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Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Lear and D. Thomas

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SUMMARY

- Explicitly exempts food sold via a vending machine or micro-market from state and local sales and use taxes, regardless of where the food is consumed.

DETAILED ANALYSIS

Sales and use tax exemption for vending machine food

Continuing law authorizes a sales and use tax exemption for food consumed off of the premises where it is sold. This exemption is based on a provision of the Ohio Constitution, enacted by voter initiative in 1936, prohibiting excise taxation of food consumed off the premises where sold.¹ One of the first questions the Ohio Supreme Court faced in interpreting this amendment regarded vending machines. The Court reasoned that allowing taxation of food served in restaurants and similar establishments, under the control of the vendor, was the intention of the voters. Accordingly, where the vendor only operates vending machines and has no other control over the premises, its food sales are exempted from sales tax.²

The bill explicitly exempts food sold via a vending machine or micro-market from state and local sales and use taxes, regardless of where the food is consumed. A micro-market is defined as a self-service, unmanned retail environment, where a person may purchase food at a self-checkout kiosk. A vending machine is an automated machine that dispenses food to a purchaser.

¹ Article XII, Section 3(C), Ohio Constitution (originally Article XII, Section 12, Ohio Constitution).

² *Castleberry v. Evatt*, 147 Ohio St. 30, 33-34 (1946). For further discussion, see the LSC [Excise Taxes on Food and Drinks \(PDF\)](#) Members Brief, which is available on LSC's website: lsc.ohio.gov/Publications.

The exemption applies to food sold on or after the first day of the first month that begins after the bill’s 90-day effective date.³

HISTORY

Action	Date
Introduced	03-17-26

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³ R.C. 5739.02(B)(2); Section 3.