

HOUSE BILL NO. HB0131

Optional sales tax on food.

Sponsored by: Representative(s) Lindholm, Brown, Esquibel,
K. and Hunt and Senator(s) Barnard, Driskill
and Meier

A BILL

for

1 AN ACT relating to sales tax; providing an exception to the
2 exemption for sales tax on food for domestic home
3 consumption; authorizing the imposition of an excise tax on
4 food for domestic home consumption following approval of
5 voters of a county as specified; providing for distribution
6 of the tax; and providing for an effective date.

7

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

9

10 **Section 1.** W.S. 39-15-105(a)(vi)(E), 39-15-203(a) by
11 creating a new paragraph (vi), 39-15-204(a) by creating a
12 new paragraph (vii) and 39-15-211(a)(into) and by creating
13 a new paragraph (v) are amended to read:

14

15 **39-15-105. Exemptions.**

1

2 (a) The following sales or leases are exempt from the
3 excise tax imposed by this article:

4

5 (vi) For the purpose of exempting sales of
6 services and tangible personal property which are essential
7 human goods and services, the following are exempt:

8

9 (E) Sales of food for domestic home
10 consumption, except for any tax imposed under W.S.
11 39-15-203(a)(vi).

12

13 **39-15-203. Imposition.**

14

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

16

17 (vi) The following provisions apply to
18 imposition of the excise tax on food for domestic home
19 consumption under W.S. 39-15-204(a)(vii):

20

21 (A) No tax shall be imposed under W.S.
22 39-15-204(a)(vii) until the proposition to impose the tax
23 is submitted to the vote of the qualified electors of the

1 county, and a majority of those casting their ballots vote
2 in favor of imposing the tax. Except as otherwise provided,
3 an excise tax imposed under this paragraph shall commence
4 as provided by W.S. 39-15-207(c) following the election
5 approving the imposition of the tax;

6
7 (B) The proposition to impose an excise tax
8 shall be at the expense of the county and be submitted to
9 the electors of the county upon the receipt by the board of
10 county commissioners of a petition requesting the election
11 signed by at least five percent (5%) of the electors of the
12 county or of a resolution approving the proposition from
13 the governing body of the county and the governing bodies
14 of at least two-thirds (2/3) of the incorporated
15 municipalities within the county. If proposed by petition
16 by electors, the number of electors required shall be
17 determined by the number of votes cast at the last general
18 election. The election shall be at the direction and under
19 the supervision of the board of county commissioners;

20
21 (C) The proposition may be submitted at an
22 election held on a date authorized under W.S. 22-21-103. A
23 notice of election shall be given in at least one (1)

1 newspaper of general circulation published in the county in
2 which the election is to be held, and the notice shall
3 specify the object of the election. The notice shall be
4 published at least once each week for a thirty (30) day
5 period preceding the election. At the election the ballots
6 shall contain the words "for the county sales tax on food"
7 and "against the county sales tax on food". If the
8 proposition is approved the same proposition shall be
9 submitted at every other subsequent general election until
10 the proposition is defeated;

11
12 (D) If the proposition to impose or
13 continue the tax is defeated the proposition shall not
14 again be submitted to the electors of the county for at
15 least eleven (11) months. If the proposition is defeated at
16 any general election following initial adoption of the
17 proposition the tax is repealed and shall not be collected
18 following June 30 of the year immediately following the
19 year in which the proposition is defeated;

20
21 (E) If the proposition is approved by the
22 qualified electors the board of county commissioners shall
23 by ordinance impose an excise tax upon retail sales of food

1 for domestic home consumption. The board of county
2 commissioners or the city or town council shall adopt an
3 ordinance for the tax authorized by W.S. 39-15-204(a) (vii).
4 The ordinance shall include the following:

5
6 (I) A provision imposing an excise tax
7 upon every retail sale of food for domestic home
8 consumption made within the county and storage, use and
9 consumption of food for domestic home consumption within
10 the county, whichever is appropriate;

11
12 (II) Provisions identical to those
13 contained in article 1 of this chapter except for W.S.
14 39-15-102(a), insofar as it relates to sales taxes, except
15 the name of the county as the taxing agency shall be
16 substituted for that of the state and an additional license
17 to engage in business shall not be required if the vendor
18 has been issued a state license pursuant to law;

19
20 (III) A provision that any amendments
21 made to article 1 or to chapter 16 not in conflict with
22 article 1 of this chapter or to chapter 16 shall

1 automatically become a part of the sales tax ordinances of
2 the county, city or town;

3
4 (IV) A provision that the county, city
5 or town, as appropriate, shall contract with the department
6 prior to the effective date of the county sales tax
7 ordinances whereby the department shall perform all
8 functions incident to the administration of the sales tax
9 ordinances of the county, city or town;

10
11 (V) A provision that the amount
12 subject to the sales tax shall not include the amount of
13 any sales tax imposed by the state of Wyoming.

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 (ii) of this
21 subsection and any resort district may impose the tax
22 authorized by paragraph (v) of this subsection:

23

1 (vii) An excise tax at a rate in increments of
2 one-half of one percent (.5%) not to exceed a rate of two
3 percent (2%) upon retail sales of food for domestic home
4 consumption.

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

7
8 (a) For all revenue collected by the department from
9 the taxes imposed under W.S. 39-15-204(a)(i), (ii), (v),
10 ~~and~~ (vi) and (vii) the department shall:

11
12 (v) For revenues collected under W.S.
13 39-15-204(a)(vii):

14
15 (A) Deduct one percent (1%) to defray the
16 costs of collecting the tax and administrative expenses
17 incident thereto which shall be deposited into the general
18 fund;

19
20 (B) Deposit the remainder into an account
21 for monthly distribution to counties imposing the tax and
22 its cities and towns. The distribution to the county and
23 its cities and towns shall be equal to the amount collected

1 in each county less the costs of collection as provided by
2 subparagraph (A) of this paragraph. The distribution shall
3 be as follows:

4

5 (I) To the county for deposit into its
6 general fund in the proportion the population of the county
7 situated outside the corporate limits of its cities and
8 towns bears to the total population of the county;

9

10 (II) To the incorporated cities and
11 towns within the county for deposit into their treasuries
12 in the proportion the population of each city or town bears
13 to the total population of the county.

14

15 **Section 2.** This act is effective July 1, 2016.

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(END)