

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

HOUSE BILL 1384

By: Representative L. Johnson

For An Act To Be Entitled

AN ACT TO AMEND THE SALES AND USE TAX LAWS REGARDING THE APPLICATION OF SALES AND USE TAXES TO CANDY; TO PROVIDE FOR SALES AND USE TAXES TO BE LEVIED ON CANDY AT THE SAME RATE AS IS LEVIED ON FOOD AND FOOD INGREDIENTS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE SALES AND USE TAX LAWS REGARDING THE APPLICATION OF SALES AND USE TAXES TO CANDY; AND TO PROVIDE FOR SALES AND USE TAXES TO BE LEVIED ON CANDY AT THE SAME RATE AS IS LEVIED ON FOOD AND FOOD INGREDIENTS.

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

SECTION 1. Arkansas Code § 26-52-103(3), concerning the definitions used under the Arkansas Gross Receipts Act of 1941, is repealed.

~~(3)(A) "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces.~~

~~(B) "Candy" shall not include a preparation containing flour and shall require no refrigeration.~~

SECTION 2. Arkansas Code § 26-52-103(17)(B), concerning the definitions used under the Arkansas Gross Receipts Act of 1941, is amended to read as follows:



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(B) "Food" and "food ingredients" do not include ~~candy~~, a soft drink, an alcoholic beverage, tobacco, or a dietary supplement;

SECTION 3. Arkansas Code § 26-52-323 is amended to read as follows:

26-52-323. Application of tax to ~~candy and~~ soft drinks.

The Secretary of the Department of Finance and Administration shall either:

(1)(A) Publish a list of the Universal Product Codes for items that meet the definition of+

~~(i) A candy under § 26-52-103(3) or § 26-53-102(3);~~
or

~~(ii) A a soft drink under § 26-52-103(33) or § 26-53-102(21).~~

(B) The list published by the secretary under subdivision (1)(A) of this section shall provide guidance to retailers, sellers, and vendors regarding which items are defined as ~~a candy or~~ a soft drink but not defined as food and food ingredients under ~~the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.,~~ this chapter or the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

(C) The list published by the secretary under subdivision (1)(A) of this section is exempt from the Arkansas Administrative Procedure Act, § 25-15-201 et seq.; or

(2) Not subject a retailer, seller, or vendor to the penalties under § 26-18-201, § 26-18-202, § 26-18-208, § 26-18-209, § 26-52-512, or § 26-53-125 if the retailer, seller, or vendor:

(A) Collects and remits tax payments to the Department of Finance and Administration on the gross receipts and gross proceeds derived from the sale of items that meet the definition of+

~~(i) A candy under § 26-52-103(3) or § 26-53-102(3) at the taxable rate for food and food ingredients under § 26-52-317 or § 26-53-145; or~~

~~(ii) A a soft drink under § 26-52-103(33) or § 26-53-102(21) at the taxable rate for food and food ingredients under § 26-52-317 or § 26-53-145; and~~

(B) Demonstrates a good faith effort to collect and remit tax payments to the department on the gross receipts and gross proceeds

derived from the sale of items that meet the definition of+

~~(i) A candy under § 26-52-103(3) or § 26-53-102(3) at the taxable rate under § 26-52-301, § 26-52-302, § 26-53-106, or § 26-53-107; or~~

~~(ii) A a soft drink under § 26-52-103(33) or § 26-53-102(21) at the taxable rate under § 26-52-301, § 26-52-302, § 26-53-106, or § 26-53-107.~~

SECTION 4. Arkansas Code § 26-53-102(3), concerning the definitions used under the Arkansas Compensating Tax Act of 1949, is repealed.

~~(3)(A) “Candy” means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces.~~

~~(B) “Candy” shall not include a preparation containing flour and shall require no refrigeration;~~

SECTION 5. Arkansas Code § 26-53-102(10)(B), concerning the definitions used under the Arkansas Compensating Tax Act of 1949, is amended to read as follows:

(B) “Food” and “food ingredients” do not include ~~candy~~, a soft drink, an alcoholic beverage, tobacco, or a dietary supplement;

SECTION 6. EFFECTIVE DATE. Sections 1-5 of this act are effective on the first day of the calendar quarter following the effective date of this act.