

INITIATED STATUTE

Concerning the elimination of state and local taxes, fees, and other governmental charges on food for immediate consumption.

SECTION 1. Declaration of the People of the State of Colorado.

The people of the state of Colorado find and declare that:

- (1) Food is a necessity of life and should not be subject to state or local taxes or governmental fees imposed on the sale of food.**
- (2) The distinction between food for domestic home consumption and food for immediate consumption creates unnecessary complexity and inequity in the tax code for producers and consumers.**
- (3) The classification of certain food products for taxation purposes is arbitrary and inconsistent and results in unequal treatment of food products intended for human consumption.**
- (4) Uniform statewide treatment of the taxation of food is a matter of statewide concern.**
- (5) The people intend that food and drink for human consumption, except alcoholic beverages and specifically excluded products under existing law, be exempt from state and local sales and use taxation.**
- (6) This act is not intended to impair the obligation of any existing bonded indebtedness lawfully secured by sales or use tax revenues prior to the effective date of this act.**
- (7) Citizens do not have equal access to the referendum power at all levels of local government, including counties and certain special districts. Because voters cannot uniformly challenge local taxation through referendum at those levels of government, statewide voter action is necessary to ensure consistent and fair treatment of the taxation of food throughout Colorado.**
- (8) Article X, Section 20 of the Colorado Constitution, known as the Taxpayer's Bill of Rights (TABOR), requires voter approval for new taxes and tax rate increases. Governmental entities have at times imposed fees or other charges that function similarly to taxes in order to avoid voter consent requirements.**
- (9) Therefore it is necessary to clarify that taxes, fees, charges, and other governmental assessments imposed upon the sale or purchase of food for immediate consumption are prohibited, except for regulatory licensing**

and inspection fees that are limited to recovering the reasonable costs of administering regulatory programs.

(10) Eliminating taxes and similar governmental charges on food for immediate consumption will reduce the financial burden on residents of the state and promote uniform treatment of food purchases across Colorado. Any reduction in governmental revenue resulting from this act is outweighed by the public benefit of ensuring that food, a basic necessity of life, is not subject to taxation.

SECTION 2. In Colorado Revised Statutes, 39-26-102, amend (4.5) by adding subsection (c) to read:

39-26-102. Definitions.

(4.5)

(c) “Food for immediate consumption” means food or drink intended for human consumption that is sold in a ready-to-eat or ready-to-drink form and is ordinarily consumed at or shortly after the point of sale, including prepared meals, hot or cold food sold for immediate consumption, and beverages served or sold in a ready-to-drink form.

Food for immediate consumption does not include alcoholic beverages as defined in section 44-3-103(2).

In determining whether food is for immediate consumption, no inference shall be drawn from:

- (a) the type of vendor selling the product,**
- (b) the location of the product within a store, or**
- (c) the manner in which the product is marketed.**

SECTION 3. In Colorado Revised Statutes, 39-26-104, amend (1)(e) to read:

39-26-104. Property and services taxed.

(1) There is levied and shall be collected a tax in the amount stated in section 39-26-106 as follows:

(e) There is levied and shall be collected a tax upon the amount paid for alcoholic beverages, as defined in section 44-3-103(2), served or furnished in or by restaurants, cafes, lunch counters, cafeterias, hotels, social clubs, nightclubs, cabarets, resorts, snack bars, caterers, carryout shops, and other like places of business at which prepared food or drink is regularly sold.

Cover charges shall be included as part of the amount paid for such alcoholic beverages.

SECTION 4. In Colorado Revised Statutes, 39-26-707, amend subsection (1)(a) to read:

39-26-707. Food, meals, beverages, and packaging — definitions.

(1)(a) All sales of food for domestic home consumption and food for immediate consumption, as defined in section 39-26-102(4.5), are exempt from taxation under the provisions of part 1 of this article.

(1.5)(a) Repealed.

SECTION 5. Statewide Preemption of Local Taxation of Food for Immediate Consumption.

(1) Notwithstanding any provision of a municipal charter, ordinance, resolution, special district regulation, or other local law to the contrary, no municipality, county, city and county, home-rule municipality, or special district shall impose or collect any sales tax, use tax, fee, charge, or other governmental assessment imposed on or measured by the sale or purchase of food for immediate consumption.

(2) Nothing in this section shall prohibit reasonable regulatory licensing or inspection fees imposed on food establishments if the fees are imposed solely to recover the costs of administering a regulatory program and are not based on the sale or purchase of food.

(3) Any local law inconsistent with this section is hereby superseded.

(4) The regulation of taxes, fees, and governmental charges on food is a matter of statewide concern.

SECTION 6. Protection of Existing Bonded Obligations; Automatic Sunset.

(1) Nothing in this act shall impair any bonded indebtedness or contractual pledge of sales or use tax revenues lawfully authorized prior to January 1, 2028.

(2) Bonded indebtedness includes bonds, notes, certificates of participation, lease-purchase agreements, or other evidences of indebtedness secured by sales or use tax revenues.

(3) A local government that pledged sales or use tax revenues derived from food for immediate consumption prior to January 1, 2028 may continue to impose and collect such tax solely to the extent necessary to satisfy scheduled principal and interest payments.

(4) Such authority shall not extend to refinancing, reissuance, extension, or modification that increases the principal amount or extends the final maturity date beyond the maturity date in effect on January 1, 2028, except refinancing that lowers the interest rate or total repayment cost.

(5) Upon satisfaction of the bonded indebtedness, no further sales or use tax shall be imposed or collected on food for immediate consumption.

(6) No bonded indebtedness issued on or after January 1, 2028 may pledge revenue derived from the sale of food for immediate consumption.

SECTION 7. Effective Date.

This act takes effect January 1, 2028, and applies to sales, storage, use, or consumption occurring on or after that date.