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SENATE BILL 431

**48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008**

INTRODUCED BY

Gerald P. Ortiz y Pino

AN ACT

RELATING TO TAXATION; ELIMINATING A DEDUCTION FROM GROSS RECEIPTS FOR RECEIPTS FROM THE SALE OF SOFT DRINKS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-9-92 NMSA 1978 (being Laws 2004, Chapter 116, Section 5) is amended to read:

"7-9-92. DEDUCTION--GROSS RECEIPTS--SALE OF FOOD AT RETAIL FOOD STORE.--

A. Receipts from the sale of food at a retail food store that are not exempt from gross receipts taxation and are not deductible pursuant to another provision of the Gross Receipts and Compensating Tax Act may be deducted from gross receipts. The deduction provided by this section shall be separately stated by the taxpayer.

B. For the purposes of this section:

.172020.1

underscored material = new  
[bracketed material] = delete

underscoring material = new  
[bracketed material] = delete

1 (1) "food" means ~~any~~ a food or food product  
2 for home consumption that meets the definition of food in 7  
3 USCA 2012(g)(1) for purposes of the federal food stamp program,  
4 but does not include a nonalcoholic flavored beverage  
5 containing a sweetener additive, such as corn fructose, sugar  
6 or aspartame, if the beverage is:

7 (a) ginger ale, cola or a drink commonly  
8 referred to as a soft drink; or

9 (b) made from powder, syrup, concentrate  
10 or any other base product intended for mixing to produce a  
11 drink commonly referred to as a soft drink; and

12 (2) "retail food store" means an establishment  
13 that sells food for home preparation and consumption and that  
14 meets the definition of retail food store in 7 USCA 2012(k)(1)  
15 for purposes of the federal food stamp program, whether or not  
16 the establishment participates in the food stamp program."

17 Section 2. EFFECTIVE DATE.--The effective date of the  
18 provisions of this act is July 1, 2008.