

AMENDMENTS TO LB 701

(Amendments to AM963)

Introduced by Dubas, 34

1 1. Insert the following new section:

2 Sec. 31. Section 77-2704.24, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 77-2704.24 (1) Sales and use taxes shall not be imposed  
5 on the gross receipts from the sale, lease, or rental of and the  
6 storage, use, or other consumption in this state of food or food  
7 ingredients except for prepared food and food sold through vending  
8 machines.

9 (2) For purposes of this section:

10 (a) Alcoholic beverages means beverages that are suitable  
11 for human consumption and contain one-half of one percent or more  
12 of alcohol by volume;

13 (b) Dietary supplement means any product, other than  
14 tobacco, intended to supplement the diet that contains one or  
15 more of the following dietary ingredients: (i) A vitamin, (ii) a  
16 mineral, (iii) an herb or other botanical, (iv) an amino acid,  
17 (v) a dietary substance for use by humans to supplement the diet  
18 by increasing the total dietary intake, or (vi) a concentrate,  
19 metabolite, constituent, extract, or combination of any ingredients  
20 described in subdivisions (2)(b)(i) through (v) of this section;  
21 that is intended for ingestion in tablet, capsule, powder, softgel,  
22 gelcap, or liquid form or, if not intended for ingestion in such a

1 form, is not presented as conventional food and is not represented  
2 for use as a sole item of a meal or of the diet; and that is  
3 required to be labeled as a dietary supplement, identifiable by the  
4 supplemental facts box found on the label and as required pursuant  
5 to 21 C.F.R. 101.36, as such regulation existed on January 1, 2003;

6 (c) Food and food ingredients means substances, whether  
7 in liquid, concentrated, solid, frozen, dried, or dehydrated form,  
8 that are sold for ingestion or chewing by humans and are consumed  
9 for their taste or nutritional value. Food and food ingredients  
10 does not include alcoholic beverages, dietary supplements, ~~or~~  
11 tobacco, or bottled water;

12 (d) Food sold through vending machines means food that is  
13 dispensed from a machine or other mechanical device that accepts  
14 payment;

15 (e) Prepared food means:

16 (i) Food sold with eating utensils provided by the  
17 seller, including plates, knives, forks, spoons, glasses, cups,  
18 napkins, or straws. A plate does not include a container or  
19 packaging used to transport the food; and

20 (ii) Two or more food ingredients mixed or combined by  
21 the seller for sale as a single item and food sold in a heated  
22 state or heated by the seller, except:

23 (A) Food that is only cut, repackaged, or pasteurized by  
24 the seller;

25 (B) Eggs, fish, meat, poultry, and foods containing these  
26 raw animal foods requiring cooking by the consumer as recommended  
27 by the federal Food and Drug Administration in chapter 3, part

1 401.11 of its Food Code, as it existed on January 1, 2003, so as to  
2 prevent food borne illnesses;

3 (C) Food sold by a seller whose proper primary  
4 North American Industry Classification System classification is  
5 manufacturing in sector 311, except subsector 3118, bakeries;

6 (D) Food sold in an unheated state by weight or volume as  
7 a single item; and

8 (E) Bakery items, including bread, rolls, buns, biscuits,  
9 bagels, croissants, pastries, donuts, danish, cakes, tortes, pies,  
10 tarts, muffins, bars, cookies, and tortillas; and

11 (f) Tobacco means cigarettes, cigars, chewing or pipe  
12 tobacco, or any other item that contains tobacco.

13 2. On page 1, line 14, strike "and"; and in line 16  
14 before the period insert ", and (f) collected as state sales tax on  
15 bottled water under the Nebraska Revenue Act of 1967".

16 3. Correct the operative date so that the section added  
17 by this amendment becomes operative on October 1, 2007.

18 4. Renumber the remaining sections and correct internal  
19 references accordingly.