

AMENDMENTS TO LB34

Introduced by Revenue.

1 1. Strike the original sections and insert the following new
2 section:

3 Sec. 45. Section 77-2704.24, Reissue Revised Statutes of Nebraska,
4 is amended to read:

5 77-2704.24 (1) Sales and use taxes shall not be imposed on the gross
6 receipts from the sale, lease, or rental of and the storage, use, or
7 other consumption in this state of food or food ingredients except for
8 prepared food and food sold through vending machines.

9 (2) For purposes of this section:

10 (a) Alcoholic beverages means beverages that are suitable for human
11 consumption and contain one-half of one percent or more of alcohol by
12 volume;

13 **(b) Candy means a preparation of sugar, honey, or other natural or**
14 **artificial sweeteners in combination with chocolate, fruits, nuts, or**
15 **other ingredients or flavorings in the form of bars, drops, or pieces.**
16 **Candy shall not include any preparation containing flour and shall**
17 **require no refrigeration;**

18 **(c) ~~(b)~~ Dietary supplement means any product, other than tobacco,**
19 **intended to supplement the diet that contains one or more of the**
20 **following dietary ingredients: (i) A vitamin, (ii) a mineral, (iii) an**
21 **herb or other botanical, (iv) an amino acid, (v) a dietary substance for**
22 **use by humans to supplement the diet by increasing the total dietary**
23 **intake, or (vi) a concentrate, metabolite, constituent, extract, or**
24 **combination of any ingredients described in subdivisions ~~(2)(c)(i)~~ ~~(2)(b)~~**
25 **~~(i)~~ through (v) of this section; that is intended for ingestion in**
26 **tablet, capsule, powder, softgel, gelcap, or liquid form or, if not**
27 **intended for ingestion in such a form, is not presented as conventional**

1 food and is not represented for use as a sole item of a meal or of the
2 diet; and that is required to be labeled as a dietary supplement,
3 identifiable by the supplemental facts box found on the label and as
4 required pursuant to 21 C.F.R. 101.36, as such regulation existed on
5 January 1, 2003;

6 (d) ~~(c)~~ Food and food ingredients means substances, whether in
7 liquid, concentrated, solid, frozen, dried, or dehydrated form, that are
8 sold for ingestion or chewing by humans and are consumed for their taste
9 or nutritional value. Food and food ingredients does not include
10 alcoholic beverages, dietary supplements, ~~or~~ tobacco, candy, or soft
11 drinks;

12 (e) ~~(d)~~ Food sold through vending machines means food that is
13 dispensed from a machine or other mechanical device that accepts payment;

14 (f) ~~(e)~~ Prepared food means:

15 (i) Food sold with eating utensils provided by the seller, including
16 plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate
17 does not include a container or packaging used to transport the food; or

18 (ii) Two or more food ingredients mixed or combined by the seller
19 for sale as a single item and food sold in a heated state or heated by
20 the seller, except:

21 (A) Food that is only cut, repackaged, or pasteurized by the seller;

22 (B) Eggs, fish, meat, poultry, and foods containing these raw animal
23 foods requiring cooking by the consumer as recommended by the federal
24 Food and Drug Administration in chapter 3, part 401.11 of its Food Code,
25 as it existed on January 1, 2003, so as to prevent food borne illnesses;

26 (C) Food sold by a seller whose proper primary North American
27 Industry Classification System classification is manufacturing in sector
28 311, except subsector 3118, bakeries;

29 (D) Food sold in an unheated state by weight or volume as a single
30 item;

31 (E) Bakery items, including bread, rolls, buns, biscuits, bagels,

1 croissants, pastries, donuts, danish, cakes, tortes, pies, tarts,
2 muffins, bars, cookies, and tortillas; and

3 (F) Food that ordinarily requires additional cooking to finish the
4 product to its desired final condition;~~and~~

5 (g) Soft drinks means nonalcoholic beverages that contain natural or
6 artificial sweeteners. Soft drinks do not include beverages that contain
7 milk or milk products, soy, rice or similar milk substitutes, or greater
8 than fifty percent of vegetable or fruit juice by volume; and

9 (h) ~~(f)~~ Tobacco means cigarettes, cigars, chewing or pipe tobacco,
10 or any other item that contains tobacco.