CONSENT

Bill No: SB 1151
Author: Cervantes (D)
Amended: 4/29/26
Vote: 21

SENATE REVENUE AND TAXATION COMMITTEE: 5-0, 5/6/26
AYES: McNerney, Alvarado-Gil, Ashby, Becker, Grayson

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Sales and Use Tax Law: exemptions: infant formula

SOURCE: Author

DIGEST: This bill clarifies that infant formula is an exempt food product not subject to sales and use tax.

ANALYSIS:

Existing law:

1) Imposes the sales tax on every retailer "engaged in business in this state" that sells tangible personal property, and requires them to register with the California Department of Tax and Fee Administration (CDTFA), as well as remit taxes collected from purchasers to CDTFA.

2) Applies the sales tax whenever a retail sale occurs, which is generally any sale other than one for resale in the regular course of business.

3) Provides that unless the purchaser pays the sales tax to the retailer, they are liable for the use tax, which is imposed on any person consuming tangible personal property in the state, and requires the purchaser to remit use tax to CDTFA.

4) Sets the state sales and use tax rate at 7.25% of the sales price of the property sold or used, of which 3.9375% flows to the state General Fund.

5) Fully exempts from sales and use tax many items, including food products for human consumption.

6) Defines "food products" to included common grocery items that are cold when purchased, including: cereals and cereal products, milk and milk products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products other than candy and confectionery, coffee and coffee substitutes, tea, cocoa and cocoa products other than candy and confectionery.

7) Specifies that "food products" did not include: spirituous, malt or vinous liquors; soft drinks, sodas, or beverages such as are ordinarily dispensed at bars and soda fountains or in connection therewith; medicines, tonics, and preparations in liquid, powdered, tablet, capsule, lozenge, pill form sold as dietary supplements or adjuncts, hot prepared food, food sold for consumption at retail establishments, cannabis, or cannabis products.

8) Provides by regulation that exempt food products include: baby foods and any other similar type beverages composed, at least in part, of milk or a milk product and requiring the use of milk or a milk product in their preparation.

9) Provides by regulation that exempt food products do not include: any product for human consumption in powdered form, which is described on its package or label as a food supplement, food adjunct, dietary supplement, or dietary adjunct, and prescribed or designed to remedy specific dietary deficiencies.

This bill:

1) Revises the existing sales and use tax exemption for food products to specifically include infant formula as an exempt food product.

2) States that the amendment made by this bill to specifically include infant formula as an exempt food product is declaratory of existing law.

Background

Infant formula. Infant formula is distinct from baby food in that it is most frequently sold in powdered form and often includes packaging and labeling that describe the formula's digestive and immune support, vitamin content, prebiotic and probiotic benefits, and protein hydrolysis. At present, there are no known issues with retailers mislabeling infant formula as a powdered food supplement and

collecting sales tax reimbursement from consumers, nor any issues arising at audit with respect to this matter.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

Senate Rule 28.8

SUPPORT: (Verified 5/12/26)

None received

OPPOSITION: (Verified 5/12/26)

None received

ARGUMENTS IN SUPPORT: According to the author, "SB 1151 would codify the infant formula sales tax exemption, ensuring that we continue to lower costs for parents purchasing formula, baby food, and related products. SB 1151 would tax-exempt the gross receipts from the sale in this state, and the storage, use, or other consumption in this state, of infant formula, to codify that infant formula is a food product. SB 1151 seeks to recognize infant formula as an essential item under the law, as a declaratory act, ensuring that financial burdens and supporting family stability and health are not imperiled."

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10/23/26 9:32:34

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