

1 H.477

2 Introduced by Representative Masland of Thetford

3 Referred to Committee on

4 Date:

5 Subject: Taxation; excise tax; sugar

6 Statement of purpose of bill as introduced: This bill proposes to impose an
7 excise tax on food products containing sugar. The rate of the tax is \$0.0005
8 per gram of sugar.

9 An act relating to imposing an excise tax on food products containing sugar

10 It is hereby enacted by the General Assembly of the State of Vermont:

11 Sec. 1. 32 V.S.A. chapter 227 is added to read:

12 CHAPTER 227. TAX ON FOOD PRODUCTS

13 CONTAINING SUGAR

14 § 9401. DEFINITIONS

15 As used in this chapter:

16 (1) “Commissioner” means the Commissioner of Taxes and his or her
17 authorized agents and employees.

18 (2) “Consumer” means a person who purchases or otherwise obtains a
19 food product for consumption and not for sale to another.

20 (3) “Department” means the Vermont Department of Taxes.

1 (4) “Distributor” means any person, including manufacturers and
2 wholesale dealers, that receives, stores, manufactures, bottles, or distributes a
3 food product for sale to retailers doing business in the State whether or not that
4 person also sells such products to consumers. “Distributor” also means any
5 person importing or causing to be imported food products containing sugar into
6 the State from outside the State for sale to a retailer or consumer.

7 (5) “Food product” means any product intended for human consumption
8 and offered for sale in this State that is also subject to the nutrition labeling of
9 food requirements under 21 C.F.R. § 101.9, and which lists an ingredient
10 included in the definition of “total sugar” under 21 C.F.R. § 101.9(c)(ii) as
11 either the first or second ingredient listed on the label under the requirements
12 of 21 C.F.R. § 101.4.

13 (6) “Place of business” means any place where food products are
14 manufactured or received for sale in the State.

15 (7) “Retailer” means any person who sells food products to consumers
16 in the State.

17 (8) “Sale” means the transfer of title or possession for valuable
18 consideration regardless of the manner by which the transfer is completed.

19 (9) “Sugar” means any sugar required to be counted as a “total sugar”
20 under the nutrition labeling of food requirements of 21 C.F.R. § 101.9(c)(ii).

1 § 9402. TAX IMPOSED

2 There is imposed an excise tax on every distributor of \$0.0005 for every
3 gram of sugar contained in food products sold in this State.

4 § 9403. RETURNS AND REMITTANCES

5 (a) Any distributor liable for the tax imposed by this chapter shall, on or
6 before the 15th day of every month, return to the Commissioner under oath of
7 a person with legal authority to bind the distributor a statement containing its
8 name and place of business, the quantity food products subject to the excise tax
9 imposed by this chapter sold in the preceding month, the amount of sugar
10 contained in those food products, and any other information required by the
11 Commissioner, along with the tax due.

12 (b) There is established a special fund pursuant to chapter 7, subchapter 5
13 of this title comprising one-third of the revenue from the tax imposed by this
14 chapter together with any additions or interest accruing to the Fund. The Fund
15 shall be called the Vermont Healthy Weight Initiative Fund. The
16 Commissioner of Finance and Management may draw warrants for
17 disbursements from this Fund in anticipation of receipts. The monies in the
18 Fund shall be available for the General Assembly to appropriate for programs
19 designed to fight obesity. Any remaining balance at the end of the fiscal year
20 shall be carried forward in the Fund.

1 (c) There is established a special fund pursuant to chapter 7, subchapter 5
2 of this title comprising one-third of the revenue from the tax imposed by this
3 chapter together with any additions or interest accruing to the Fund. The Fund
4 shall be called the Vermont Food Security Fund. The Commissioner of
5 Finance and Management may draw warrants for disbursements from this
6 Fund in anticipation of receipts. The monies in the Fund shall be available for
7 the General Assembly to appropriate for programs designed to provide food
8 security for Vermont citizens. Any remaining balance at the end of the fiscal
9 year shall be carried forward in the Fund.

10 (d) One-third of the revenue from the tax imposed by this chapter shall be
11 deposited in the State Health Care Resources Fund.

12 § 9404. RECORDS

13 Every distributor shall maintain for no fewer than three years accurate
14 records, showing all transactions subject to tax liability under this chapter.
15 Distributors must identify the amount of tax collected as a separate invoice
16 entry on sales to retailers. Such records are subject to inspection by the
17 Commissioner at all reasonable times during normal business hours.

18 § 9405. EXEMPTIONS

19 The following shall be exempt from the tax imposed by section 9402 of this
20 chapter:

1 (1) food products sold to the U.S. government, its subdivisions, or under
2 any other circumstances where the State is without power to impose the tax;

3 (2) food products sold by a distributor for resale or consumption outside
4 the State; and

5 (3) food products sold by a distributor to another distributor and not
6 intended for resale to a consumer if the sales invoice clearly indicates that the
7 sale is exempt.

8 § 9406. PENALTIES

9 Any person subject to the provisions of this chapter who fails to pay the tax
10 imposed by this chapter by the date that payment is due or fails to submit a
11 return as required by this chapter is subject to the provisions of section 3202 of
12 this title.

13 § 9407. APPEALS

14 Any person aggrieved by an action taken by the Commissioner under this
15 chapter may appeal in writing to the Commissioner for a review. The
16 Commissioner shall then grant a hearing subject to the provisions of 3 V.S.A.
17 chapter 25 and notify the aggrieved person in writing of his or her
18 determination. The Commissioner's determination may be appealed within
19 30 days to the Superior Court of the county of this State in which the taxpayer
20 resides or has a place of business, or the Superior Court of Washington
21 County.

1 Sec. 2. EFFECTIVE DATE

2 This act shall take effect on July 1, 2017.