

H.B. 109

SALES AND USE TAX - FOOD AND FOOD INGREDIENTS AND TAX RATES

HOUSE FLOOR AMENDMENTS

AMENDMENT 1

JANUARY 25, 2006

3:08 PM

Representative **Merlynn T. Newbold** proposes the following amendments:

1. *Page 1, Lines 1 through 3:*

1 SALES AND USE TAX - FOOD AND FOOD
2 INGREDIENTS AND ~~{-TAX RATES-}~~ LOCAL TAXES
3 2006 GENERAL SESSION

2. *Page 1, Lines 10 through 16:*

10 This bill amends the Sales and Use Tax Act to address sales and use taxes relating to
11 food and food ingredients and ~~{-tax rates-}~~ certain local option sales and use taxes .
12 Highlighted Provisions:
13 This bill:
14 ▶ provides a sales and use tax exemption for food and food ingredients;
15 ▶ increases certain local option sales and use tax rates; ~~{-and-}~~
= ▶ addresses the distribution of revenues generated by the tax imposed in accordance with the
Local Sales and Use Tax Act to counties, cities, and towns;
▶ grants rulemaking authority to the State Tax Commission; and
16 ▶ makes technical changes.

3. *Page 1, Lines 25 through 27:*

25 59-12-204 (Effective 07/01/06), as last amended by Chapters 312 and 337, Laws of
26 Utah 2003
= 59-12-205 (Effective 07/01/06), as last amended by Chapter 158, Laws of Utah 2005
27 59-12-1102 (See 59-1-1201 re: Eff), as last amended by Chapter 255, Laws of Utah

4. *Page 20, Line 599:*

599 or leases are outstanding.
= Section 3. Section 59-12-205 is amended to read:
**59-12-205 (Effective 07/01/06). Ordinances to conform with statutory amendments --
Distribution of tax revenues -- Rulemaking authority -- Determination of population.**
(1) Each county, city, and town, in order to maintain in effect sales and use tax ordinances adopted
pursuant to Section 59-12-204, shall, within 30 days of any amendment of any applicable
provisions of Part 1, Tax Collection, adopt amendments of their respective sales and use tax

ordinances to conform with the amendments to Part 1, Tax Collection, insofar as they relate to sales and use taxes.

(2) Except as provided in Subsection (7):

(a) 50% of each dollar collected from the sales and use tax authorized by this part shall be paid to each county, city, and town on the basis of the percentage that the population of the county, city, or town bears to the total population of all counties, cities, and towns in the state; and

(b) notwithstanding Sections 59-12-207.1 through 59-12-207.3, 50% of each dollar collected from the sales and use tax authorized by this part shall be paid to each county, city, and town on the basis of the location where the transaction is consummated as determined under this section.

(3) For purposes of Subsection (2)(b), the location where a transaction is consummated is determined in accordance with Subsections (4) through (6).

(4) (a) For a transaction that is reported to the commission on a return other than a simplified electronic return, the location where the transaction is consummated is determined in accordance with Subsections (4)(b) through (h).

(b) (i) Except as provided in Subsections (4)(c) through (h), for a transaction described in Subsection (4)(b)(ii), the location where the transaction is consummated is the place of business of the seller.

(ii) Subsection (4)(b)(i) applies to a transaction other than a transaction described in:

(A) Subsection (4)(c)(ii);

(B) Subsection (4)(d)(ii);

(C) Subsection (4)(e)(ii);

(D) Subsection (4)(f)(ii);

(E) Subsection (4)(g)(ii); or

(F) Subsection (4)(h).

(c) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection (4)(c)(ii), the location where the transaction is consummated is determined by allocating the total revenues remitted to the commission each month that are generated by the tax imposed under this section on the transactions described in Subsection (4)(c)(ii):

(A) to each local taxing jurisdiction; and

(B) on the basis of the population of each local taxing jurisdiction as compared to the population of the state.

(ii) Subsection (4)(c)(i) applies to a transaction:

(A) made by a seller described in Subsection 59-12-107(1)(b); and

(B) involving tangible personal property that is shipped from outside the state.

(d) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection (4)(d)(ii), the location where the transaction is consummated is determined by allocating the total revenues reported to the commission each month that are generated by the tax imposed under this section on the transactions described in Subsection (4)(d)(ii):

(A) to local taxing jurisdictions within a county; and

(B) on the basis of the proportion of total revenues generated by the transactions described in Subsection (4)(b)(ii) that are reported to the commission for that month within a local taxing jurisdiction within that county as compared to the total revenues generated by the transactions described in Subsection (4)(b)(i) that are reported to the commission for that month within all local taxing jurisdictions within that county.

(ii) Subsection (4)(d)(i) applies to a transaction:

(A) made from a location in the state other than a fixed place of business in the state; or

(B) (I) made by a seller described in Subsection 59-12-107(1)(a); and

(II) involving tangible personal property that is shipped from outside the state.

(e) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection (4)(e)(ii), the location where the transaction is consummated is determined by allocating the total revenues reported to the commission each month that are generated by the tax imposed under this section on the transactions described in Subsection (4)(e)(ii):

(A) to local taxing jurisdictions; and

(B) on the basis of the proportion of the total revenues generated by the transactions described in Subsection (4)(b)(ii) that are reported to the commission for that month within each local taxing jurisdiction as compared to the total revenues generated by the transactions described in Subsection (4)(b)(ii) that are reported to the commission for that month within the state.

(ii) Subsection (4)(e)(i) applies to a transaction involving tangible personal property purchased with a direct payment permit in accordance with Section 59-12-107.1.

(f) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection (4)(f)(ii), the location where the transaction is consummated is each location where the good or service described in Subsection 59-12-107.2(1)(b) is used.

(ii) Subsection (4)(f)(i) applies to a transaction involving a good or service:

(A) described in Subsection 59-12-107.2(1)(b);

(B) that is concurrently available for use in more than one location; and

(C) is purchased using the form described in Section 59-12-107.2.

(g) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection (4)(g)(ii), the location where the transaction is consummated is determined by allocating the total revenues reported to the commission each month that are generated by the tax imposed under this section on the transactions described in Subsection (4)(g)(ii):

(A) to local taxing jurisdictions; and

(B) on the basis of the proportion of the total revenues generated by the transactions described in Subsection (4)(b)(ii) that are reported to the commission for that month within each local taxing jurisdiction as compared to the total revenues generated by the transactions described in Subsection (4)(b)(ii) that are reported to the commission for that month within the state.

(ii) Subsection (4)(g)(i) applies to a transaction involving a purchase of direct mail if the purchaser of the direct mail provides to the seller the form described in Subsection 59-12-107.3(1)(a) at the time of the purchase of the direct mail.

(h) Notwithstanding Subsection (4)(b), for a transaction involving the sale of a service described in Section 59-12-207.4, the location where the transaction is consummated is the same as the location of the transaction determined under Section 59-12-207.4.

(5) (a) For a transaction that is reported to the commission on a simplified electronic return, the location where the transaction is consummated is determined in accordance with Subsections (5)(b) through (e).

(b) (i) Except as provided in Subsections (5)(c) through (e), the location where a transaction is consummated is determined by allocating the total revenues reported to the commission each month on the simplified electronic return:

(A) to local taxing jurisdictions; and

(B) on the basis of the proportion of the total revenues generated by the transactions described in Subsection (4)(b)(ii) that are reported to the commission in accordance with Subsection (5)(b)(ii) for that month within each local taxing jurisdiction as compared to the total revenues generated by the transactions described in Subsection (4)(b)(ii) that are reported to the commission in accordance with Subsection (5)(b)(ii) for that month within the state.

(ii) In making the allocations required by Subsection (5)(b)(i), the commission shall use the total revenues generated by the transactions described in Subsection (4)(b)(ii) reported to the commission:

(A) in the report required by Subsection 59-12-105(2); and

(B) if a local taxing jurisdiction reports revenues to the commission in accordance with Subsection (5)(b)(iii), in the report made in accordance with Subsection (5)(b)(iii).

(iii) (A) For purposes of this Subsection (5)(b), a local taxing jurisdiction may report to the commission the revenues generated by a tax imposed by this chapter within the local taxing jurisdiction if a seller:

(I) opens an additional place of business within the local taxing jurisdiction after the seller makes an initial application for a license under Section 59-12-106; and

(II) estimates that the additional place of business will increase by 5% or more the revenues generated by a tax imposed by this chapter within the local taxing jurisdiction.

(B) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules providing procedures and requirements for making the report described in this Subsection (5)(b).

(c) (i) Notwithstanding Subsection (5)(b), for a transaction described in Subsection (5)(c)(ii), the location where the transaction is consummated is determined by allocating the total revenues reported to the commission each month that are generated by the tax imposed under this section on the transactions described in Subsection (5)(c)(ii):

(A) to local taxing jurisdictions within a county; and

(B) on the basis of the proportion of the total revenues generated by the transactions described in Subsection (4)(b)(ii) that are reported to the commission for that month within a local taxing jurisdiction within that county as compared to the total revenues generated by the transactions

described in Subsection (4)(b)(ii) that are reported to the commission for that month within all local taxing jurisdictions within that county.

(ii) Subsection (5)(c)(i) applies to a transaction:

(A) made from a location in the state other than a fixed place of business in the state; or

(B) (I) made by a seller described in Subsection 59-12-107(1)(a); and

(II) involving tangible personal property that is shipped from outside the state.

(d) Notwithstanding Subsection (5)(b), for a transaction made by a seller described in Subsection 59-12-107(1)(b), the location where the transaction is consummated is determined by allocating the total revenues remitted to the commission each month that are generated by the tax imposed under this section on the transactions made by a seller described in Subsection 59-12-107(1)(b):

(i) to each local taxing jurisdiction; and

(ii) on the basis of the population of each local taxing jurisdiction as compared to the population of the state.

(e) (i) Notwithstanding Subsection (5)(b), for a transaction described in Subsection (5)(e)(ii), the location where the transaction is consummated is determined by allocating the total revenues reported to the commission each month that are generated by the tax imposed under this section on the transactions described in Subsection (5)(e)(ii):

(A) to local taxing jurisdictions; and

(B) on the basis of the proportion of the total revenues generated by the transactions described in Subsection (4)(b)(ii) that are reported to the commission for that month within each local taxing jurisdiction as compared to the total revenues generated by the transactions described in Subsection (4)(b)(ii) that are reported to the commission for that month within the state.

(ii) Subsection (5)(e)(i) applies to a transaction involving tangible personal property purchased with a direct payment permit in accordance with Section 59-12-107.1.

(6) For purposes of Subsections (4) and (5) and in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a fixed place of business in the state.

~~{ (7) (a) Notwithstanding Subsection (2), a county, city, or town may not receive a tax revenue distribution less than .75% of the taxable sales within the boundaries of the county, city, or town. }~~

~~{ (b) The commission shall proportionally reduce quarterly distributions to any county, city, or town that, but for the reduction, would receive a distribution in excess of 1% of the sales and use tax revenue collected within the boundaries of the county, city, or town. }~~

(7) (a) As used in this Subsection (7), "minimum tax revenue distribution" means the total amount of tax revenue distributions a county, city, or town receives from a tax imposed in accordance with this part for fiscal year 2005-06.

(b) (i) Except as provided in Subsection (7)(c) or (d), for each fiscal year beginning with fiscal year 2006-07 and ending with fiscal year 2012-13, a county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this

part equal to the greater of:

(A) the payment required by Subsection (2); or

(B) the minimum tax revenue distribution.

(ii) If the tax revenue distribution required by Subsection (7)(b)(i) for a county, city, or town is equal to the amount described in Subsection (7)(b)(i)(A) for three consecutive fiscal years, for fiscal years beginning with the fiscal year immediately following that three consecutive fiscal-year period, the county, city, or town shall receive the tax revenue distribution equal to the payment required by Subsection (2).

(c) For a fiscal year beginning with fiscal year 2013-14 and ending with fiscal year 2015-16, a county, city, or town shall receive the minimum tax revenue distribution for that fiscal year if for fiscal year 2012-13 the payment required by Subsection (2) to that county, city, or town is less than or equal to the product of:

(i) the minimum tax revenue distribution; and

(ii) .70.

(d) (i) If a city or town is incorporated under Title 10, Chapter 2, Part 1, Incorporation, on or after July 1, 2006, the incorporated city or town and the entire unincorporated area of each county in which the incorporated city or town is located shall receive a tax revenue distribution equal to the payment required by Subsection (2).

(ii) If the boundaries of a county, city, or town change as a result of an annexation, boundary adjustment, consolidation, disconnection, dissolution, or any other change affecting the boundaries of the county, city, or town, that county, city, or town shall receive a tax revenue distribution equal to the payment required by Subsection (2).

(e) (i) The commission shall:

(A) make monthly distributions of the revenues generated by the tax under this part to each county, city, or town imposing the tax; and

(B) proportionately adjust monthly distributions to counties, cities, and towns to ensure that each county, city, or town receives for a fiscal year the amount required by Subsection (7)(b).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules for making:

(A) distributions to counties, cities, and towns as required by Subsection (7)(e)(i)(A); or

(B) adjustments to distributions to counties, cities, and towns as required by Subsection (7)(e)(i)(B).

- (8) (a) Population figures for purposes of this section shall be based on the most recent official census or census estimate of the United States Census Bureau.
- (b) If a needed population estimate is not available from the United States Census Bureau, population figures shall be derived from the estimate from the Utah Population Estimates Committee created by executive order of the governor.
- (9) The population of a county for purposes of this section shall be determined solely from the unincorporated area of the county.

Renumber remaining sections accordingly.