

# INITIATED CONSTITUTIONAL AMENDMENT PETITION

WE, THE UNDERSIGNED qualified voters of the state of South Dakota, petition that the following section and article of the South Dakota Constitution be amended and that this proposal be submitted to the voters of the state of South Dakota at the general election on November 5, 2024 for their approval or rejection.

**Title:** An Initiated Amendment Prohibiting Taxes on Anything Sold for Human Consumption.

**RECEIVED**

APR 14 2023

**Attorney General Explanation:**

Currently, the State collects tax on the sale or use of certain goods, including foods and drinks. Many municipalities also collect these taxes.

This initiated amendment overrides existing laws and prohibits the State from collecting sales or use tax on anything sold for human consumption. The amendment eliminates these sources of revenue for the State.

Human consumption is not defined by state law. However, its common definition includes more than foods and drinks.

The amendment does not prohibit the collection of sales or use tax on alcoholic beverages or prepared food. Prepared food is defined by law to include food that is sold heated or with utensils.

The amendment may affect the State's obligations under the tobacco master settlement agreement and the streamlined sales tax agreement. The master settlement agreement resulted from multi-state lawsuits against cigarette manufacturers for the public health effects of smoking. South Dakota's annual share of the master settlement agreement is approximately \$20 million. The streamlined sales tax agreement is a multistate program designed to simplify the collection of sales and use tax for companies selling in multiple jurisdictions.

Judicial clarification of the amendment will be necessary. The Legislature cannot alter the provisions of a constitutional amendment.

**BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:** *That Article XI of the Constitution of the State of South Dakota be amended by adding a NEW SECTION to read:*

**The state may not tax the sale of anything sold for human consumption, except alcoholic beverages and prepared food. Municipalities may continue to impose such taxes.**

Filed this 25<sup>th</sup> day of

April 2023

**INSTRUCTIONS TO SIGNERS:**

1. Signers of this petition must individually sign their names in the form in which they are registered to vote or as they usually sign their names.
2. Before the petition is filed, each signer or the circulator must add the residence address of the signer and the date of signing. If the signer is a resident of a second or third class municipality, the post office box may be used for the residence address.
3. Before the petition is filed, each signer or the circulator must print the name of the signer in the space provided and add the county of voter registration.
4. Abbreviations of common usage may be used. Ditto marks may not be used.
5. Failure to provide all information requested may invalidate the signature.

*Monae A. Johnson*  
SECRETARY OF STATE