

REFERENCE TITLE: sales tax; candy; soft drinks

State of Arizona  
Senate  
Forty-ninth Legislature  
Second Regular Session  
2010

# SB 1252

Introduced by  
Senator Aboud

AN ACT

AMENDING SECTION 42-5106, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5107; RELATING TO TRANSACTION PRIVILEGE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 42-5106, Arizona Revised Statutes, is amended to  
3 read:  
4 42-5106. Rules  
5 A. The department shall adopt rules defining food consistent with  
6 section 42-5101 and this section.  
7 B. The department shall include as food:  
8 1. Returnable containers for which a deposit is collected.  
9 2. Ice and dry ice used in packing, shipping or transporting food.  
10 3. Seeds and plants to grow food for personal consumption.  
11 C. The department shall not include food for consumption on the  
12 premises, alcoholic beverages, ~~or~~ tobacco **OR CANDY OR SOFT DRINKS, AS**  
13 **PROVIDED BY SECTION 42-5107**, as food.  
14 D. The department shall adopt rules ~~which~~ **THAT**, other than for those  
15 items specifically included or excluded by subsections B and C of this  
16 section, define food to be those items ~~which~~ **THAT** are intended for human  
17 consumption and ~~which~~ **THAT** are intended for home consumption. In adopting  
18 such rules, the department shall give strong consideration to those specific  
19 items ~~which~~ **THAT** are then eligible for purchase with food coupons issued by  
20 the United States department of agriculture so as to effectuate the intent of  
21 the legislature as specified in this article.  
22 Sec. 2. Title 42, chapter 5, article 3, Arizona Revised Statutes, is  
23 amended by adding section 42-5107, to read:  
24 42-5107. Candy and soft drinks; definitions  
25 **A. IN ADOPTING ITS RULES DEFINING FOOD PURSUANT TO SECTION 42-5106,**  
26 **THE DEPARTMENT SHALL NOT INCLUDE AS FOOD:**  
27 **1. CONFECTIONARY CANDY THAT DOES NOT CONTAIN FLOUR OR THAT REQUIRES**  
28 **REFRIGERATION.**  
29 **2. SOFT DRINKS, SOFT DRINK SYRUP, SIMPLE SYRUP AND POWDERS OR OTHER**  
30 **BASE PRODUCTS USED TO PRODUCE A LIQUID SOFT DRINK.**  
31 **3. DRINKS THAT ARE INTENDED OR MARKETED BY THE MANUFACTURER TO ENHANCE**  
32 **BODILY ENERGY OR PERFORMANCE.**  
33 **B. SUBSECTION A OF THIS SECTION DOES NOT APPLY TO, AND THE FOLLOWING**  
34 **ARE NOT CONSIDERED TO BE SOFT DRINKS FOR THE PURPOSES OF THIS SECTION:**  
35 **1. ANY POWDER OR OTHER BASE PRODUCT THAT IS USED IN PREPARING COFFEE**  
36 **OR TEA.**  
37 **2. ANY DRINK THAT CONTAINS MORE THAN FIFTY PER CENT NATURAL FRUIT**  
38 **JUICE OR NATURAL VEGETABLE JUICE.**  
39 **3. ANY FROZEN CONCENTRATE OR FREEZE-DRIED CONCENTRATE TO WHICH ONLY**  
40 **WATER IS ADDED TO PRODUCE A DRINK THAT CONTAINS MORE THAN FIFTY PER CENT**  
41 **NATURAL FRUIT JUICE OR NATURAL VEGETABLE JUICE.**  
42 **4. ANY INFANT FORMULA THAT IS SOLD IN LIQUID OR POWDER FORM AND THAT**  
43 **IS INTENDED BY THE MANUFACTURER TO BE CONSUMED BY INFANTS.**  
44 **5. ANY LIQUID OR POWDER PRODUCT THAT IS INTENDED BY THE MANUFACTURER**  
45 **TO BE USED FOR WEIGHT REDUCTION.**

1           6. WATER THAT HAS NO ADDED NATURAL OR ARTIFICIAL SWEETENERS.  
2           7. ANY PRODUCT THAT CONTAINS MILK OR MILK PRODUCTS. FOR THE PURPOSES  
3 OF THIS PARAGRAPH, "MILK" MEANS NATURAL LIQUID MILK FROM ANY ANIMAL SOURCE,  
4 SOY MILK, NATURAL MILK CONCENTRATE THAT IS FROM ANY ANIMAL SOURCE AND THAT  
5 MAY BE RECONSTITUTED OR DEHYDRATED NATURAL MILK THAT MAY BE RECONSTITUTED.  
6           C. FOR THE PURPOSES OF THIS SECTION:  
7           1. "NATURAL FRUIT JUICE" MEANS THE LIQUID THAT RESULTS FROM THE  
8 PRESSING OF FRUIT, THE RECONSTITUTION OF NATURAL FRUIT JUICE CONCENTRATE OR  
9 THE RESTORATION OF WATER TO DEHYDRATED NATURAL FRUIT JUICE.  
10           2. "NATURAL VEGETABLE JUICE" MEANS THE LIQUID THAT RESULTS FROM THE  
11 PRESSING OF VEGETABLES, THE RECONSTITUTION OF NATURAL VEGETABLE JUICE  
12 CONCENTRATE OR THE RESTORATION OF WATER TO DEHYDRATED NATURAL VEGETABLE  
13 JUICE.  
14           3. "POWDER OR OTHER BASE PRODUCT" MEANS A SOLID MIXTURE OF BASIC  
15 INGREDIENTS THAT IS USED IN MAKING, MIXING OR COMPOUNDING SOFT DRINKS BY  
16 MIXING POWDER OR OTHER BASE PRODUCT WITH WATER, ICE, SYRUP, SIMPLE SYRUP,  
17 FRUITS, VEGETABLES, FRUIT JUICE, VEGETABLE JUICE OR OTHER PRODUCT TO MAKE A  
18 COMPLETE SOFT DRINK.  
19           4. "SIMPLE SYRUP" MEANS A MIXTURE OF SUGAR AND WATER.  
20           5. "SOFT DRINK" MEANS ANY NONALCOHOLIC SWEETENED BEVERAGE THAT IS SOLD  
21 FOR HUMAN CONSUMPTION. SOFT DRINK INCLUDES SWEETENED SODA WATER, GINGER ALE,  
22 FRUIT OR VEGETABLE DRINKS THAT CONTAIN FIFTY PER CENT OR LESS NATURAL FRUIT  
23 OR NATURAL VEGETABLE JUICE AND OTHER DRINKS AND BEVERAGES THAT ARE COMMONLY  
24 REFERRED TO AS COLA, SODA, SODA POP OR SOFT DRINK.  
25           6. "SYRUP" MEANS THE LIQUID MIXTURE OF BASIC INGREDIENTS THAT ARE USED  
26 IN MAKING, MIXING OR COMPOUNDING SOFT DRINKS BY MIXING THE SYRUP WITH WATER,  
27 SIMPLE SYRUP, ICE, FRUITS, VEGETABLES, FRUIT JUICE OR OTHER PRODUCT TO MAKE A  
28 COMPLETE SOFT DRINK.  
29           Sec. 3. Requirements for enactment: two-thirds vote  
30           Pursuant to article IX, section 22, Constitution of Arizona, this act  
31 is effective only on the affirmative vote of at least two-thirds of the  
32 members of each house of the legislature and is effective immediately on the  
33 signature of the governor or, if the governor vetoes this act, on the  
34 subsequent affirmative vote of at least three-fourths of the members of each  
35 house of the legislature.