

# HOUSE BILL REPORT

## HB 1329

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### As Reported by House Committee On:

Finance

**Title:** An act relating to tax exemptions for sales of food products sold through vending machines for human consumption.

**Brief Description:** Exempting food products sold through vending machines from sales and use taxation.

**Sponsors:** Representatives Cairnes, Morris, Santos, Pennington, Reardon, Linville, Van Luven, Cooper, Roach and Morell.

### Brief History:

#### Committee Activity:

Finance: 2/8/01, 2/15/01 [DPS].

#### Brief Summary of Substitute Bill

- Food products for human consumption sold in vending machines are exempt from retail sales and use taxes.

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Cairnes, Republican Co-Chair; Morris, Democratic Co-Chair; Berkey, Democratic Vice Chair; Roach, Republican Vice Chair; Carrell, Conway, Pennington, Santos, Van Luven and Veloria.

**Staff:** Mark Matteson (786-7145).

### Background:

The retail sales tax applies to the selling price of tangible personal property and of certain services purchased at retail. The tax is levied at a 6.5 percent rate by the state. Cities and counties may levy a local tax at a rate up to a maximum of 3.1 percent currently, local rates levied range from 0.5 percent to 2.3 percent. Sales tax is paid by the purchaser and collected by the seller.

The use tax is imposed on items used in the state that were not subject to the retail sales

tax, and includes purchases made in other states and purchases from sellers who do not collect Washington sales tax. The state and local rates are the same as those imposed under the retail sales tax. Use tax is paid directly to the Department of Revenue.

An exemption from the retail sales and use taxes is provided to food products for human consumption, generally. Food products include things like cereals, meat, fish, eggs, fresh produce, milk, and juices, and associated products. Food products do not include over-the-counter medicines and dietary supplements, and so sales and use taxes apply to these categories of consumables.

Sales and use taxes also apply to food products for human consumption in certain cases, such as when the food products are wrapped and sold for immediate consumption at locations that offer food to go– or for take out, or when food products are sold for consumption at a place where admission is charged, such as at a sports arena.

Vending machine sales of food products for human consumption are also taxable. The retail sales and use taxes apply to 57 percent of the gross revenues derived from the sale of the food product. For vending machine sales, the requirements that the seller collect the tax from the buyer, and that the amount of tax be itemized separately, is waived.

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**Summary of Substitute Bill:**

Food products sold in vending machines are exempt from the retail sales and use taxes, generally. Exempted items include the same food product items that are exempted from retail sales and use taxes in general.

Unlike other food products that are wrapped and sold for immediate consumption at to go– or take-out locations, however, sales of vending machine food products at such locations would be exempt from retail sales and use taxes. Sales of vending machine food products that occur at a place where admission is charged would also be exempt from sales and use taxes.

**Substitute Bill Compared to Original Bill:**

A definition of vending machine is added.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** In the early 1980s, the Legislature removed sales taxes from food products for off-site consumption in general. However, the exemption did not address vending machine food product sales, and an agreement was reached with the Department of Revenue to allow the tax on 57 percent of gross revenues. In 1988 the Legislature clarified the taxable status for retail food product vendors, providing that places with food handling permits be taxed. However, the part of the law associated with the 57 percent tax on vending machine sales was not addressed, even though sales at convenience stores of products similar to vending machine products were exempt.

The persons that are served by vending machine vendors tend often to be lower income or blue collar, and would benefit from such an exemption. It is also a human issue, as some vending machine companies plan to invest any savings as a result of this exemption in communities by hiring additional vendors, truckers, and employees.

**Testimony Against:** None.

**Testified:** Brad Boswell, Northwest Automatic Vending Association; Jim Brinton, Northwest Automatic Vending Association; Dan Sofie, B&P Vending; and Paul Osborn, Snack Time Vending.