

HOUSE BILL NO. HB0169

Sales tax on food-local option.

Sponsored by: Representative(s) Greear, Petroff and Wallis
and Senator(s) Burns

A BILL

for

1 AN ACT relating to taxation and revenue; authorizing local
2 governments to impose a sales and use tax on food for
3 domestic consumption as specified; providing for
4 distribution, specifying conditions; amending related
5 provisions; and providing for an effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** 39-15-203(a) by creating a new paragraph
10 (vi), 39-15-204(a)(intro), by creating a new paragraph
11 (vii) and by creating a new subsection (b), 39-15-205,
12 39-15-210, 39-15-211(a)(intro) and by creating a new
13 paragraph (v), 39-16-202(e), 39-16-203(a) by creating a new
14 paragraph (v), 39-16-204(a)(intro), by creating a new
15 paragraph (vi) and by creating a new subsection (b),

1 39-16-205 and 39-16-211(a) (intro) and by creating a new
2 paragraph (iv) are amended to read:

3

4 **39-15-203. Imposition.**

5

6 (a) Taxable event. The following shall apply:

7

8 (vi) The following provisions apply to
9 imposition of the food excise tax under W.S.
10 39-15-204(a) (vii):

11

12 (A) The board of county commissioners or
13 the city or town council shall adopt a resolution or
14 ordinance, as applicable, for the tax authorized. The
15 resolution or ordinance shall include the following:

16

17 (I) A provision imposing an excise tax
18 on every sale of food within the county, city or town at
19 the rate approved by the board of county commissioners, the
20 city council or town council, or both, as applicable;

21

22 (II) Provisions identical to those
23 contained in article 1 of this chapter, except for W.S.
24 39-15-102(a), insofar as it relates to sales taxes except

1 the name of the county as the taxing agency shall be
2 substituted for that of the state and an additional license
3 to engage in business shall not be required if the vendor
4 has been issued a state license pursuant to law;

5
6 (III) A provision that any amendments
7 made to article 1 of this chapter shall automatically
8 become a part of the sales tax resolution or ordinance of
9 the county, city or town;

10
11 (IV) A provision that the county, city
12 or town imposing the tax shall contract with the department
13 prior to the effective date of the county, city or town
14 sales tax resolution or ordinance whereby the department
15 shall perform all functions incident to the administration
16 of the food sales tax resolution or ordinance of the
17 county, city or town;

18
19 (V) A provision that the amount
20 subject to the tax shall not include the amount of any
21 sales tax imposed by the state of Wyoming.

22
23 (B) If the resolution to impose a tax on
24 food within the county is approved in accordance with

1 subparagraph (A) of this paragraph, a city or town may
2 impose a food tax in addition to the countywide tax to the
3 extent the additional tax does not exceed the limitation
4 established under W.S. 39-15-204(a)(vii). Nothing in this
5 subparagraph prevents a city or town from imposing an
6 excise tax on food in the absence of a countywide excise
7 tax on food;

8
9 (C) No tax shall be imposed under W.S.
10 39-15-204(a)(vii) until the resolution to impose the tax is
11 approved by the board of county commissioners, or the
12 governing body of a city or town if the ordinance is to
13 impose the tax only city wide or town wide. Excise taxes
14 imposed under this paragraph shall commence as provided by
15 W.S. 39-15-207(c) following the approval of the imposition
16 of the tax;

17
18 (D) Following approval of a resolution or
19 ordinance to impose the tax, the county, city or town shall
20 within thirty (30) days following the effective date and
21 annually thereafter each year the tax is in effect, notify
22 the department of revenue of the resolution or ordinance
23 imposing the food tax and shall submit a list to the

1 department of all persons selling food within their
2 respective jurisdiction;

3

4 (E) The tax may be terminated by a
5 resolution to rescind the tax adopted by the board of
6 county commissioners or by ordinance adopted by the city
7 council or town council imposing the tax;

8

9 (F) No person shall be liable for payment
10 of the tax imposed under W.S. 39-15-204(a)(vii) for any
11 sale of food made more than one (1) year prior to the date
12 he is notified by the department of revenue of his
13 liability for the tax.

14

15 **39-15-204. Taxation rate.**

16

17 (a) In addition to the state tax imposed under W.S.
18 39-15-101 through 39-15-111 any county of the state may
19 impose the following excise taxes and any city or town may
20 impose the tax authorized by ~~paragraph~~ paragraphs (ii) and
21 (vii) of this subsection and any resort district may impose
22 the tax authorized by paragraph (v) of this subsection:

23

1 (vii) An excise tax at a rate in increments of
2 one percent (1%) not to exceed a rate of four percent (4%)
3 upon the sales price paid for food as defined under W.S.
4 39-15-101(a)(xli).

5
6 (b) Any tax imposed pursuant to paragraph (a)(i),
7 (ii), (iii) or (vi) of this section shall not apply to food
8 taxed pursuant to paragraph (a)(vii) of this section unless
9 the tax imposed pursuant to paragraph (a)(i), (ii), (iii)
10 or (vi) of this section is approved at the next general
11 election following imposition of the food tax pursuant to
12 W.S. 39-15-103(a)(vi).

13
14 **39-15-205. Exemptions.**

15
16 There are no specific applicable provisions for exemptions
17 for this article. The provisions of W.S. 39-15-105 shall
18 apply to the taxes imposed by this article, except as
19 provided in W.S. 39-15-204(a)(vii).

20
21 **39-15-210. Statute of limitations.**

22
23 No person shall be liable for payment of the tax imposed
24 under W.S. 39-15-204(a)(ii) for any sale of lodging

1 services or the tax imposed under W.S. 39-15-204(a)(vii)
2 for any sale of food made more than one (1) year prior to
3 the date he is notified by the department of revenue of his
4 liability for the tax.

5
6 **39-15-211. Distribution.**

7
8 (a) All revenue collected by the department from the
9 taxes imposed under W.S. 39-15-204(a)(i), (ii), (v), ~~and~~
10 (vi) and (vii) shall be transferred to the state treasurer
11 who shall:

12
13 (v) For revenues collected under W.S.
14 39-15-204(a)(vii):

15
16 (A) During the first year the tax is
17 imposed in a county, city or town, deduct two percent (2%)
18 for the costs to the state of initial implementation of
19 collection and administration of the tax, and one percent
20 (1%) each year thereafter for state administrative costs
21 with the proceeds to be deposited in the state general
22 fund;

23

1 (B) Except as provided in subparagraph (C)
2 of this paragraph, distribute the balance on a monthly
3 basis to the treasurer of each county, city or town
4 imposing the tax in an amount equal to the amount collected
5 in each entity less the costs of collection as provided by
6 subparagraph (A) of this paragraph;

7
8 (C) If the tax is terminated and a county,
9 city or town does not reimpose the tax under W.S.
10 39-15-204(a)(vii), the state treasurer shall retain
11 revenues collected during the last three (3) months the tax
12 is in effect to provide for refund of any overpayment of
13 tax. One (1) year after the tax expires, the state
14 treasurer shall distribute the balance of the revenues
15 retained under this subparagraph to the treasurer of that
16 county, city or town.

17
18 **39-16-202. Administration.**

19
20 (e) A county imposing a sales tax pursuant to W.S.
21 39-15-203(a)(iii), ~~or~~ a resort district imposing a sales
22 tax pursuant to W.S. 39-15-203(a)(iv), or a county, city or
23 town imposing a sales tax pursuant to W.S. 39-15-203(a)(vi)
24 is authorized and required to impose a corresponding use

1 tax at the same rate and for the same period of time as for
2 the sales tax.

3

4 **39-16-203. Imposition.**

5

6 (a) Taxable event. The following shall apply:

7

8 (v) The following provisions apply to imposition
9 of the food excise tax under W.S. 39-16-204(a)(vi):

10

11 (A) The board of county commissioners or
12 the city or town council shall adopt a resolution or
13 ordinance, as applicable, for the tax authorized. The
14 resolution or ordinance shall include the following:

15

16 (I) A provision imposing an excise tax
17 on every sale of food within the county, city or town at
18 the rate approved by the board of county commissioners, the
19 city council or town council, or both, as applicable;

20

21 (II) Provisions identical to those
22 contained in article 1 of this chapter, insofar as it
23 relates to sales taxes, except the name of the county as
24 the taxing agency shall be substituted for that of the

1 state and an additional license to engage in business shall
2 not be required if the vendor has been issued a state
3 license pursuant to law;

4

5 (III) A provision that any amendments
6 made to article 1 of this chapter shall automatically
7 become a part of the use tax resolution or ordinance of the
8 county, city or town;

9

10 (IV) A provision that the county, city
11 or town imposing the tax shall contract with the department
12 prior to the effective date of the county, city or town use
13 tax resolution or ordinance whereby the department shall
14 perform all functions incident to the administration of the
15 use tax resolution or ordinance of the county, city or
16 town;

17

18 (V) A provision that the amount
19 subject to the tax shall not include the amount of any
20 sales tax imposed by the state of Wyoming.

21

22 (B) If the resolution to impose a tax on
23 food within the county is approved in accordance with
24 subparagraph (A) of this paragraph, a city or town may

1 impose a food tax in addition to the countywide tax to the
2 extent the additional tax does not exceed the limitation
3 established under W.S. 39-16-204(a)(vi). Nothing in this
4 subparagraph prevents a city or town from imposing an
5 excise tax on food if a countywide excise tax on food is
6 not imposed;

7
8 (C) No tax shall be imposed under W.S.
9 39-16-204(a)(vi) until the resolution to impose the tax is
10 approved by the board of county commissioners or the
11 governing body of a city or town if the ordinance is to
12 impose the tax only city wide or town wide. Excise taxes
13 imposed under this paragraph shall commence as provided by
14 W.S. 39-16-207(c) following the approval of the imposition
15 of the tax;

16
17 (D) Following approval of a resolution or
18 ordinance to impose the tax, the county, city or town shall
19 within thirty (30) days following the effective date and
20 annually thereafter each year the tax is in effect, notify
21 the department of revenue of the resolution or ordinance
22 imposing the food tax and shall submit a list to the
23 department of all persons selling food within their
24 respective jurisdiction;

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39-16-204. Taxation rate.

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(E) The tax may be terminated by a resolution to rescind the tax adopted by the board of county commissioners or by an ordinance adopted by the city council or town council imposing the tax;

(F) No person shall be liable for payment of the tax imposed under W.S. 39-16-204(a)(vi) for any sale of food made more than one (1) year prior to the date he is notified by the department of revenue of his liability for the tax.

(a) In addition to the state tax imposed under W.S. 39-16-101 through 39-16-111 any county of the state may impose the following excise taxes and any city or town may impose the tax authorized by paragraph (vi) of this subsection and any resort district may impose the tax authorized by paragraph (iv) of this subsection:

(vi) An excise tax at a rate in increments of one percent (1%) not to exceed a rate of four percent (4%)

1 upon the sales and storage, use and consumption of food as
2 defined under W.S. 39-15-101(a)(xli).

3
4 (b) Any tax imposed pursuant to paragraph (a)(i),
5 (ii), (iv) or (v) of this section shall not apply to food
6 taxed pursuant to paragraph (a)(vi) of this section unless
7 the tax imposed pursuant to paragraph (a)(i), (ii), (iv) or
8 (v) of this section is approved at the next general
9 election following adoption of the food tax pursuant to
10 W.S. 39-16-103(a)(v).

11
12 **39-16-205. Exemptions.**

13
14 There are no specific applicable provisions for exemptions
15 for this article. The provisions of W.S. 39-16-105 shall
16 apply to the taxes imposed by this article, except as
17 provided in W.S. 39-16-204(a)(vi).

18
19 **39-16-211. Distribution.**

20
21 (a) All revenue collected by the department from the
22 taxes imposed under W.S. 39-16-204(a)(i), (iv), ~~and~~ (v) and
23 (vi) shall be transferred to the state treasurer who shall:
24

1 (iv) For revenues collected under W.S.
2 39-16-204(a)(vi):

3
4 (A) During the first year the tax is
5 imposed in a county, city or town, deduct two percent (2%)
6 for the costs to the state of initial implementation of
7 collection and administration of the tax, and one percent
8 (1%) each year thereafter for state administrative costs
9 with the proceeds to be deposited in the state general
10 fund;

11
12 (B) Except as provided in subparagraph
13 (v)(C) of this subsection, distribute the balance on a
14 monthly basis to the treasurer of each county, city or town
15 imposing the tax in an amount equal to the amount collected
16 in each entity less the costs of collection as provided by
17 subparagraph (v)(A) of this subsection;

18
19 (C) If the tax is terminated and a county,
20 city or town does not reimpose the tax under W.S.
21 39-16-204(a)(vi), the state treasurer shall retain revenues
22 collected during the last three (3) months the tax is in
23 effect to provide for refund of any overpayment of tax. One
24 (1) year after the tax expires, the state treasurer shall

1 distribute the balance of the revenues retained under this
2 subparagraph to the treasurer of that county, city or town.

3

4 **Section 2.** This act is effective July 1, 2011.

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(END)