

**STORAGE NAME:** h789a.bdt

**DATE:** March 27, 1997

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE  
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**BILL #:** HJR 789

**RELATING TO:** Tax Exemption/Food & Medicine, adding a paragraph (f)

**SPONSOR(S):** Representative K. Pruitt & others

**STATUTE(S) AFFECTED:** Fla. Const. Art. VII, s. 1

**COMPANION BILL(S):** SJR 1570 by Senator Williams (I)

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE YAYS 9 NAYS 0
- (2) FINANCE AND TAXATION
- (3) GENERAL GOVERNMENT APPROPRIATIONS
- (4)
- (5)

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**I. SUMMARY:**

This resolution proposes to add a paragraph (f) to Section 1 of Article VII of the Florida Constitution. The proposed paragraph would exempt all items of food and medicine from sales tax, and provides that such items may be defined by law.

The Revenue Estimating Conference has not reviewed this resolution yet. It is unclear at this time if this resolution will result in any fiscal impact.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Article VII of the State Constitution deals with Finance and Taxation. Section 1. specifically deals with the issues of taxation, appropriations, state expenses and the state revenue limitation.

Section 212.08(1), F.S., currently provides an exemption from the sales and use tax for food and drinks sold for human consumption. Current rules and law identifies items that are exempt or taxable. The list of items that are currently exempt includes:

1. Food for human consumption.
2. Tea, unless sold in liquid form.
3. Coffee or coffee substitutes, even if sold in liquid form.
4. Bakery products cooked or prepared for consumption off the premises.
5. Ice cream or frozen yogurt sold in quarts or larger containers for consumption off the premises.
6. Food or drinks cooked or prepared in a grocery store and given to customers as samples.

The list of items that are taxable includes:

1. Food and drinks sold in hotels, restaurants, cafeterias, drugstores, lunch counters, amusement parks, racetracks, taverns, concession stands at arenas, auditoriums, carnivals, fairs, stadiums, theaters, or other like places of businesses.
2. Food and drinks sold ready for immediate consumption from vending machines, pushcarts, motor vehicles, or any other form of vehicle.
3. Tea sold in liquid form.
4. Bakery products sold ready for immediate consumption on the premises.
5. Soft drinks when sold in cans or similar containers.
6. Food or drinks cooked or prepared on the seller's premises and sold ready for immediate consumption either on or off the premises.
7. Sandwiches sold ready for immediate consumption.
8. Candy.
9. Ice cream and frozen yogurt in cones, small cups or pints, popsicles, frozen fruit bars or other novelty items.

10. Gum and breath mints.
11. Water to which carbonation or minerals have been added.
12. Taxable items such as candy and soft drinks given away to a customer as a sample.

Section 212.08(2), F.S., currently provides an exemption from the sales and use tax for:

1. any product, supply, or medicine dispensed in a retail establishment by a pharmacist licensed by the state;
2. hypodermic needles; hypodermic syringes; chemical compounds and test kits used for the diagnosis or treatment of human disease, illness, or injury;
3. common household remedies recommended and generally sold for internal or external use in the cure, or prevention of illness or disease in human beings;
4. artificial eyes and limbs; orthopedic shoes; prescription eyeglasses; dentures; hearing aids; crutches; prosthetic and orthopedic appliances; and funerals.

In addition, any items intended for one-time use which transfer essential optical characteristics to contact lenses shall be exempt from the tax imposed by this chapter.

**B. EFFECT OF PROPOSED CHANGES:**

The Joint Resolution would amend Section 1 Article VII, adding paragraph (f), an exemption for all items of food and medicine from sales tax. If approved by the electors of Florida at the November 1998 general election, the legislature would be required to define the items in general law.

**C. APPLICATION OF PRINCIPLES:**

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not applicable.

(3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

Indeterminate. It is unclear at this time what, if any, items of food and medicine not currently exempt from sales tax would become exempt if the electors approve this resolution.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

Not applicable.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Not applicable.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Not applicable.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Not applicable.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

Not applicable.

- (2) Who makes the decisions?

Not applicable.

- (3) Are private alternatives permitted?

Not applicable.

- (4) Are families required to participate in a program?

Not applicable.

(5) Are families penalized for not participating in a program?

Not applicable.

b. Does the bill directly affect the legal rights and obligations between family members?

Not applicable.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

Not applicable.

(2) service providers?

Not applicable.

(3) government employees/agencies?

Not applicable.

**D. SECTION-BY-SECTION ANALYSIS:**

See Effect of Proposed Changes.

**III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:**

**A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:**

1. Non-recurring Effects:

None.

2. Recurring Effects:

Indeterminate. It is unclear at this time what, if any, items of food and medicine not currently exempt from sales tax would become exempt if the electors approve this resolution.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

See A2 above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

Indeterminate. It is unclear at this time what, if any, items of food and medicine not currently exempt from sales tax would become exempt if the electors approve this resolution.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

If the net result of this bill is to exempt additional items of food and medicine from state and local sales tax, the public will not have to pay such tax on those purchases anymore.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

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A. **APPLICABILITY OF THE MANDATES PROVISION:**

This Resolution does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. **REDUCTION OF REVENUE RAISING AUTHORITY:**

The resolution is not projected to significantly reduce the authority of municipalities and counties to raise revenues.

C. **REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

This Resolution does not reduce the percentage of a state tax shared with counties or municipalities.

V. **COMMENTS:**

VI. **AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:**

VII. **SIGNATURES:**

**COMMITTEE ON BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE:**

Prepared by:

Legislative Research Director:

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Victoria Minetta

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Michael Rubin