2016 First Extraordinary Session

HOUSE CONCURRENT RESOLUTION NO. 3

BY REPRESENTATIVE HAVARD

TAX/SALES-USE-EXEMPT: Urges and requests the Department of Revenue to reexamine their revenue ruling determination that a certain rate reduction and tax exemption is applicable to sellers of nonprepared foods

1	A CONCURRENT RESOLUTION
2	To urge and request the Department of Revenue to reexamine their revenue ruling
3	determination that a certain rate reduction and tax exemption is applicable to sellers
4	of nonprepared foods.
5	WHEREAS, the sale of food and food ingredients, which constitute nonprepared
6	foods should be taxable; and
7	WHEREAS, examples of nonprepared foods are milk, flour, eggs, meats, vegetables,
8	gelatins, salt, ketchup, potato chips, candy, chewing gum, and soft drinks in bottles or cans;
9	and
10	WHEREAS, nonprepared foods are eligible for the reduced rate or exemption
11	without regard to package size or quantity of product sold; and
12	WHEREAS, all sales of nonprepared food by grocery stores, delicatessens, meat and
12 13	WHEREAS, all sales of nonprepared food by grocery stores, delicatessens, meat and seafood markets, convenience stores, variety stores, department stores, and other retailers
13	seafood markets, convenience stores, variety stores, department stores, and other retailers
13 14	seafood markets, convenience stores, variety stores, department stores, and other retailers for home consumption are eligible for the reduced state sales tax rate or exemption; and
13 14 15	seafood markets, convenience stores, variety stores, department stores, and other retailers for home consumption are eligible for the reduced state sales tax rate or exemption; and WHEREAS, if the aforementioned products are sold by restaurants, drive-ins, snack

1 WHEREAS, when convenience stores sell prepared food and nonprepared food 2 together, the prepared food is taxed at a higher rate than the nonprepared food during the 3 same transaction; and

4 WHEREAS, sellers who sale food products in the identical unheated conditions in 5 which the products were acquired from wholesalers, and who also sell similar products that 6 they themselves have prepared, must apply different state sales tax rates to the two classes 7 of food; and

8 WHEREAS, in cases where sellers of nonprepared foods have no information at the 9 times of sales to indicate that the food purchased from them is other than for home 10 consumption, but the actual consumption of the food is other than in homes, the purchasers 11 will be required to remit a use tax to the department equal to the difference between te 4 12 percent state sales tax rate that was due on the food purchased, and the state sales tax rate 13 that was actually remitted to the vendors; and

14 WHEREAS, purchasing nonprepared foods for immediate consumption at a 15 convenience store are eligible for exemption if the staff does not assist in heating the 16 nonprepared food although the nonprepared food is heated using the sellers equipment; and 17 WHEREAS, taxing prepared foods and nonprepared foods at the same rate will 18 eliminate any confusion with regards to the taxation rates of the particular foods; and

19 WHEREAS, the benefit derived from added economic activity from the taxation of 20 nonprepared foods will assist in generating more revenue for the state during our current 21 fiscal crisis.

22 THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby 23 urge and request the Department of Revenue to reevaluate and remove the reduced rate and 24 tax exemption applicable to certain sellers of nonprepared foods.

25 BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the 26 secretary of the Department of Revenue.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Urges and requests the Dept. of Revenue to reevaluate their revenue ruling determining the rate reduction and tax exemption applicable to certain retail sellers of nonprepared food.