



1997 ASSEMBLY BILL 825

February 24, 1998 - Introduced by Representatives GARD, PORTER, JENSEN, RILEY, ZIEGELBAUER, HAHN, MUSSER, HANSON, BALDWIN, DOBYNS, HANDRICK, WALKER, WARD, KAUFERT, SYKORA, GOETSCH, SERATTI, OLSEN, GREEN, F. LASEE, SCHAFFER, JOHNSRUD, L. YOUNG, ALBERS, GROTHMAN, DUFF, TRAVIS and HARSDFORF, cosponsored by Senators FITZGERALD, BURKE, DRZEWIECKI, CHVALA, ZIEN, RUDE, DARLING, GROBSCHMIDT, HUELSMAN, WELCH, WINEKE and PANZER. Referred to Joint survey committee on Tax Exemptions.

1 **AN ACT to amend** 77.51 (4) (a) (intro.) and 77.51 (15) (a) (intro.); and **to create**
2 77.51 (4) (cm), 77.51 (15) (cm), 77.54 (20) (bg) and 77.54 (20m) of the statutes;
3 **relating to:** defining “meal” and “sandwich” for the sales tax and use tax on
4 food and specifying the tax status of exempt food and similar goods that are
5 packaged with other property.

Analysis by the Legislative Reference Bureau

Under current law, meals and sandwiches sold for off-premises consumption are subject to the sales tax and the use tax. This bill defines those terms. The bill also specifies that if food, food products and beverages are packaged with other goods by a person other than a retailer before a sale to the consumer and 50% or more of the sales price of the package is attributable to goods that are exempt the package is exempt. However, if less than 50% of the sales price of the package is attributable to goods that are exempt, the part of the value of the package that is attributable to the taxable items is taxable.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 77.51 (4) (a) (intro.) of the statutes is amended to read:

2 77.51 (4) (a) (intro.) “Gross Except as provided in par. (cm), “gross receipts”
3 means the total amount of the sale, lease or rental price, as the case may be, from
4 sales at retail of tangible personal property, or taxable services, valued in money,
5 whether received in money or otherwise, without any deduction on account of the
6 following:

7 **SECTION 2.** 77.51 (4) (cm) of the statutes is created to read:

8 77.51 (4) (cm) “Gross receipts” means the portion of the sales price attributable
9 to taxable goods if exempt food, food products or beverages are packaged with other
10 goods by a person other than a retailer before a sale to a final consumer and if less
11 than 50% of the sales price of the goods packaged together is attributable to goods
12 that are exempt under s. 77.54 (20).

13 **SECTION 3.** 77.51 (15) (a) (intro.) of the statutes is amended to read:

14 77.51 (15) (a) (intro.) “Sales Except as provided in par. (cm), “sales price” means
15 the total amount for which tangible personal property is sold, leased or rented,
16 valued in money, whether paid in money or otherwise, without any deduction on
17 account of any of the following:

18 **SECTION 4.** 77.51 (15) (cm) of the statutes is created to read:

19 77.51 (15) (cm) “Sales price” means the portion of the sales price attributable
20 to taxable goods if exempt food, food products or beverages are packaged with other
21 goods by a person other than a retailer before a sale to a final consumer and if less

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1 than 50% of the sales price of the goods packaged together is attributable to goods
2 that are exempt under s. 77.54 (20).

3 **SECTION 5.** 77.54 (20) (bg) of the statutes is created to read:

4 77.54 (20) (bg) In this subsection:

5 1. "Meal" includes, but is not limited to, a diversified selection of food, food
6 products or beverages that are customarily consumed as a breakfast, lunch or dinner,
7 that may not easily be consumed without an article of tableware and that may not
8 conveniently be consumed while standing or walking; except that "meal" does not
9 include frozen items that are sold to a consumer, items that are customarily heated
10 or cooked after the retail sale and before they are consumed or a diversified selection
11 of food, food products and beverages that is packaged together by a person other than
12 the retailer before the sale to the consumer.

13 2. "Sandwich" means food that consists of a filling; such as meat, cheese or a
14 savory mixture; that is placed on a slice, or between 2 slices; of a variety of bread or
15 something that takes the place of bread; such as a roll, croissant or bagel. "Sandwich"
16 includes, but is not limited to, pita sandwiches, gyros and pocket sandwiches.
17 "Sandwich" does not include burritos, tacos, enchiladas, chimichangas, hors
18 d'oeuvres, canapes, egg rolls, cookies, cakes, pies and similar desserts and pastries
19 and food that is sold frozen.

20 **SECTION 6.** 77.54 (20m) of the statutes is created to read:

21 77.54 (20m) The gross receipts from the sales of, and the storage, use or other
22 consumption of, food, food products or beverages and of other goods that are
23 packaged together by a person other than a retailer before the sale to the final
24 consumer if 50% or more of the sales price of the package is attributable to goods that
25 are exempt.

