



**Kansas Restaurant and Hospitality Association
Opposing Testimony
Senate Bill 76
Scott J. Schneider J.D.
Senate Assessment and Taxation
Thursday, February 21, 2019**

Chair and members of the committee, the Kansas Restaurant and Hospitality Association opposes Senate Bill 76. We support the reduction on food sales tax in Kansas but want to treat all retail food the same. Senate Bill 76 would create a multi-layer food sales tax model. We believe “food is food” and consumers have a wide variety of choices and the marketplace should create the demand, not the legislature. The KRHA opposes creating a discriminatory food sales tax approach.

The Kansas restaurant industry employs over 137,000 people and nearly one half of every dollar spent on food in Kansas is through one of our member businesses. Our association provides solutions to our industry for everything from food safety training to our self-insured workers compensation fund. We have spoken to many of you over the years about how the marketplace is changing to meet the demand of consumers.

Our plain position is that food is food and we should allow the marketplace to decide. We believe the provisions found in this bill are painfully complicated and aren't based on a rational public policy goal and may in fact penalize citizens for good food choices.

Please know the language in this bill may in fact reduce the sales tax on some prepared food, served without utensils, of course, but fits within the 311 NAICS code. Additionally, some of our members may have complying products while others will charge the higher sales tax rate. Finally, by allowing manufactured food and donut stores to access a lower sales tax rate is inconsistent with a comprehensible public policy and may be discriminatory.

This bill would also discriminate against small grocery stores without available weights and measure sales mechanisms. Here is a local example:

If you haven't shopped at the local Tilton's down the street on 6th, I would contend you are missing out. We purchased a large bag of prepared bell peppers and onions for the flat rate \$1.99 — a deal wherever you go. Under New Section (b)(2) the rate would not fit and then they would have to look at (4). If we prepared the bell peppers and onions in fajitas, they would receive the new tax of 5.5% and then to 3.5% over the third year. If we only heated them, presumably in a microwave, they would fall within the exemption. Additionally, what is the rational basis for the state discriminating on a bottle of water based on where it is sold?

Thank you for your consideration of our position. Food is food and we believe our tax policy should treat all retail food, including restaurant food, the same.