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SENATE BILL 256

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Gerald Ortiz y Pino

AN ACT

RELATING TO TAXATION; ELIMINATING A DEDUCTION FROM GROSS RECEIPTS FOR RECEIPTS FROM THE SALE OF SOFT DRINKS; MAKING A DISTRIBUTION TO THE COUNTY-SUPPORTED MEDICAID FUND.

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.

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B. For the purposes of this section:

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

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

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

(2) "retail food store" means an establishment that sells food for home preparation and consumption and that meets the definition of retail food store in 7 USCA 2012(k)(1) for purposes of the federal ~~[food-stamp]~~ supplemental nutrition assistance program, whether or not the establishment participates in the ~~[food-stamp]~~ supplemental nutrition assistance program."

SECTION 2. [NEW MATERIAL] DISTRIBUTION--COUNTY-SUPPORTED MEDICAID FUND.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the county-supported medicaid fund in an amount equal to the net receipts attributable to the gross

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1 receipts tax imposed pursuant to Section 7-9-4 NMSA 1978 on the
2 sale of soft drinks at a retail food store.

3 B. For the purposes of this section:

4 (1) "soft drink" means a nonalcoholic flavored
5 beverage containing a sweetener additive, such as corn
6 fructose, sugar or aspartame, if the beverage is:

7 (a) ginger ale, cola or any drink
8 commonly 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
15 2012(k)(1) for purposes of the supplemental nutrition
16 assistance program, whether or not the establishment
17 participates in the supplemental nutrition assistance program.

18 SECTION 3. EFFECTIVE DATE.--The effective date of the
19 provisions of this act is July 1, 2011.