



Ohio State Representative Beth Lear

61st Ohio House District

Ohio State Representative David Thomas

65th Ohio House District

MEMORANDUM

To: House Ways and Means Committee

From: State Representatives Beth Lear and David Thomas

Re: Sponsor Testimony for House Bill 762

REP. LEAR:

Chair Roemer, Vice Chair Thomas, Ranking Member Troy, and members of the House Ways and Means Committee, thank you for the opportunity to provide sponsor testimony on House Bill 762.

House Bill 762 addresses an inconsistent application of Ohio’s sales tax law affecting vending machines and micro markets.

Under current law, food sold for off-premise consumption is not subject to sales tax. Vending machines and micro markets operate in this same way, offering prepackaged items intended to be taken and consumed elsewhere.

However, court interpretations have created an unintended outcome: if seating is placed “close enough” to a vending machine or micro market, the sale may be treated as on-premise dining and taxed. This is true even though the product, transaction, and seller remain unchanged—and vending operators do not control the placement of tables and chairs in shared spaces like offices, hospitals, or public buildings.

This has led to a subjective standard, inconsistent enforcement, and uncertainty for businesses.

For example, in the Huntington Building across from the Statehouse, a customer may purchase a snack from a micro market and be charged sales tax because of nearby seating. Yet a similar purchase from a nearby counter is treated as “to-go” and not taxed. Same setting, same behavior—different tax treatment.

House Bill 762 simply clarifies that food sold through vending machines and micro markets is not subject to sales tax. This ensures consistency, predictability, and fairness.

Importantly, the bill does not expand existing exemptions. Items that are currently taxable—such as soft drinks—will remain taxable.

Thank you for your consideration of House Bill 762 and I will now turn it over to my joint sponsor, Representative Thomas.

REP THOMAS:

Thank you, Chair Roemer, Ranking Member Troy, and fellow members of the Committee. To illustrate the problem this bill is attempting to address please allow me a moment to display. Currently the rule of thumb is 15-20ft. If a table and chairs are within this distance, that would lead to a taxable product in the vending machine. However, if the table and chairs are 25ft away, it is a non-taxable product. (Rep. Thomas then illustrates this is the Committee room.)

HB 762 seeks to clarify what is and is not taxable for Ohioans who need a quick snack. Soft drinks, sweetened beverages, and coffees for example are always taxable, but food is gray. No longer should that be the case. This food should be classified as off premise and the issue put to bed.

Thank you for the opportunity to present this concept and we are happy to take questions.