

1999 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB133)

Received: 06/23/99

Received By: jkreye

Wanted: Soon

Identical to LRB:

For: Senate Democratic Caucus

By/Representing: Walter

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Alt. Drafters:

Subject: Tax - sales

Extra Copies:

Pre Topic:

SDC:.....Walter - CN#3318,

Topic:

Sales tax exemption for food and beverages sold in a vending machine

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 06/26/99	jgeller 06/27/99		_____			
/1			hhagen 06/27/99	_____	lrb_docadmin 06/27/99		

FE Sent For:

<END>

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/?	jkreye	1 6/27 jlg		mk/sr 6/27			

FE Sent For:

<END>

yes

SDC

01112

Agency: General Fund Taxes

caucus number 3318

duplicate flag:
duplicate with:

Other reference numbers:	LFB Sum #:
bill number/amendment number:	
LRB draft #	LRB P-draft:

description: Unconstitutional Taxation of Vended Products. Aid is to provide equitable sales tax treatment for certain food and beverage items sold through vending machines that are exempt when sold through a retail food store. Effective date 7/1/01 so no fiscal effect

other notes

drafting instructions: See above

more instructions:

caucus number 3507

duplicate flag:
duplicate with:

Other reference numbers: Paper 1235	LFB Sum #:
bill number/amendment number:	
LRB draft #	LRB P-draft:

description: Provide tax credit of up to \$1,000 to companies who sponsor a student to study abroad. Qualifying companies must provide at least \$3,000 toward student expenses; sponsor a full-time undergraduate student; sponsor WHEG eligible student

other notes

drafting instructions:

more instructions:

Agency: **General Fund Taxes**

Number of Amendments: 2

CN 3318

18

0

[REDACTED] Budget Priority-Unconstitutional Taxation of Vended Products
(New provision)

The aim of this provision is to amend Wisconsin law to provide equitable sales tax treatment for certain food and beverage items sold through vending machines that are exempt when sold through a retail food store. I would like this exemption to have an effective date of July 1, 2001, which would mean no fiscal impact for the state this biennium.



**WISCONSIN AUTOMATIC
MERCHANDISING COUNCIL**

A State Council of National Automatic Merchandising Association

June 15, 1999

To: Interested Legislators
From: Thomas J. Fonfara
Anthony H. Driessen
Re: Unconstitutional Taxation of Vended Products

On behalf of the Wisconsin Automatic Merchandising Council, we respectfully request your support for a Budget Amendment to correct a very questionable provision in Wisconsin law where certain products are exempt from the sales tax when purchased in a retail food store, while the identical product is subject to the sales tax if purchased through a vending machine; items such as milk, yogurt, fruit, pure fruit juices, etc. We appreciate your willingness to address tax fairness.

A similar provision existed in New Hampshire before their Supreme Court declared it unconstitutional by stating:

“There is no rational basis to justify taxing the sales from the machine but not the sales from the supermarket shelf. Accordingly, taxation of the sales from vending machines alone violated the equal protection clause of the New Hampshire Constitution.”

PROPOSAL: Amend Wisconsin Law to provide equitable sales tax treatment for certain food and beverage items sold through vending machines that are exempt when sold through a retail food store.

FISCAL EFFECT: \$0 in the 1999-01 Biennial Budget. We propose an effective date of July 1, 2001 for this proposal. Funding for this correction of current law will be built in to the next balanced budget submitted to the legislature.

COMMENTS:

1. This proposal is fair, current law is not.
2. Current law may be unconstitutional.
3. The State of Wisconsin could be required to issue refunds.
4. Current law taxes all sales from vending machines as if vending machines were restaurants. They are not.
5. The proposal has been modified to address previous concerns that were stated.

CONCLUSION: If the item is exempt in a retail food store, that same item should be exempt if sold through a vending machine. It's as simple as that.

in 6-26-99

*JKL
JG
+
cmh*

SDC:.....Walter - CN#3318, Sales tax exemption for food and beverages sold
in a vending machine

FOR 1999-01 BUDGET -- NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

500N

1 *[Signature]* At the locations indicated, amend the substitute amendment as follows:
2 *[Signature]* (END) *[Signature]*

see attached



Bill 2
~~LRB 1158/3~~
~~JL can 78 jlg kjf~~

SDC

in 6-26-99

ARC:.....Kratochwill - TP (4), Sales tax exemption for food sold in vending machines

FOR 1999-01 BUDGET -- NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

SOON



- 1 At the locations indicated, amend the substitute amendment as follows:
- 2 1. Page 953, line 21: after that line insert:
- 3 "SECTION 1812np. 77.54 (20) (c) 6. of the statutes is amended to read:
- 4 77.54 (20) (c) 6. For purposes of subd. 1., "premises" shall be construed broadly,
- 5 and, by way of illustration but not limitation, shall include the lobby, aisles and
- 6 auditorium of a theater or the seating, aisles and parking area of an arena, rink or
- 7 stadium or the parking area of a drive-in or outdoor theater. The premises of a
- 8 caterer with respect to catered meals or beverages shall be the place where served.
- 9 ~~Vending machine premises shall include the room or area in which located~~ Sales from

1 a vending machine shall be considered sales for off-premises consumption ✓

2 ~~provided under subd. 1.~~

3 **2.** Page 1614, line 5: after that line insert:

4 “(7g) VENDING MACHINE SALES. The treatment of section 77.54 (20) (c) 6. of the
5 statutes takes effect on July 1, 2001.”.

6 (END)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1112/1
JK:jl&cmh:ksh

SDC:.....Walter – CN#3318, Sales tax exemption for food and beverages sold
in a vending machine

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

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TO 1999 ASSEMBLY BILL 133

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