

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 170

Introduced by Brandt, 32; Dorn, 30.

Read first time January 13, 2025

Committee:

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend section
- 2 77-2704.24, Reissue Revised Statutes of Nebraska; to define and
- 3 redefine terms; to eliminate the sales tax exemptions for candy and
- 4 soft drinks; to harmonize provisions; to provide an operative date;
- 5 and to repeal the original section.
- 6 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 77-2704.24, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 77-2704.24 (1) Sales and use taxes shall not be imposed on the gross
4 receipts from the sale, lease, or rental of and the storage, use, or
5 other consumption in this state of food or food ingredients except for
6 prepared food and food sold through vending machines.

7 (2) For purposes of this section:

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

11 **(b)** Candy means a preparation of sugar, honey, or other natural or
12 artificial sweeteners in combination with chocolate, fruits, nuts, or
13 other ingredients or flavorings in the form of bars, drops, or pieces.
14 Candy does not include any preparation that contains flour or that
15 requires refrigeration;

16 **(c)** ~~(b)~~ Dietary supplement means any product, other than tobacco,
17 intended to supplement the diet that contains one or more of the
18 following dietary ingredients: (i) A vitamin, (ii) a mineral, (iii) an
19 herb or other botanical, (iv) an amino acid, (v) a dietary substance for
20 use by humans to supplement the diet by increasing the total dietary
21 intake, or (vi) a concentrate, metabolite, constituent, extract, or
22 combination of any ingredients described in subdivisions ~~(2)(c)(i)~~ ~~(2)(b)~~
23 ~~(i)~~ through (v) of this section; that is intended for ingestion in
24 tablet, capsule, powder, softgel, gelcap, or liquid form or, if not
25 intended for ingestion in such a form, is not presented as conventional
26 food and is not represented for use as a sole item of a meal or of the
27 diet; and that is required to be labeled as a dietary supplement,
28 identifiable by the supplemental facts box found on the label and as
29 required pursuant to 21 C.F.R. 101.36, as such regulation existed on
30 January 1, 2003;

31 **(d)** ~~(e)~~ Food and food ingredients means substances, whether in

1 liquid, concentrated, solid, frozen, dried, or dehydrated form, that are
2 sold for ingestion or chewing by humans and are consumed for their taste
3 or nutritional value. Food and food ingredients does not include
4 alcoholic beverages, candy, dietary supplements, soft drinks, or tobacco;

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

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

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

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

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

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

19 (C) Food sold by a seller whose proper primary North American
20 Industry Classification System classification is manufacturing in sector
21 311, except subsector 3118, bakeries;

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

24 (E) Bakery items, including bread, rolls, buns, biscuits, bagels,
25 croissants, pastries, donuts, danish, cakes, tortes, pies, tarts,
26 muffins, bars, cookies, and tortillas; and

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

29 (g) Soft drinks means nonalcoholic beverages that contain natural or
30 artificial sweeteners. Soft drinks does not include beverages that
31 contain milk or milk products, soy, rice, or similar milk substitutes or

1 that contain greater than fifty percent of vegetable or fruit juice by
2 volume; and

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

5 **Sec. 2.** This act becomes operative on October 1, 2025.

6 **Sec. 3.** Original section 77-2704.24, Reissue Revised Statutes of
7 Nebraska, is repealed.