

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. **3205**

03/16/2016 Authored by Smith, Koznick and Pierson
The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; sales and use; providing for parity in tax treatment of food
1.3 sold through vending machines; amending Minnesota Statutes 2014, section
1.4 297A.67, subdivisions 2, 4, 5, 6.

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

1.6 Section 1. Minnesota Statutes 2014, section 297A.67, subdivision 2, is amended to read:

1.7 Subd. 2. **Food and food ingredients.** Except as otherwise provided in this
1.8 subdivision, food and food ingredients are exempt. For purposes of this subdivision,
1.9 "food" and "food ingredients" mean substances, whether in liquid, concentrated, solid,
1.10 frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and
1.11 are consumed for their taste or nutritional value. Food and food ingredients exempt under
1.12 this subdivision do not include candy, soft drinks, ~~food sold through vending machines,~~
1.13 dietary supplements, and prepared foods. Food and food ingredients do not include
1.14 alcoholic beverages and tobacco. For purposes of this subdivision, "alcoholic beverages"
1.15 means beverages that are suitable for human consumption and contain one-half of one
1.16 percent or more of alcohol by volume. For purposes of this subdivision, "tobacco" means
1.17 cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.
1.18 For purposes of this subdivision, "dietary supplements" means any product, other than
1.19 tobacco, intended to supplement the diet that:

1.20 (1) contains one or more of the following dietary ingredients:

1.21 (i) a vitamin;

1.22 (ii) a mineral;

1.23 (iii) an herb or other botanical;

1.24 (iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; and

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in items (i) to (v);

(2) is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(3) is required to be labeled as a dietary supplement, identifiable by the supplement facts box found on the label and as required pursuant to Code of Federal Regulations, title 21, section 101.36.

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2016.

Sec. 2. Minnesota Statutes 2014, section 297A.67, subdivision 4, is amended to read:

Subd. 4. **Exempt meals at residential facilities.** Prepared food, candy, and soft drinks served to patients, inmates, or persons residing at hospitals, sanitariums, nursing homes, senior citizen homes, and correctional, detention, and detoxification facilities, including food sold through vending machines, are exempt. ~~Food sold through vending machines is not exempt.~~

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2016.

Sec. 3. Minnesota Statutes 2014, section 297A.67, subdivision 5, is amended to read:

Subd. 5. **Exempt meals at schools.** Prepared food, candy, and soft drinks served at public and private elementary, middle, or secondary schools as defined in section 120A.05 are exempt. Prepared food, candy, and soft drinks served to students at a college, university, or private career school under a board contract, including food sold through vending machines, are exempt. ~~Food sold through vending machines is not exempt.~~

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2016.

Sec. 4. Minnesota Statutes 2014, section 297A.67, subdivision 6, is amended to read:

Subd. 6. **Other exempt meals.** (a) Prepared food, candy, and soft drinks purchased for and served exclusively to individuals who are 60 years of age or over and their spouses or to disabled persons and their spouses by governmental agencies, nonprofit

organizations, or churches, or pursuant to any program funded in whole or in part through United States Code, title 42, sections 3001 through 3045, wherever delivered, prepared, or served, including food sold through vending machines, are exempt. ~~Food sold through vending machines is not exempt.~~

(b) Prepared food, candy, and soft drinks purchased for and served exclusively to children who are less than 14 years of age or disabled children who are less than 16 years of age and who are attending a child care or early childhood education program, are exempt if they are:

(1) purchased by a nonprofit child care facility that is exempt under section 297A.70, subdivision 4, and that primarily serves families with income of 250 percent or less of federal poverty guidelines; and

(2) prepared at the site of the child care facility.

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2016.

Sec. 5. **RULE CHANGE.**

The commissioner of revenue shall amend Minnesota Rules, part 8130.4700, subpart 1a; subpart 2, item B; subpart 5, item G; subpart 6, item E; subpart 7, item C; and subpart 8, item D, so that the provisions therein reflect the changes enacted under sections 1 to 4. The commissioner shall use the good cause exemption under Minnesota Statutes, section 14.388, in adopting the amendments. The provisions of Minnesota Statutes, section 14.386, do not apply except as provided in Minnesota Statutes, section 14.388.

EFFECTIVE DATE. This section is effective the day following final enactment.