

INITIATIVE 881

I, Sam Reed, Secretary of State of the State of Washington and custodian of its seal, hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 881 to the People is a true and correct copy as it was received by this office.

1 AN ACT Relating to retail sales tax on food products; and amending  
2 RCW 82.08.0293.

3 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 82.08.0293 and 2003 c 168 s 301 are each amended to  
5 read as follows:

6 ~~((1))~~ The tax levied by RCW 82.08.020 shall not apply to sales of  
7 food and food ingredients. "Food and food ingredients" means  
8 substances, whether in liquid, concentrated, solid, frozen, dried, or  
9 dehydrated form, that are sold for ingestion or chewing by humans and  
10 are consumed for their taste or nutritional value. "Food and food  
11 ingredients" does not include:

12 ~~((a))~~ (1) "Alcoholic beverages," which means beverages that are  
13 suitable for human consumption and contain one-half of one percent or  
14 more of alcohol by volume; and

15 ~~((b))~~ (2) "Tobacco," which means cigarettes, cigars, chewing or  
16 pipe tobacco, or any other item that contains tobacco.

17 ~~((2) The exemption of "food and food ingredients" provided for in~~  
18 ~~subsection (1) of this section shall not apply to prepared food, soft~~  
19 ~~drinks, or dietary supplements.~~

1 (a) "Prepared food" means:

2 (i) Food sold in a heated state or heated by the seller;

3 (ii) Two or more food ingredients mixed or combined by the seller  
4 for sale as a single item; or

5 (iii) Food sold with eating utensils provided by the seller,  
6 including plates, knives, forks, spoons, glasses, cups, napkins, or  
7 straws. A plate does not include a container or packaging used to  
8 transport the food.

9 "Prepared food" in (a)(ii) of this subsection, does not include  
10 food that is only cut, repackaged, or pasteurized by the seller and raw  
11 eggs, fish, meat, poultry, and foods containing these raw animal foods  
12 requiring cooking by the consumer as recommended by the federal food  
13 and drug administration in chapter 3, part 401.11 of The Food Code,  
14 published by the food and drug administration, as amended or renumbered  
15 as of January 1, 2003, so as to prevent foodborne illness; or bakery  
16 items, including bread, rolls, buns, biscuits, bagels, croissants,  
17 pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars,  
18 cookies, or tortillas.

19 (b) "Soft drinks" means nonalcoholic beverages that contain natural  
20 or artificial sweeteners. Soft drinks do not include beverages that  
21 contain: Milk or milk products; soy, rice, or similar milk  
22 substitutes; or greater than fifty percent of vegetable or fruit juice  
23 by volume.

24 (c) "Dietary supplement" means any product, other than tobacco,  
25 intended to supplement the diet that:

26 (i) Contains one or more of the following dietary ingredients: A  
27 vitamin; a mineral; an herb or other botanical; an amino acid; a  
28 dietary substance for use by humans to supplement the diet by  
29 increasing the total dietary intake; or a concentrate, metabolite,  
30 constituent, extract, or combination of any ingredient described in  
31 this subsection; and is intended for ingestion in tablet, capsule,  
32 powder, softgel, gelcap, or liquid form, or if not intended for  
33 ingestion in such form, is not represented as conventional food and is  
34 not represented for use as a sole item of a meal or of the diet; and

35 (ii) Is required to be labeled as a dietary supplement,  
36 identifiable by the "supplement facts" box found on the label as  
37 required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered as  
38 of January 1, 2003.

1       ~~(3) Notwithstanding anything in this section to the contrary, the~~  
2 ~~exemption of "food and food ingredients" provided in this section shall~~  
3 ~~apply to food and food ingredients which are furnished, prepared, or~~  
4 ~~served as meals:~~

5       ~~(a) Under a state administered nutrition program for the aged as~~  
6 ~~provided for in the Older Americans Act (P.L. 95-478 Title III) and RCW~~  
7 ~~74.38.040(6); or~~

8       ~~(b) Which are provided to senior citizens, disabled persons, or~~  
9 ~~low income persons by a not for profit organization organized under~~  
10 ~~chapter 24.03 or 24.12 RCW.~~

11       ~~(4) Subsection (1) of this section notwithstanding, the retail sale~~  
12 ~~of food and food ingredients is subject to sales tax under RCW~~  
13 ~~82.08.020 if the food and food ingredients are sold through a vending~~  
14 ~~machine, and in this case the selling price for purposes of RCW~~  
15 ~~82.08.020 is fifty seven percent of the gross receipts.~~

16       ~~This subsection does not apply to hot prepared food and food~~  
17 ~~ingredients, other than food and food ingredients which are heated~~  
18 ~~after they have been dispensed from the vending machine.~~

19       ~~For tax collected under this subsection, the requirements that the~~  
20 ~~tax be collected from the buyer and that the amount of tax be stated as~~  
21 ~~a separate item are waived.))~~

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