

A bill for an act

relating to taxation; exempting certain vending machine products from sales tax;
amending Minnesota Statutes 2006, section 297A.61, subdivision 3.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2006, section 297A.61, subdivision 3, is amended to
read:

Subd. 3. **Sale and purchase.** (a) "Sale" and "purchase" include, but are not limited
to, each of the transactions listed in this subdivision.

(b) Sale and purchase include:

(1) any transfer of title or possession, or both, of tangible personal property, whether
absolutely or conditionally, for a consideration in money or by exchange or barter; and

(2) the leasing of or the granting of a license to use or consume, for a consideration
in money or by exchange or barter, tangible personal property, other than a manufactured
home used for residential purposes for a continuous period of 30 days or more.

(c) Sale and purchase include the production, fabrication, printing, or processing of
tangible personal property for a consideration for consumers who furnish either directly or
indirectly the materials used in the production, fabrication, printing, or processing.

(d) Sale and purchase include the preparing for a consideration of food.
Notwithstanding section 297A.67, subdivision 2, taxable food includes, but is not limited
to, the following:

(1) prepared food sold by the retailer;

(2) soft drinks;

(3) candy;

(4) dietary supplements; and

H.F. No. 1156, as introduced - 85th Legislative Session (2007-2008)

(5) all food sold through vending machines, except milk, water, fruit, 100 percent fruit juices, yogurt, and salads.

(e) A sale and a purchase includes the furnishing for a consideration of electricity, gas, water, or steam for use or consumption within this state.

(f) A sale and a purchase includes the transfer for a consideration of prewritten computer software whether delivered electronically, by load and leave, or otherwise.

(g) A sale and a purchase includes the furnishing for a consideration of the following services:

(1) the privilege of admission to places of amusement, recreational areas, or athletic events, and the making available of amusement devices, tanning facilities, reducing salons, steam baths, turkish baths, health clubs, and spas or athletic facilities;

(2) lodging and related services by a hotel, rooming house, resort, campground, motel, or trailer camp and the granting of any similar license to use real property in a specific facility, other than the renting or leasing of it for a continuous period of 30 days or more under an enforceable written agreement that may not be terminated without prior notice;

(3) nonresidential parking services, whether on a contractual, hourly, or other periodic basis, except for parking at a meter;

(4) the granting of membership in a club, association, or other organization if:

(i) the club, association, or other organization makes available for the use of its members sports and athletic facilities, without regard to whether a separate charge is assessed for use of the facilities; and

(ii) use of the sports and athletic facility is not made available to the general public on the same basis as it is made available to members.

Granting of membership means both onetime initiation fees and periodic membership dues. Sports and athletic facilities include golf courses; tennis, racquetball, handball, and squash courts; basketball and volleyball facilities; running tracks; exercise equipment; swimming pools; and other similar athletic or sports facilities;

(5) delivery of aggregate materials and concrete block by a third party if the delivery would be subject to the sales tax if provided by the seller of the aggregate material or concrete block; and

(6) services as provided in this clause:

(i) laundry and dry cleaning services including cleaning, pressing, repairing, altering, and storing clothes, linen services and supply, cleaning and blocking hats, and carpet, drapery, upholstery, and industrial cleaning. Laundry and dry cleaning services do not include services provided by coin operated facilities operated by the customer;

H.F. No. 1156, as introduced - 85th Legislative Session (2007-2008)

(ii) motor vehicle washing, waxing, and cleaning services, including services provided by coin operated facilities operated by the customer, and rustproofing, undercoating, and towing of motor vehicles;

(iii) building and residential cleaning, maintenance, and disinfecting and exterminating services;

(iv) detective, security, burglar, fire alarm, and armored car services; but not including services performed within the jurisdiction they serve by off-duty licensed peace officers as defined in section 626.84, subdivision 1, or services provided by a nonprofit organization for monitoring and electronic surveillance of persons placed on in-home detention pursuant to court order or under the direction of the Minnesota Department of Corrections;

(v) pet grooming services;

(vi) lawn care, fertilizing, mowing, spraying and sprigging services; garden planting and maintenance; tree, bush, and shrub pruning, bracing, spraying, and surgery; indoor plant care; tree, bush, shrub, and stump removal, except when performed as part of a land clearing contract as defined in section 297A.68, subdivision 40; and tree trimming for public utility lines. Services performed under a construction contract for the installation of shrubbery, plants, sod, trees, bushes, and similar items are not taxable;

(vii) massages, except when provided by a licensed health care facility or professional or upon written referral from a licensed health care facility or professional for treatment of illness, injury, or disease; and

(viii) the furnishing of lodging, board, and care services for animals in kennels and other similar arrangements, but excluding veterinary and horse boarding services.

In applying the provisions of this chapter, the terms "tangible personal property" and "retail sale" include taxable services listed in clause (6), items (i) to (vi) and (viii), and the provision of these taxable services, unless specifically provided otherwise.

Services performed by an employee for an employer are not taxable. Services performed by a partnership or association for another partnership or association are not taxable if one of the entities owns or controls more than 80 percent of the voting power of the equity interest in the other entity. Services performed between members of an affiliated group of corporations are not taxable. For purposes of the preceding sentence, "affiliated group of corporations" means those entities that would be classified as members of an affiliated group as defined under United States Code, title 26, section 1504, disregarding the exclusions in section 1504(b).

(h) A sale and a purchase includes the furnishing for a consideration of tangible personal property or taxable services by the United States or any of its agencies or

H.F. No. 1156, as introduced - 85th Legislative Session (2007-2008)

4.1 instrumentalities, or the state of Minnesota, its agencies, instrumentalities, or political
4.2 subdivisions.

4.3 (i) A sale and a purchase includes the furnishing for a consideration of
4.4 telecommunications services, including cable television services and direct satellite
4.5 services. Telecommunications services are taxed to the extent allowed under federal law.

4.6 (j) A sale and a purchase includes the furnishing for a consideration of installation if
4.7 the installation charges would be subject to the sales tax if the installation were provided
4.8 by the seller of the item being installed.

4.9 (k) A sale and a purchase includes the rental of a vehicle by a motor vehicle dealer
4.10 to a customer when (1) the vehicle is rented by the customer for a consideration, or (2)
4.11 the motor vehicle dealer is reimbursed pursuant to a service contract as defined in section
4.12 65B.29, subdivision 1, clause (1).

4.13 **EFFECTIVE DATE.** This section is effective for purchases and sales made on and
4.14 after July 1, 2007.