
HOUSE BILL No. 1123

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-2.5-5-20; IC 6-2.5-6-16; IC 14-32-8-6.

Synopsis: Sales tax on water. Provides that the sale of water is subject to sales tax. Deposits the revenue from sales tax collected on water in the clean water Indiana fund. Makes an appropriation.

Effective: July 1, 2004.

Friend, Klinker, Ruppel, Chowing

January 13, 2004, read first time and referred to Committee on Ways and Means.

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Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

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HOUSE BILL No. 1123



A BILL FOR AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-2.5-5-20, AS AMENDED BY P.L.257-2003,
2 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2004]: Sec. 20. (a) Sales of food and food ingredients for
4 human consumption are exempt from the state gross retail tax.
5 (b) For purposes of this section, the term "food and food ingredients
6 for human consumption" includes the following items if sold without
7 eating utensils provided by the seller:
8 (1) Food sold by a seller whose proper primary NAICS
9 classification is manufacturing in sector 311, except subsector
10 3118 (bakeries).
11 (2) Food sold in an unheated state by weight or volume as a single
12 item.
13 (3) Bakery items, including bread, rolls, buns, biscuits, bagels,
14 croissants, pastries, donuts, danish, cakes, tortes, pies, tarts,
15 muffins, bars, cookies, and tortillas.
16 (c) Except as otherwise provided by subsection (b), for purposes of
17 this section, the term "food and food ingredients for human



1 consumption" does not include:

- 2 (1) candy;
- 3 (2) alcoholic beverages;
- 4 (3) soft drinks;
- 5 (4) **water (including natural spring water), mineral water,**
- 6 **carbonated water, and ice;**
- 7 (5) food sold through a vending machine;
- 8 ~~(5)~~ (6) food sold in a heated state or heated by the seller;
- 9 ~~(6)~~ (7) two (2) or more food ingredients mixed or combined by
- 10 the seller for sale as a single item (other than food that is only cut,
- 11 repackaged, or pasteurized by the seller, and eggs, fish, meat,
- 12 poultry, and foods containing these raw animal foods requiring
- 13 cooking by the consumer as recommended by the federal Food
- 14 and Drug Administration in chapter 3, subpart 3-401.11 of its
- 15 Food Code so as to prevent food borne illnesses); or
- 16 ~~(7)~~ (8) food sold with eating utensils provided by the seller,
- 17 including plates, knives, forks, spoons, glasses, cups, napkins, or
- 18 straws (for purposes of this subdivision, a plate does not include
- 19 a container or packaging used to transport the food).

20 SECTION 2. IC 6-2.5-6-16 IS ADDED TO THE INDIANA CODE

21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

22 1, 2004]: **Sec. 16. (a) A retail merchant that sells at retail food for**

23 **human consumption described in IC 6-2.5-5-20(c)(4) shall account**

24 **separately for the state gross retail tax the retail merchant collects**

25 **on the sale of food for human consumption described in**

26 **IC 6-2.5-5-20(c)(4). The retail merchant shall make the accounting**

27 **on a form prescribed by the department.**

28 (b) A retail merchant shall separately report and remit to the

29 department the amount of state gross retail tax collected under

30 subsection (a) at the same time and in the same manner the retail

31 merchant remits the state gross retail and use taxes to the

32 department under this chapter. The retail merchant shall report

33 the amount collected under subsection (a) on a form prescribed by

34 the department.

35 (c) The department shall transfer all tax revenue remitted under

36 subsection (b) to the auditor of state for distribution to the clean

37 water Indiana fund established by IC 14-32-8-6.

38 (d) The auditor of state shall hold all amounts transferred under

39 subsection (c) and distribute the total amount to the clean water

40 Indiana fund established by IC 14-32-8-6 on or before December

41 31 of each year.

42 (e) Notwithstanding any other law, there is annually

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1 **appropriated to the clean water Indiana fund established by**
 2 **IC 14-32-8-6 the amount distributed under subsection (d) to be**
 3 **used for the purposes of the fund.**
 4 **(f) The department may adopt rules under IC 4-22-2 to carry**
 5 **out its duties under this section.**
 6 SECTION 3. IC 14-32-8-6, AS ADDED BY P.L.160-1999,
 7 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2004]: Sec. 6. (a) The clean water Indiana fund is established
 9 to carry out the purposes of this chapter. The fund shall be
 10 administered by the division of soil conservation subject to the
 11 direction of the board.
 12 (b) The fund consists of:
 13 (1) amounts appropriated by the general assembly, **including**
 14 **amounts appropriated under IC 6-2.5-6-16(e);** and
 15 (2) donations, grants, and money received from any other source.
 16 (c) The expenses of administering the fund shall be paid from
 17 money in the fund.
 18 (d) Money in the fund at the end of a state fiscal year does not revert
 19 to the state general fund.
 20 SECTION 4. [EFFECTIVE JULY 1, 2004] **IC 6-2.5-6-16, as added**
 21 **by this act, applies to retail transactions occurring after June 30,**
 22 **2004.**

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