

HOUSE BILL No. 2311

By Representative Hodge

2-13

1 AN ACT concerning sales taxation; relating to exemptions; exempting
2 certain food and food ingredients; amending K.S.A. 2018 Supp. 79-
3 3602 and repealing the existing section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. (a) On and after July 1, 2019, the following shall be
7 exempt from the tax imposed by the Kansas retailers' sales tax act: All
8 sales of food and food ingredients. The provisions of this section shall not
9 apply to prepared food, unless sold without eating utensils provided by the
10 seller and described below:

11 (1) Food sold by a seller whose proper primary NAICS classification
12 is manufacturing in sector 311, except subsector 3118 (bakeries);

13 (2) (A) food sold in an unheated state by weight or volume as a single
14 item; or

15 (B) only meat or seafood sold in an unheated state by weight or
16 volume as a single item;

17 (3) bakery items, including bread, rolls, buns, biscuits, bagels,
18 croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars,
19 cookies and tortillas;

20 (4) food sold that ordinarily requires additional cooking, as opposed
21 to just reheating, by the consumer prior to consumption; or

22 (5) bottled water that is not otherwise sold as prepared food.

23 (b) The provisions of this section shall be a part of and supplemental
24 to the Kansas retailers' sales tax act.

25 Sec. 2. K.S.A. 2018 Supp. 79-3602 is hereby amended to read as
26 follows: 79-3602. Except as otherwise provided, as used in the Kansas
27 retailers' sales tax act:

28 (a) "Agent" means a person appointed by a seller to represent the
29 seller before the member states.

30 (b) "Agreement" means the multistate agreement entitled the
31 streamlined sales and use tax agreement approved by the streamlined sales
32 tax implementing states at Chicago, Illinois on November 12, 2002.

33 (c) "Alcoholic beverages" means beverages that are suitable for
34 human consumption and contain 0.05% or more of alcohol by volume.

35 (d) "Certified automated system (CAS)" means software certified
36 under the agreement to calculate the tax imposed by each jurisdiction on a

1 transaction, determine the amount of tax to remit to the appropriate state
2 and maintain a record of the transaction.

3 (e) "Certified service provider (CSP)" means an agent certified under
4 the agreement to perform all the seller's sales and use tax functions, other
5 than the seller's obligation to remit tax on its own purchases.

6 (f) "Computer" means an electronic device that accepts information
7 in digital or similar form and manipulates it for a result based on a
8 sequence of instructions.

9 (g) "Computer software" means a set of coded instructions designed
10 to cause a computer or automatic data processing equipment to perform a
11 task.

12 (h) "Delivered electronically" means delivered to the purchaser by
13 means other than tangible storage media.

14 (i) "Delivery charges" means charges by the seller of personal
15 property or services for preparation and delivery to a location designated
16 by the purchaser of personal property or services including, but not limited
17 to, transportation, shipping, postage, handling, crating and packing.
18 Delivery charges shall not include charges for delivery of direct mail if the
19 charges are separately stated on an invoice or similar billing document
20 given to the purchaser.

21 (j) "Direct mail" means printed material delivered or distributed by
22 United States mail or other delivery services to a mass audience or to
23 addressees on a mailing list provided by the purchaser or at the direction of
24 the purchaser when the cost of the items are not billed directly to the
25 recipients. Direct mail includes tangible personal property supplied
26 directly or indirectly by the purchaser to the direct mail seller for inclusion
27 in the package containing the printed material. Direct mail does not
28 include multiple items of printed material delivered to a single address.

29 (k) "Director" means the state director of taxation.

30 (l) "Educational institution" means any nonprofit school, college and
31 university that offers education at a level above the 12th grade, and
32 conducts regular classes and courses of study required for accreditation by,
33 or membership in, the higher learning commission, the state board of
34 education, or that otherwise qualify as an "educational institution," as
35 defined by K.S.A. 74-50,103, and amendments thereto. Such phrase shall
36 include: (1) A group of educational institutions that operates exclusively
37 for an educational purpose; (2) nonprofit endowment associations and
38 foundations organized and operated exclusively to receive, hold, invest
39 and administer moneys and property as a permanent fund for the support
40 and sole benefit of an educational institution; (3) nonprofit trusts,
41 foundations and other entities organized and operated principally to hold
42 and own receipts from intercollegiate sporting events and to disburse such
43 receipts, as well as grants and gifts, in the interest of collegiate and

1 intercollegiate athletic programs for the support and sole benefit of an
2 educational institution; and (4) nonprofit trusts, foundations and other
3 entities organized and operated for the primary purpose of encouraging,
4 fostering and conducting scholarly investigations and industrial and other
5 types of research for the support and sole benefit of an educational
6 institution.

7 (m) "Electronic" means relating to technology having electrical,
8 digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

9 (n) "Food and food ingredients" means substances, whether in liquid,
10 concentrated, solid, frozen, dried or dehydrated form, that are sold for
11 ingestion or chewing by humans and are consumed for their taste or
12 nutritional value. "Food and food ingredients" does not include alcoholic
13 beverages, *candy*, *dietary supplements*, *soft drinks*, *food sold through*
14 *vending machines* or tobacco. "*Food and food ingredients*" does include
15 *bottled water*.

16 (o) "Gross receipts" means the total selling price or the amount
17 received as defined in this act, in money, credits, property or other
18 consideration valued in money from sales at retail within this state; and
19 embraced within the provisions of this act. The taxpayer, may take credit
20 in the report of gross receipts for: (1) An amount equal to the selling price
21 of property returned by the purchaser when the full sale price thereof,
22 including the tax collected, is refunded in cash or by credit; and (2) an
23 amount equal to the allowance given for the trade-in of property.

24 (p) "Ingredient or component part" means tangible personal property
25 which is necessary or essential to, and which is actually used in and
26 becomes an integral and material part of tangible personal property or
27 services produced, manufactured or compounded for sale by the producer,
28 manufacturer or compounder in its regular course of business. The
29 following items of tangible personal property are hereby declared to be
30 ingredients or component parts, but the listing of such property shall not be
31 deemed to be exclusive nor shall such listing be construed to be a
32 restriction upon, or an indication of, the type or types of property to be
33 included within the definition of "ingredient or component part" as herein
34 set forth:

35 (1) Containers, labels and shipping cases used in the distribution of
36 property produced, manufactured or compounded for sale which are not to
37 be returned to the producer, manufacturer or compounder for reuse.

38 (2) Containers, labels, shipping cases, paper bags, drinking straws,
39 paper plates, paper cups, twine and wrapping paper used in the distribution
40 and sale of property taxable under the provisions of this act by wholesalers
41 and retailers and which is not to be returned to such wholesaler or retailer
42 for reuse.

43 (3) Seeds and seedlings for the production of plants and plant

1 products produced for resale.

2 (4) Paper and ink used in the publication of newspapers.

3 (5) Fertilizer used in the production of plants and plant products
4 produced for resale.

5 (6) Feed for animals, fowl and aquatic plants and animals, the
6 primary purpose of which is use in agriculture or aquaculture, as defined in
7 K.S.A. 47-1901, and amendments thereto, the production of food for
8 human consumption, the production of animal, dairy, poultry or aquatic
9 plant and animal products, fiber, fur, or the production of offspring for use
10 for any such purpose or purposes.

11 (q) "Isolated or occasional sale" means the nonrecurring sale of
12 tangible personal property, or services taxable hereunder by a person not
13 engaged at the time of such sale in the business of selling such property or
14 services. Any religious organization which makes a nonrecurring sale of
15 tangible personal property acquired for the purpose of resale shall be
16 deemed to be not engaged at the time of such sale in the business of selling
17 such property. Such term shall include: (1) Any sale by a bank, savings and
18 loan institution, credit union or any finance company licensed under the
19 provisions of the Kansas uniform consumer credit code of tangible
20 personal property which has been repossessed by any such entity; and (2)
21 any sale of tangible personal property made by an auctioneer or agent on
22 behalf of not more than two principals or households if such sale is
23 nonrecurring and any such principal or household is not engaged at the
24 time of such sale in the business of selling tangible personal property.

25 (r) "Lease or rental" means any transfer of possession or control of
26 tangible personal property for a fixed or indeterminate term for
27 consideration. A lease or rental may include future options to purchase or
28 extend.

29 (1) Lease or rental does not include: (A) A transfer of possession or
30 control of property under a security agreement or deferred payment plan
31 that requires the transfer of title upon completion of the required
32 payments;

33 (B) a transfer or possession or control of property under an agreement
34 that requires the transfer of title upon completion of required payments and
35 payment of an option price does not exceed the greater of \$100 or 1% of
36 the total required payments; or

37 (C) providing tangible personal property along with an operator for a
38 fixed or indeterminate period of time. A condition of this exclusion is that
39 the operator is necessary for the equipment to perform as designed. For the
40 purpose of this subsection, an operator must do more than maintain,
41 inspect or set-up the tangible personal property.

42 (2) Lease or rental does include agreements covering motor vehicles
43 and trailers where the amount of consideration may be increased or

1 decreased by reference to the amount realized upon sale or disposition of
2 the property as defined in 26 U.S.C. § 7701(h)(1).

3 (3) This definition shall be used for sales and use tax purposes
4 regardless if a transaction is characterized as a lease or rental under
5 generally accepted accounting principles, the internal revenue code, the
6 uniform commercial code, K.S.A. 84-1-101 et seq., and amendments
7 thereto, or other provisions of federal, state or local law.

8 (4) This definition will be applied only prospectively from the
9 effective date of this act and will have no retroactive impact on existing
10 leases or rentals.

11 (s) "Load and leave" means delivery to the purchaser by use of a
12 tangible storage media where the tangible storage media is not physically
13 transferred to the purchaser.

14 (t) "Member state" means a state that has entered in the agreement,
15 pursuant to provisions of article VIII of the agreement.

16 (u) "Model 1 seller" means a seller that has selected a CSP as its
17 agent to perform all the seller's sales and use tax functions, other than the
18 seller's obligation to remit tax on its own purchases.

19 (v) "Model 2 seller" means a seller that has selected a CAS to
20 perform part of its sales and use tax functions, but retains responsibility for
21 remitting the tax.

22 (w) "Model 3 seller" means a seller that has sales in at least five
23 member states, has total annual sales revenue of at least \$500,000,000, has
24 a proprietary system that calculates the amount of tax due each jurisdiction
25 and has entered into a performance agreement with the member states that
26 establishes a tax performance standard for the seller. As used in this
27 subsection a seller includes an affiliated group of sellers using the same
28 proprietary system.

29 (x) "Municipal corporation" means any city incorporated under the
30 laws of Kansas.

31 (y) "Nonprofit blood bank" means any nonprofit place, organization,
32 institution or establishment that is operated wholly or in part for the
33 purpose of obtaining, storing, processing, preparing for transfusing,
34 furnishing, donating or distributing human blood or parts or fractions of
35 single blood units or products derived from single blood units, whether or
36 not any remuneration is paid therefor, or whether such procedures are done
37 for direct therapeutic use or for storage for future use of such products.

38 (z) "Persons" means any individual, firm, copartnership, joint
39 adventure, association, corporation, estate or trust, receiver or trustee, or
40 any group or combination acting as a unit, and the plural as well as the
41 singular number; and shall specifically mean any city or other political
42 subdivision of the state of Kansas engaging in a business or providing a
43 service specifically taxable under the provisions of this act.

1 (aa) "Political subdivision" means any municipality, agency or
2 subdivision of the state which is, or shall hereafter be, authorized to levy
3 taxes upon tangible property within the state or which certifies a levy to a
4 municipality, agency or subdivision of the state which is, or shall hereafter
5 be, authorized to levy taxes upon tangible property within the state. Such
6 term also shall include any public building commission, housing, airport,
7 port, metropolitan transit or similar authority established pursuant to law
8 and the horsethief reservoir benefit district established pursuant to K.S.A.
9 82a-2201, and amendments thereto.

10 (bb) "Prescription" means an order, formula or recipe issued in any
11 form of oral, written, electronic or other means of transmission by a duly
12 licensed practitioner authorized by the laws of this state.

13 (cc) "Prewritten computer software" means computer software,
14 including prewritten upgrades, which is not designed and developed by the
15 author or other creator to the specifications of a specific purchaser. The
16 combining of two or more prewritten computer software programs or
17 prewritten portions thereof does not cause the combination to be other than
18 prewritten computer software. Prewritten computer software includes
19 software designed and developed by the author or other creator to the
20 specifications of a specific purchaser when it is sold to a person other than
21 the purchaser. Where a person modifies or enhances computer software of
22 which the person is not the author or creator, the person shall be deemed to
23 be the author or creator only of such person's modifications or
24 enhancements. Prewritten computer software or a prewritten portion
25 thereof that is modified or enhanced to any degree, where such
26 modification or enhancement is designed and developed to the
27 specifications of a specific purchaser, remains prewritten computer
28 software, except that where there is a reasonable, separately stated charge
29 or an invoice or other statement of the price given to the purchaser for
30 such modification or enhancement, such modification or enhancement
31 shall not constitute prewritten computer software.

32 (dd) "Property which is consumed" means tangible personal property
33 which is essential or necessary to and which is used in the actual process
34 of and consumed, depleted or dissipated within one year in: (1) The
35 production, manufacture, processing, mining, drilling, refining or
36 compounding of tangible personal property; (2) the providing of services;
37 (3) the irrigation of crops, for sale in the regular course of business; or (4)
38 the storage or processing of grain by a public grain warehouse or other
39 grain storage facility, and which is not reusable for such purpose. The
40 following is a listing of tangible personal property, included by way of
41 illustration but not of limitation, which qualifies as property which is
42 consumed:

43 (A) Insecticides, herbicides, germicides, pesticides, fungicides,

1 fumigants, antibiotics, biologicals, pharmaceuticals, vitamins and
2 chemicals for use in commercial or agricultural production, processing or
3 storage of fruit, vegetables, feeds, seeds, grains, animals or animal
4 products whether fed, injected, applied, combined with or otherwise used;

5 (B) electricity, gas and water; and

6 (C) petroleum products, lubricants, chemicals, solvents, reagents and
7 catalysts.

8 (ee) "Purchase price" applies to the measure subject to use tax and
9 has the same meaning as sales price.

10 (ff) "Purchaser" means a person to whom a sale of personal property
11 is made or to whom a service is furnished.

12 (gg) "Quasi-municipal corporation" means any county, township,
13 school district, drainage district or any other governmental subdivision in
14 the state of Kansas having authority to receive or hold moneys or funds.

15 (hh) "Registered under this agreement" means registration by a seller
16 with the member states under the central registration system provided in
17 article IV of the agreement.

18 (ii) "Retailer" means a seller regularly engaged in the business of
19 selling, leasing or renting tangible personal property at retail or furnishing
20 electrical energy, gas, water, services or entertainment, and selling only to
21 the user or consumer and not for resale.

22 (jj) "Retail sale" or "sale at retail" means any sale, lease or rental for
23 any purpose other than for resale, sublease or subrent.

24 (kk) "Sale" or "sales" means the exchange of tangible personal
25 property, as well as the sale thereof for money, and every transaction,
26 conditional or otherwise, for a consideration, constituting a sale, including
27 the sale or furnishing of electrical energy, gas, water, services or
28 entertainment taxable under the terms of this act and including, except as
29 provided in the following provision, the sale of the use of tangible personal
30 property by way of a lease, license to use or the rental thereof regardless of
31 the method by which the title, possession or right to use the tangible
32 personal property is transferred. The term "sale" or "sales" shall not mean
33 the sale of the use of any tangible personal property used as a dwelling by
34 way of a lease or rental thereof for a term of more than 28 consecutive
35 days.

36 (ll) (1) "Sales or selling price" applies to the measure subject to sales
37 tax and means the total amount of consideration, including cash, credit,
38 property and services, for which personal property or services are sold,
39 leased or rented, valued in money, whether received in money or
40 otherwise, without any deduction for the following:

41 (A) The seller's cost of the property sold;

42 (B) the cost of materials used, labor or service cost, interest, losses,
43 all costs of transportation to the seller, all taxes imposed on the seller and

1 any other expense of the seller;

2 (C) charges by the seller for any services necessary to complete the
3 sale, other than delivery and installation charges;

4 (D) delivery charges; and

5 (E) installation charges.

6 (2) "Sales or selling price" includes consideration received by the
7 seller from third parties if:

8 (A) The seller actually receives consideration from a party other than
9 the purchaser and the consideration is directly related to a price reduction
10 or discount on the sale;

11 (B) the seller has an obligation to pass the price reduction or discount
12 through to the purchaser;

13 (C) the amount of the consideration attributable to the sale is fixed
14 and determinable by the seller at the time of the sale of the item to the
15 purchaser; and

16 (D) one of the following criteria is met:

17 (i) The purchaser presents a coupon, certificate or other
18 documentation to the seller to claim a price reduction or discount where
19 the coupon, certificate or documentation is authorized, distributed or
20 granted by a third party with the understanding that the third party will
21 reimburse any seller to whom the coupon, certificate or documentation is
22 presented;

23 (ii) the purchaser identifies to the seller that the purchaser is a
24 member of a group or organization entitled to a price reduction or
25 discount. A preferred customer card that is available to any patron does not
26 constitute membership in such a group; or

27 (iii) the price reduction or discount is identified as a third party price
28 reduction or discount on the invoice received by the purchaser or on a
29 coupon, certificate or other documentation presented by the purchaser.

30 (3) "Sales or selling price" shall not include:

31 (A) Discounts, including cash, term or coupons that are not
32 reimbursed by a third party that are allowed by a seller and taken by a
33 purchaser on a sale;

34 (B) interest, financing and carrying charges from credit extended on
35 the sale of personal property or services, if the amount is separately stated
36 on the invoice, bill of sale or similar document given to the purchaser;

37 (C) any taxes legally imposed directly on the consumer that are
38 separately stated on the invoice, bill of sale or similar document given to
39 the purchaser;

40 (D) the amount equal to the allowance given for the trade-in of
41 property, if separately stated on the invoice, billing or similar document
42 given to the purchaser; and

43 (E) commencing on July 1, 2018, and ending on June 30, 2021, cash

1 rebates granted by a manufacturer to a purchaser or lessee of a new motor
2 vehicle if paid directly to the retailer as a result of the original sale.

3 (mm) "Seller" means a person making sales, leases or rentals of
4 personal property or services.

5 (nn) "Service" means those services described in and taxed under the
6 provisions of K.S.A. 79-3603, and amendments thereto.

7 (oo) "Sourcing rules" means the rules set forth in K.S.A. 2018 Supp.
8 79-3670 through 79-3673, K.S.A. 12-191 and 12-191a, and amendments
9 thereto, which shall apply to identify and determine the state and local
10 taxing jurisdiction sales or use taxes to pay, or collect and remit on a
11 particular retail sale.

12 (pp) "Tangible personal property" means personal property that can
13 be seen, weighed, measured, felt or touched, or that is in any other manner
14 perceptible to the senses. Tangible personal property includes electricity,
15 water, gas, steam and prewritten computer software.

16 (qq) "Taxpayer" means any person obligated to account to the
17 director for taxes collected under the terms of this act.

18 (rr) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco or
19 any other item that contains tobacco.

20 (ss) "Entity-based exemption" means an exemption based on who
21 purchases the product or who sells the product. An exemption that is
22 available to all individuals shall not be considered an entity-based
23 exemption.

24 (tt) "Over-the-counter drug" means a drug that contains a label that
25 identifies the product as a drug as required by 21 C.F.R. § 201.66. The
26 over-the-counter drug label includes: (1) A drug facts panel; or (2) a
27 statement of the active ingredients with a list of those ingredients
28 contained in the compound, substance or preparation. Over-the-counter
29 drugs do not include grooming and hygiene products such as soaps,
30 cleaning solutions, shampoo, toothpaste, antiperspirants and sun tan
31 lotions and screens.

32 (uu) "Ancillary services" means services that are associated with or
33 incidental to the provision of telecommunications services, including, but
34 not limited to, detailed telecommunications billing, directory assistance,
35 vertical service and voice mail services.

36 (vv) "Conference bridging service" means an ancillary service that
37 links two or more participants of an audio or video conference call and
38 may include the provision of a telephone number. Conference bridging
39 service does not include the telecommunications services used to reach the
40 conference bridge.

41 (ww) "Detailed telecommunications billing service" means an
42 ancillary service of separately stating information pertaining to individual
43 calls on a customer's billing statement.

1 (xx) "Directory assistance" means an ancillary service of providing
2 telephone number information or address information, or both.

3 (yy) "Vertical service" means an ancillary service that is offered in
4 connection with one or more telecommunications services, which offers
5 advanced calling features that allow customers to identify callers and to
6 manage multiple calls and call connections, including conference bridging
7 services.

8 (zz) "Voice mail service" means an ancillary service that enables the
9 customer to store, send or receive recorded messages. Voice mail service
10 does not include any vertical services that the customer may be required to
11 have in order to utilize the voice mail service.

12 (aaa) "Telecommunications service" means the electronic
13 transmission, conveyance or routing of voice, data, audio, video or any
14 other information or signals to a point, or between or among points. The
15 term telecommunications service includes such transmission, conveyance
16 or routing in which computer processing applications are used to act on the
17 form, code or protocol of the content for purposes of transmissions,
18 conveyance or routing without regard to whether such service is referred to
19 as voice over internet protocol services or is classified by the federal
20 telecommunications commission as enhanced or value added.
21 Telecommunications service does not include:

22 (1) Data processing and information services that allow data to be
23 generated, acquired, stored, processed or retrieved and delivered by an
24 electronic transmission to a purchaser where such purchaser's primary
25 purpose for the underlying transaction is the processed data or
26 information;

27 (2) installation or maintenance of wiring or equipment on a
28 customer's premises;

29 (3) tangible personal property;

30 (4) advertising, including, but not limited to, directory advertising;

31 (5) billing and collection services provided to third parties;

32 (6) internet access service;

33 (7) radio and television audio and video programming services,
34 regardless of the medium, including the furnishing of transmission,
35 conveyance and routing of such services by the programming service
36 provider. Radio and television audio and video programming services shall
37 include, but not be limited to, cable service as defined in 47 U.S.C. §
38 522(6) and audio and video programming services delivered by
39 commercial mobile radio service providers, as defined in 47 C.F.R. § 20.3;

40 (8) ancillary services; or

41 (9) digital products delivered electronically, including, but not limited
42 to, software, music, video, reading materials or ring tones.

43 (bbb) "800 service" means a telecommunications service that allows a

1 caller to dial a toll-free number without incurring a charge for the call. The
2 service is typically marketed under the name 800, 855, 866, 877 and 888
3 toll-free calling, and any subsequent numbers designated by the federal
4 communications commission.

5 (ccc) "900 service" means an inbound toll telecommunications
6 service purchased by a subscriber that allows the subscriber's customers to
7 call in to the subscriber's prerecorded announcement or live service. 900
8 service does not include the charge for collection services provided by the
9 seller of the telecommunications services to the subscriber, or service or
10 product sold by the subscriber to the subscriber's customer. The service is
11 typically marketed under the name 900 service, and any subsequent
12 numbers designated by the federal communications commission.

13 (ddd) "Value-added non-voice data service" means a service that
14 otherwise meets the definition of telecommunications services in which
15 computer processing applications are used to act on the form, content,
16 code or protocol of the information or data primarily for a purpose other
17 than transmission, conveyance or routing.

18 (eee) "International" means a telecommunications service that
19 originates or terminates in the United States and terminates or originates
20 outside the United States, respectively. United States includes the District
21 of Columbia or a U.S. territory or possession.

22 (fff) "Interstate" means a telecommunications service that originates
23 in one United States state, or a United States territory or possession, and
24 terminates in a different United States state or a United States territory or
25 possession.

26 (ggg) "Intrastate" means a telecommunications service that originates
27 in one United States state or a United States territory or possession, and
28 terminates in the same United States state or a United States territory or
29 possession.

30 (*hhh*) "*Bottled water*" means water that is placed in a safety sealed
31 container or package for human consumption. "*Bottled water*" is calorie
32 free and does not contain sweeteners or other additives, except that it may
33 contain:

- 34 (1) *Antimicrobial agents;*
- 35 (2) *fluoride;*
- 36 (3) *carbonation;*
- 37 (4) *vitamins, minerals and electrolytes;*
- 38 (5) *oxygen;*
- 39 (6) *preservatives; or*
- 40 (7) *only those flavors, extracts or essences derived from a spice or*
41 *fruit.*

42 "*Bottled water*" includes water that is delivered to the buyer in a
43 reusable container that is not sold with the water.

1 (iii) *"Candy" means a preparation of sugar, honey or other natural or*
2 *artificial sweeteners in combination with chocolate, fruits, nuts or other*
3 *ingredients or flavorings in the form of bars, drops or pieces. "Candy"*
4 *shall not include any preparation containing flour and shall require no*
5 *refrigeration.*

6 (jjj) *"Food sold through vending machines" means food dispensed*
7 *from a machine or other mechanical device that accepts payment.*

8 (III) *"Prepared food" means:*

9 (1) *Food sold in a heated state or heated by the seller;*

10 (2) *two or more food ingredients mixed or combined by the seller for*
11 *sale as a single item; or*

12 (3) *food sold with eating utensils provided by the seller, including*
13 *plates, knives, forks, spoons, glasses, cups, napkins or straws. A plate does*
14 *not include a container or packaging used to transport the food.*

15 *"Prepared food" does not include food that is only cut, repackaged or*
16 *pasteurized by the seller; and eggs, fish, meat, poultry and foods*
17 *containing these raw animal foods requiring cooking by the consumer as*
18 *recommended by the food and drug administration in chapter 3, part*
19 *401.11 of its food code so as to prevent food borne illnesses.*

20 (mmm) *"Soft drinks" means nonalcoholic beverages that contain*
21 *natural or artificial sweeteners. "Soft drinks" does not include beverages*
22 *that contain milk or milk products, soy, rice or similar milk substitutes, or*
23 *greater than 50% of vegetable or fruit juice by volume.*

24 (nnn) *"Dietary supplement" shall have the same meaning ascribed to*
25 *it as in K.S.A. 79-3606(jjj), and amendments thereto.*

26 Sec. 3. K.S.A. 2018 Supp. 79-3602 is hereby repealed.

27 Sec. 4. This act shall take effect and be in force from and after its
28 publication in the statute book.