



City of Chicago



O2016-705

Office of the City Clerk

Document Tracking Sheet

Meeting Date: 2/10/2016

Sponsor(s): Burke (14)
Hairston (5)
Mendoza (Clerk)

Type: Ordinance

Title: Amendment of Municipal Code Section 3-40-010 to exempt tampons and sanitary napkins from Chicago's Home Rule Municipal Retailer's Occupation Tax

Committee(s) Assignment: Committee on Finance

ORDINANCE

WHEREAS, The City of Chicago is a home rule unit government pursuant to the 1970 Illinois Constitution, Article VII, Section 6(a); and

WHEREAS, Pursuant to its home rule power, the City of Chicago may exercise any power and perform any function relating to its government and affairs including the power to regulate for the protection of the public health, safety, morals, and welfare and including the power to tax; and

WHEREAS, Tampons and sanitary napkins are medical necessities which merit exemption from the city's Home Rule Municipal Retailer's Occupation Tax; and

WHEREAS, In 1989, in *Geary v. Dominick's Finer Foods, Inc.*, the Illinois Supreme Court held that tampons and sanitary napkins were "medical appliances" and therefore exempt from a sales tax then imposed by the City of Chicago; and

WHEREAS, At that time, the Illinois Department of Revenue determined that the term "medical appliances" included tampons and sanitary napkins and thus exempted those products from the state's sales tax; and

WHEREAS, The Illinois Department of Revenue currently classifies tampons and sanitary napkins as "grooming and hygiene" products which are subject to the city's current sales tax; and

WHEREAS, Feminine hygiene products such as tampons and sanitary napkins are currently taxed at the rate of 10.25%, which includes a 6.25% state tax; a 1.75% county tax; a 1.25% city tax; and a 1% Regional Transportation Authority tax; and

WHEREAS, Qualifying food, drugs and medical appliances are exempt from Chicago's sales tax and qualify for the state sales tax rate of 1%; and

WHEREAS, Legislation is currently pending in the California State Assembly which would exempt tampons and sanitary pads from state sales tax; and

WHEREAS, Bills to exempt feminine hygiene products from sales taxes have also been introduced in New York, Ohio, Utah and Virginia; and

WHEREAS, Feminine hygiene products are already exempt from sales taxes in Minnesota, Pennsylvania, New Jersey, Maryland and Massachusetts; and

WHEREAS, The City of Chicago desires to exempt tampons and sanitary napkins from its Home Rule Municipal Retailer's Occupation Tax; now therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The above recitals are expressly incorporated herein and made part hereof as though fully set forth herein.

SECTION 2. Section 3-40-010 of the Municipal Code of Chicago is hereby amended by adding the language underscored, as follows:

3-40-010 Tax – Imposed.

(a) A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property, other than tangible personal property titled or registered with an agency of Illinois government, at retail in the City of Chicago, pursuant to the Home Rule Municipal Retailer's Occupation Tax Act, at the rate of one and one-quarter percent of the gross receipts from such sales made in the course of such business.

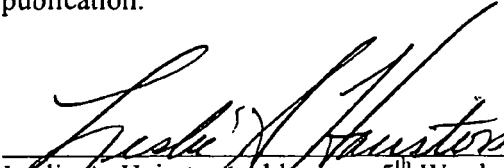
(b) The tax imposed by this section shall not be applicable to or imposed upon sales of the following items:

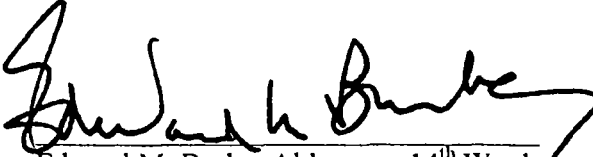
(i) Food for human consumption which is to be consumed off the premises where it is sold, except that alcoholic beverages, soft drinks and food which has been prepared for immediate consumption shall be subject to the tax imposed hereunder; and

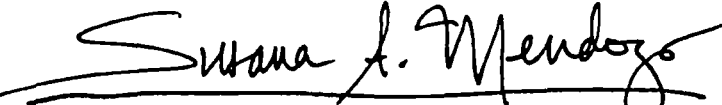
(ii) Prescription and nonprescription medicines, drugs, medical appliances, including, but not limited to, tampons and sanitary napkins, and insulin, urine testing materials, syringes and needles used by diabetics.

(c) Nothing in this section shall be construed to impose a tax upon the privilege of engaging in any business which under the Constitution of the United States may not be made the subject of taxation by the State of Illinois or any political subdivision thereof.

SECTION 3. This ordinance shall be in full force and effect upon its passage and publication.


Leslie A. Hairston, Alderman, 5th Ward


Edward M. Burke, Alderman, 14th Ward


Susana A. Mendoza, City Clerk