

54:32B-2

LEGISLATIVE HISTORY CHECKLIST

NJSA: 54:32B-2 (Food stamps-- sales tax-- exempt all properly purchased items)

LAWS OF: 1987 CHAPTER: 254

Bill No: S3259

Sponsor(s): McManimon

Date Introduced: April 27, 1987

Committee: Assembly: -----

Senate: Revenue, Finance and Appropriations

Amended during passage: Yes Amendments during passage denoted by asterisks.

Date of Passage: Assembly: August 3, 1987

Senate: June 29, 1987

Date of Approval: August 27, 1987

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly No

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

See newspaper clipping-- attached:

"Sales tax exemptions are enacted," 8-28-87 Star Ledger.

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SENATE, No. 3259

STATE OF NEW JERSEY

INTRODUCED APRIL 27, 1987

By Senator McMANIMON

Referred to Committee on Revenue, Finance and Appropriations

AN ACT exempting certain receipts from the sales of food from the sales and use tax, amending P. L. 1966, c. 30.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 2 of P. L. 1966, c. 30 (C. 54:32B-2) is amended to
2 read as follows:

3 2. Definitions. Unless the context in which they occur requires
4 otherwise, the following terms when used in this act shall mean:

5 (a) Person. Person includes an individual, partnership, society,
6 association, joint stock company, corporation, public corporation
7 or public authority, estate, receiver, trustee, assignee, referee, and
8 any other person acting in a fiduciary or representative capacity,
9 whether appointed by a court or otherwise, and any combination of
10 the foregoing.

11 (b) Purchase at retail. A purchase by any person at a retail sale.

12 (c) Purchaser. A person who purchases property or who re-
13 ceives services.

14 (d) Receipt. The amount of the sales price of any property and
15 the charge for any service taxable under this act, valued in money,
16 whether received in money or otherwise, including any amount for
17 which credit is allowed by the vendor to the purchaser, without
18 any deduction for expenses or early payment discounts, but ex-
19 cluding any credit for property of the same kind accepted in part
20 payment and intended for resale **[and]**, excluding the cost of
21 transportation where such cost is separately stated in the written
22 contract, if any, and on the bill rendered to the purchaser, *and*
23 *excluding the amount of the sales price for which food stamps have*

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

***—Senate committee amendment adopted June 22, 1987.**

24 *been properly tendered in full or part payment pursuant to the*
25 *federal Food Stamp Act of 1977, Pub. L. 95-113, (7 U. S. C. § 2011*
26 *et seq.).*

27 (e) Retail sale. (1) A sale of tangible personal property to any
28 person for any purpose, other than (A) for resale either as such
29 or as converted into or as a component part of a product produced
30 for sale by the purchaser, or (B) for use by that person in perform-
31 ing the services subject to tax under subsection (b) of section 3
32 where the property so sold becomes a physical component part of
33 the property upon which the services are performed or where the
34 property so sold is later actually transferred to the purchaser
35 of the service in conjunction with the performance of the service
36 subject to tax.

37 (2) For the purposes of this act, the term retail sales includes:

38 Sales of tangible personal property to all contractors, sub-
39 contractors or repairmen of materials and supplies for use by
40 them in erecting structures for others, or building on, or other-
41 wise improving, altering, or repairing real property of others.

42 (3) The term retail sales does not include:

43 (A) Professional, insurance, or personal service transac-
44 tions which involve the transfer of tangible personal property
45 as an inconsequential element, for which no separate charges
46 are made.

47 (B) The transfer of tangible personal property to a corpora-
48 tion, solely in consideration for the issuance of its stock, pursu-
49 ant to a merger or consolidation effected under the laws of New
50 Jersey or any other jurisdiction.

51 (C) The distribution of property by a corporation to its
52 stockholders as a liquidating dividend.

53 (D) The distribution of property by a partnership to its
54 partners in whole or partial liquidation.

55 (E) The transfer of property to a corporation upon its
56 organization in consideration for the issuance of its stock.

57 (F) The contribution of property to a partnership in con-
58 sideration for a partnership interest therein.

59 (G) The sale of tangible personal property where the pur-
60 pose of the vendee is to hold the thing transferred as security
61 for the performance of an obligation of the vendor.

62 (f) Sale, selling or purchase. Any transfer of title or possession
63 or both, exchange or barter, rental, lease or license to use or con-
64 sume, conditional or otherwise, in any manner or by any means
65 whatsoever for a consideration, or any agreement therefor, includ-
66 ing the rendering of any service, taxable under this act, for a
67 consideration or any agreement therefor.

68 (g) Tangible personal property. Corporeal personal property
69 of any nature.

70 (h) Use. The exercise of any right or power over tangible per-
71 sonal property by the purchaser thereof and includes, but is not
72 limited to, the receiving, storage or any keeping or retention for any
73 length of time, withdrawal from storage, any installation, any
74 affixation to real or personal property, or any consumption of such
75 property.

76 (i) Vendor. (1) The term "vendor" includes:

77 (A) A person making sales of tangible personal property
78 or services, the receipts from which are taxed by this act;

79 (B) A person maintaining a place of business in the State
80 and making sales, whether at such place of business or
81 elsewhere, to persons within the State of tangible personal
82 property or services, the use of which is taxed by this act;

83 (C) A person who solicits business either by employees,
84 independent contractors, agents or other representatives or
85 by distribution of catalogs or other advertising matter and by
86 reason thereof makes sales to persons within the State of
87 tangible personal property or services, the use of which is
88 taxed by this act;

89 (D) Any other person making sales to persons within the
90 State of tangible personal property or services, the use of
91 which is taxed by this act, who may be authorized by the
92 director to collect the tax imposed by this act; and

93 (E) The State of New Jersey, any of its agencies, instru-
94 mentalities, public authorities, public corporations (including
95 a public corporation created pursuant to agreement or compact
96 with another state) or political subdivisions when such entity
97 sells services or property of a kind ordinarily sold by private
98 persons.

99 (2) In addition, when in the opinion of the director it is neces-
100 sary for the efficient administration of this act to treat any sales-
101 man, representative, peddler or canvasser as the agent of the
102 vendor, distributor, supervisor or employer under whom he oper-
103 ates or from whom he obtains tangible personal property sold
104 by him or for whom he solicits business, the director may, in his
105 discretion, treat such agent as the vendor jointly responsible with
106 his principal, distributor, supervisor or employer for the collection
107 and payment over of the tax.

108 (j) Hotel. A building or portion of it which is regularly used
109 and kept open as such for the lodging of guests. The term "hotel"
110 includes an apartment hotel, a motel, boarding house or club,
111 whether or not meals are served.

112 (k) Occupancy. The use or possession or the right to the use
113 or possession, of any room in a hotel.

114 (l) Occupant. A person who, for a consideration, uses, pos-
115 sesses, or has the right to use or possess, any room in a hotel under
116 any lease, concession, permit, right of access, license to use or other
117 agreement, or otherwise.

118 (m) Permanent resident. Any occupant of any room or rooms
119 in a hotel for at least 90 consecutive days shall be considered a
120 permanent resident with regard to the period of such occupancy.

121 (n) Room. Any room or rooms of any kind in any part or
122 portion of a hotel, which is available for or let out for any purpose
123 other than a place of assembly.

124 (o) Admission charge. The amount paid for admission, includ-
125 ing any service charge and any charge for entertainment or amuse-
126 ment or for the use of facilities therefor.

127 (p) Amusement charge. Any admission charge, dues or charge
128 of roof garden, cabaret or other similar place.

129 (q) Charge of a roof garden, cabaret or other similar place. Any
130 charge made for admission, refreshment, service, or merchandise
131 at a roof garden, cabaret or other similar place.

132 (r) Dramatic or musical arts admission charge. Any admission
133 charge paid for admission to a theatre, opera house, concert hall
134 or other hall or place of assembly for a live, dramatic, choreo-
135 graphic or musical performance.

136 (s) Lessor. Any person who is the owner, licensee, or lessee
137 of any premises or tangible personal property which he leases,
138 subleases, or grants a license to use to other persons.

139 (t) Place of amusement. Any place where any facilities for
140 entertainment, amusement, or sports are provided.

141 (u) Casual sale. Casual sale means an isolated or occasional
142 sale of an item of tangible personal property by a person who is
143 not regularly engaged in the business of making sales at retail
144 where such property was obtained by the person making the sale,
145 through purchase or otherwise, for his own use in this State.

146 (v) Motor vehicle. Motor vehicle shall include all vehicles pro-
147 pelled otherwise than by muscular power (excepting such vehicles
148 as run only upon rails or tracks), trailers, semitrailers, house-
149 trailers, or any other type of vehicle drawn by a motor-driven
150 vehicle, and motorcycles, designed for operation on the public
151 highways.

152 (w) "Persons required to collect tax" or "persons required to
153 collect any tax imposed by this act" shall include: every vendor
154 of tangible personal property or services; every recipient of

155 amusement charges; and every operator of a hotel. Said terms
 156 shall also include any officer or employee of a corporation or of a
 157 dissolved corporation who as such officer or employee is under
 158 a duty to act for such corporation in complying with any require-
 159 ment of this act and any member of a partnership. Provided, how-
 160 ever, the vendor of tangible personal property to all contractors,
 161 subcontractors or repairmen, consisting of materials and supplies
 162 for use by them in erecting structures for others, or building on, or
 163 otherwise improving, altering or repairing real property of others,
 164 shall not be deemed a person required to collect tax, and the tax
 165 imposed by any section of this act shall be paid directly to the
 166 director by such contractors, subcontractors or repairmen.

167 (x) "Customer" shall include: every purchaser of tangible per-
 168 sonal property or services; every patron paying or liable for the
 169 payment of any amusement charge; and every occupant of a room
 170 or rooms in a hotel.

171 (y) "Property and services the use of which is subject to tax"
 172 shall include: (a) all property sold to a person within the State,
 173 whether or not the sale is made within the State, the use of which
 174 property is subject to tax under section 6 or will become subject
 175 to tax when such property is received by or comes into the posses-
 176 sion or control of such person within the State; and (b) all services
 177 rendered to a person within the State, whether or not such services
 178 are performed within the State, upon tangible personal property
 179 the use of which is subject to tax under section 6 or will become
 180 subject to tax when such property is received by or comes into
 181 possession or control of such person within the State.

182 (z) Director. Director means the Director of the Division of
 183 Taxation of the State Department of the Treasury, or any officer,
 184 employee or agency of the Division of Taxation in the Department
 185 of the Treasury duly authorized by the director (directly, or
 186 indirectly by one or more redelegations of authority) to perform
 187 the functions mentioned or described in this act.

1 2. This act shall take effect ***[on July 1, 1987]*** **immediately,*
 2 *but shall remain inoperative until the first day of the second*
 3 *month following enactment*.*

TAXATION—SALES AND USE

Exempts from the sales and use tax all food and food items
 properly purchased with food stamps.

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 153 collect any tax imposed by this act" shall include: every vendor
 154 of tangible personal property or services; every recipient of
 155 amusement charges; and every operator of a hotel. Said terms
 156 shall also include any officer or employee of a corporation or of a
 157 dissolved corporation who as such officer or employee is under
 158 a duty to act for such corporation in complying with any require-
 159 ment of this act and any member of a partnership. Provided, how-
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 161 subcontractors or repairmen, consisting of materials and supplies
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 176 sion or control of such person within the State; and (b) all services
 177 rendered to a person within the State, whether or not such services
 178 are performed within the State, upon tangible personal property
 179 the use of which is subject to tax under section 6 or will become
 180 subject to tax when such property is received by or comes into
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 183 Taxation of the State Department of the Treasury, or any officer,
 184 employee or agency of the Division of Taxation in the Department
 185 of the Treasury duly authorized by the director (directly, or
 186 indirectly by one or more redelegations of authority) to perform
 187 the functions mentioned or described in this act.

1 2. This act shall take effect on July 1, 1987.

STATEMENT

This bill exempts food purchased with food stamps from the sales and use tax. Although most food purchased in retail food stores is exempt from sales tax, some food, such as carbonated beverages, is taxable. The federal "Food Security Act of 1985," Pub. L.

99-198, requires under the federal food stamp program that a state be disqualified from participating in the program if sales tax is collected on any food item purchased with food stamps. This bill would specifically exempt food and food items properly purchased with food stamps, and therefore ensure that New Jersey would not be disqualified from participating in the food stamp program.

TAXATION—SALES AND USE

Exempts from the sales and use tax all food and food items properly purchased with food stamps.

SENATE REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO

SENATE, No. 3259

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JUNE 22, 1987

The Senate Revenue, Finance and Appropriations Committee reported Senate Bill No. 3259 favorably, with committee amendments.

Senate Bill No. 3259, as amended, exempts food purchased with food stamps from the sales and use tax.

Although most foods sold for human consumption off the premises are exempt from sales tax, some foods, such as candy and carbonated soft drinks, are taxable. The federal "Food Security Act of 1985," Pub. L. 99-198, requires under the federal food stamp program that a state be disqualified from participating in the program if sales tax is collected on any food item purchased with food stamps. This bill ensures that New Jersey would not be disqualified from participating in the food stamp program.

COMMITTEE AMENDMENTS:

The committee amendment changes the effective date from July 1, 1987 to the first day of the second month following enactment, to allow the Division of Taxation in the Department of the Treasury to prepare for the implementation of this change.

FISCAL IMPACT:

This bill, as amended, will reduce sales and use tax revenue to the General Fund by an undetermined amount. The fiscal impact is anticipated to be minimal.