

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

474J0212

## SENATE BILL NO. 111

Introduced by: Senator Bogue and Representative Madsen

1 FOR AN ACT ENTITLED, An Act to define food for sales and use tax purposes.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 10-45-1 be amended by adding thereto NEW SUBDIVISIONS to read as  
4 follows:

5 "Food" and "food ingredient," any substance, whether in liquid, concentrated, solid, frozen,  
6 dried, or dehydrated form, that is sold for ingestion or chewing by humans and is consumed for  
7 its taste or nutritional value. The term, food, does not include alcoholic beverages, tobacco, soft  
8 drinks, candy, or prepared food;

9 "Soft drinks," any nonalcoholic beverages that contain natural or artificial sweeteners. The  
10 term, soft drinks, does not include any beverage that contains milk or milk products, soy, rice  
11 or similar milk substitutes, or greater than fifty percent of vegetable or fruit juice by volume;

12 "Candy," any preparation of sugar, honey, or other natural or artificial sweeteners in  
13 combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars,  
14 drops, or pieces. The term, candy, does not include any item that contains flour or requires  
15 refrigeration;

16 "Prepared food," any:



- 1 (a) Food sold in a heated state or heated by the seller;
- 2 (b) Two or more food ingredients mixed or combined by the seller for sale as a
- 3 single item. The term, prepared food, in this subdivision does not include food
- 4 that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat,
- 5 poultry, and foods containing these raw animal foods requiring cooking by the
- 6 consumer as recommended by the Food and Drug Administration in chapter
- 7 3, part 401.11 of its Food Code as of January 1, 2004, so as to prevent food
- 8 borne illnesses; or
- 9 (c) Food sold with eating utensils provided by the seller, including plates, knives,
- 10 forks, spoons, glasses, cups, napkins, or straws. A plate does not include a
- 11 container or packaging used to transport the food.

12 Section 2. That § 10-46-1 be amended by adding thereto NEW SUBDIVISIONS to read as  
13 follows:

14 "Food" and "food ingredient," any substance, whether in liquid, concentrated, solid, frozen,  
15 dried, or dehydrated form, that is sold for ingestion or chewing by humans and is consumed for  
16 its taste or nutritional value. The term, food, does not include alcoholic beverages, tobacco, soft  
17 drinks, candy, or prepared food;

18 "Soft drinks," any nonalcoholic beverages that contain natural or artificial sweeteners. The  
19 term, soft drinks, does not include any beverage that contains milk or milk products, soy, rice  
20 or similar milk substitutes, or greater than fifty percent of vegetable or fruit juice by volume;

21 "Candy," any preparation of sugar, honey, or other natural or artificial sweeteners in  
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23 drops, or pieces. The term, candy, does not include any item that contains flour or requires  
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10 (c) Food sold with eating utensils provided by the seller, including plates, knives,  
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