

## **BILL ANALYSIS**

Senate Research Center

H.B. 4054  
By: Murphy (Bettencourt)  
Finance  
7/28/2017  
Enrolled

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

Interested parties suggest that the Tax Code is currently unclear on which bakery items are exempt from sales and use tax, specifically with regard to a bakery item heated by a consumer. H.B. 4054 seeks to provide clarification and help bakeries collect and remit the appropriate taxes. (Original Author's / Sponsor's Statement of Intent)

H.B. 4054 amends current law relating to the application of sales and use taxes to certain food items.

### **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 adding Subsection (b-2) and amending Subsections (c-2) and (c-3), as follows:

(b-2) Defines "bakery" and "bakery items."

(c-2) Provides that the exemption provided by Subsection (a) (relating to providing that certain food products for consumption are exempt from taxes) does not include the following prepared food:

(1) except as provided by Subsection (c-3)(1) (relating to providing that certain bakery items are considered to be exempt from taxes), food, food products, and drinks, including meals, milk and milk products, fruit and fruit products, sandwiches, salads, processed meats and seafoods, vegetable juice, and ice cream in cones or small cups, served, prepared, or sold ready for immediate consumption by restaurants, lunch counters, cafeterias, delis, vending machines, hotels, or like places of business or sold ready for immediate consumption from pushcarts, motor vehicles, or any other form of vehicle;

(2) except as provided by Subsection (c-3)(1), food sold in a heated state or heated by the seller; or

(3) makes no changes to this subdivision.

(c-3) Provides that the exemption provided by Subsection (a) includes bakery items sold by a bakery, regardless of whether the items are heated by the consumer or seller or served with plates or other eating utensils, and bakery items sold at a retail location other than a bakery without plates or other eating utensils, rather than bakery items sold without plates or other eating utensils, including bread, rolls, buns, biscuits, bagels, croissants, pastries, doughnuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas. Redesignates existing Subdivision (2) as Subdivision (3) and makes no further changes to this subdivision.

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 that liability 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, 2017.