" or "to go" order and are actually
27 packaged or wrapped and taken from the premises of the retailer, or (b)
28 when the food products are sold for consumption within a place, the
29 entrance to which is subject to an admission charge, except for
30 national and state parks and monuments, or (c) to a food product, when
31 sold by the retail vendor, which by law must be handled on the vendor's
32 premises by a person with a food and beverage service worker's permit
33 under RCW 69.06.010, including but not be limited to sandwiches
34 prepared or chicken cooked on the premises, deli trays, home-delivered
35 pizzas or meals, and salad bars but excluding:

36 (i) Raw meat prepared by persons who slaughter animals, including
37 fish and fowl, or dress or wrap slaughtered raw meat such as fish
38 mongers, butchers, or meat wrappers;

1 (ii) Meat and cheese sliced and/or wrapped, in any quantity
2 determined by the buyer, sold by vendors such as meat markets,
3 delicatessens, and grocery stores;

4 (iii) Bakeries which only sell baked goods;

5 (iv) Combination bakery businesses, as prescribed by rule of the
6 department, to the extent that sales of baked goods are separately
7 accounted for and the baked goods claimed for exemption are not sold as
8 part of meals or with beverages in unsealed containers; ((or))

9 (v) Bulk food products sold from bins or barrels, including but not
10 limited to flour, fruits, vegetables, sugar, salt, candy, chips, and
11 cocoa; and

12 (vi) Pizza sold in a raw and uncooked form.

13 (3) Notwithstanding anything in this section to the contrary, the
14 exemption of "food products" provided in this section shall apply to
15 food products which are furnished, prepared, or served as meals:

16 (a) Under a state administered nutrition program for the aged as
17 provided for in the Older Americans Act (P.L. 95-478 Title III) and RCW
18 74.38.040(6); or

19 (b) Which are provided to senior citizens, disabled persons, or
20 low-income persons by a not-for-profit organization organized under
21 chapter 24.03 or 24.12 RCW.

22 (4) Subsection (1) of this section notwithstanding, the retail sale
23 of food products is subject to sales tax under RCW 82.08.020 if the
24 food products are sold through a vending machine, and in this case the
25 selling price for purposes of RCW 82.08.020 is fifty-seven percent of
26 the gross receipts.

27 This subsection does not apply to hot prepared food products, other
28 than food products which are heated after they have been dispensed from
29 the vending machine.

30 For tax collected under this subsection, the requirements that the
31 tax be collected from the buyer and that the amount of tax be stated as
32 a separate item are waived.

33 **Sec. 3.** RCW 82.12.0293 and 1988 c 103 s 2 are each amended to read
34 as follows:

35 (1) The provisions of this chapter shall not apply in respect to
36 the use of food products for human consumption.

37 "Food products" include cereals and cereal products, oleomargarine,
38 meat and meat products including livestock sold for personal

1 consumption, fish and fish products, eggs and egg products, vegetables
2 and vegetable products, fruit and fruit products, spices and salt,
3 sugar and sugar products, coffee and coffee substitutes, tea, cocoa and
4 cocoa products.

5 "Food products" include milk and milk products, milk shakes, malted
6 milks, and any other similar type beverages which are composed at least
7 in part of milk or a milk product and which require the use of milk or
8 a milk product in their preparation.

9 "Food products" include all fruit juices, vegetable juices, and
10 other beverages except bottled water, spirituous, malt or vinous
11 liquors or carbonated beverages, whether liquid or frozen.

12 "Food products" do not include medicines and preparations in
13 liquid, powdered, granular, tablet, capsule, lozenge, and pill form
14 sold as dietary supplements or adjuncts.

15 (2) The exemption of "food products" provided for in subsection (1)
16 of this section shall not apply: (a) When the food products are
17 ordinarily sold for immediate consumption on or near a location at
18 which parking facilities are provided primarily for the use of patrons
19 in consuming the products purchased at the location, even though such
20 products are sold on a "takeout" or "to go" order and are actually
21 packaged or wrapped and taken from the premises of the retailer, or (b)
22 when the food products are sold for consumption within a place, the
23 entrance to which is subject to an admission charge, except for
24 national and state parks and monuments, or (c) to a food product, when
25 sold by the retail vendor, which by law must be handled on the vendor's
26 premises by a person with a food and beverage service worker's permit
27 under RCW 69.06.010, including but not be limited to sandwiches
28 prepared or chicken cooked on the premises, deli trays, home-delivered
29 pizzas or meals, and salad bars but excluding:

30 (i) Raw meat prepared by persons who slaughter animals, including
31 fish and fowl, or dress or wrap slaughtered raw meat such as fish
32 mongers, butchers, or meat wrappers;

33 (ii) Meat and cheese sliced and/or wrapped, in any quantity
34 determined by the buyer, sold by vendors such as meat markets,
35 delicatessens, and grocery stores;

36 (iii) Bakeries which only sell baked goods;

37 (iv) Combination bakery businesses, as prescribed by rule of the
38 department, to the extent that sales of baked goods are separately

1 accounted for and the baked goods claimed for exemption are not sold as
2 part of meals or with beverages in unsealed containers; ((or))

3 (v) Bulk food products sold from bins or barrels, including but not
4 limited to flour, fruits, vegetables, sugar, salt, candy, chips, and
5 cocoa; and

6 (vi) Pizza sold in a raw and uncooked form.

7 (3) Notwithstanding anything in this section to the contrary, the
8 exemption of "food products" provided in this section shall apply to
9 food products which are furnished, prepared, or served as meals:

10 (a) Under a state administered nutrition program for the aged as
11 provided for in the Older Americans Act (P.L. 95-478 Title III) and RCW
12 74.38.040(6); or

13 (b) Which are provided to senior citizens, disabled persons, or
14 low-income persons by a not-for-profit organization organized under
15 chapter 24.03 or 24.12 RCW.

16 NEW SECTION. **Sec. 4.** This act takes effect July 1, 1998.

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