

## **BILL ANALYSIS**

Senate Research Center  
83R7630 ADM-F

S.B. 1151  
By: Hinojosa  
Finance  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The purpose of S.B. 1151 is to provide certainty and clarification to consumers and retailers with respect to the sales tax treatment of snack items while providing the state with a reliable revenue source and to ensure consistent sales tax treatment of various items between restaurants and grocery/convenience stores.

S.B. 1151 accomplishes these goals by subjecting to sales tax in all instances chips, crackers, and pretzels sold in packages or containers that are labeled as having not more than one serving, or if the package or container does not specify the number of servings, contain less than three ounces. Other snack items will be exempt irrespective of the package size. These provisions apply without regard to whether the retailer offers eating facilities.

S.B. 1151 removes the existing disparate sales tax treatment of certain snack items and the related administrative difficulties; eliminates the distinction between retailers with eating facilities and those without eating facilities; removes uncertainties in the current administrative rules regarding what kinds and sizes of snack items are taxable; and provides the state with a reliable and easily administrable source of revenue by subjecting to sales tax all chips, crackers, and pretzels sold in packages or containers of less than three ounces.

S.B. 1151 does not impact the taxability of items sold through vending machines.

As proposed, S.B. 1151 amends current law relating to sales and use tax treatment of certain snack items and eliminates a tax exemption.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 151.314, Tax Code, by amending Subsection (b) and adding Subsections (b-1) and (h), as follows:

(b) Requires that snack items be included in the definition of "food products."

(b-1) Defines, for the purposes of this section, "snack items" to include:

- (1) breakfast bars, granola bars, nutrition bars, sports bars, protein bars, or yogurt bars, unless labeled and marketed as candy;
- (2) snack mix or trail mix;
- (3) nuts, unless candy-coated;
- (4) popcorn; and
- (5) chips, crackers, or pretzels.

(h) Provides that the exemption provided by Subsection (a) (relating to exempting food products for human consumption from the taxes imposed by this chapter) does not apply to a snack item described by Subsection (b-1)(5) if the item is sold in individual-sized portions. Provides that, for the purposes of this subsection, an individual-sized portion is a portion that is labeled as having not more than one serving, or contains less than three ounces, if the package does not specify the number of servings.

SECTION 2. Provides that the change in law made by this Act does not affect tax liability accruing before the effective date of this Act. Provides that tax liability which accrued before the effective date of this Act continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 3. Effective date: September 1, 2013.