

HOUSE BILL No. 5264

October 6, 2005, Introduced by Reps. Lemmons, III and Lemmons, Jr. and referred to the Committee on Tax Policy.

A bill to provide for the levy, collection, and administration of an excise tax on the privilege of selling certain food and beverages in this state; to provide for the disposition of the proceeds of the tax; and to prescribe the powers and duties of certain state departments.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the "fast-
2 food restaurant and food service tax act".

3 Sec. 2. As used in this act:

4 (a) "Fast-food restaurant" means a restaurant with a North
5 American industrial classification system (NAICS) of 722211, at
6 which patrons pay for the food and beverages selected or ordered
7 before eating or drinking, whether the food or beverages are
8 consumed on the premises, taken out, or delivered to another

1 location.

2 (b) "Fund" means the childhood obesity prevention program fund
3 created in section 5.

4 (c) "Prepared food and beverages" means all prepared food and
5 beverages subject to the collection of tax under the general sales
6 tax act, 1933 PA 167, MCL 205.51 to 205.78.

7 Sec. 3. (1) An excise tax is levied on the gross monthly sales
8 of prepared food and beverages sold at fast-food restaurants in
9 this state.

10 (2) The rate of the excise tax is 2% of the gross monthly
11 sales of prepared food and beverages sold at fast-food restaurants.

12 (3) The excise tax shall be collected each month at the same
13 time and in the same manner as the tax imposed under the general
14 sales tax act, 1933 PA 167, MCL 205.51 to 205.78.

15 (4) The excise tax imposed under this act shall be
16 administered by the state treasurer under 1941 PA 122, MCL 205.1 to
17 205.31.

18 (5) The state treasurer shall prescribe the forms necessary
19 for the administration of this act and may promulgate necessary
20 rules under the administrative procedures act of 1969, 1969 PA 306,
21 MCL 24.201 to 24.328.

22 Sec. 4. A taxpayer may reimburse himself or herself by adding
23 the amount of the excise tax to the cost of prepared food and
24 beverages sold at a fast-food restaurant.

25 Sec. 5. (1) The childhood obesity prevention program fund is
26 created within the state treasury.

27 (2) The proceeds from the collection of the excise tax imposed

1 under this act shall be deposited with the state treasurer and
2 credited to the fund.

3 (3) The state treasurer may receive money or other assets from
4 any source for deposit into the fund. The state treasurer shall
5 direct the investment of the fund. The state treasurer shall credit
6 to the fund interest and earnings from fund investments.

7 (4) Money in the fund at the close of the fiscal year shall
8 remain in the fund and shall not lapse to the general fund.

9 (5) The treasurer shall remit, upon appropriation, the
10 proceeds in the fund, which shall be expended only for childhood
11 obesity prevention programs.