

1 H.615

2 Introduced by Representative Till of Jericho

3 Referred to Committee on

4 Date:

5 Subject: Health; dental health; dentists; Medicaid; taxation; sugar-sweetened
6 beverages

7 Statement of purpose: This bill proposes to provide dental benefits to
8 Medicaid-eligible pregnant women and mothers with young children; expand
9 dental education in the classroom; authorize a community dental health
10 coordinator pilot project; require water systems in Vermont to be fluoridated in
11 accordance with guidelines established by the state board of health; impose an
12 excise tax on sugar-sweetened beverages; and expand loan repayment and loan
13 forgiveness programs for dentists.

14 An act relating to improving the oral health of Vermonters

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

16 Sec. 1. 33 V.S.A. § 1903b is added to read:

17 § 1903b. DENTAL CARE

18 (a) Upon receipt of any necessary waiver or waivers of applicable
19 provisions of federal Medicaid laws, the department of Vermont health access
20 shall provide dental benefits comparable to those available to state employees

1 to pregnant women and mothers of children up to five years of age who are
2 eligible for Medicaid or for a Medicaid waiver program. Recipients of dental
3 benefits pursuant to this section shall not be subject to any cost-sharing or
4 deductible requirements.

5 (b) The department shall reimburse dental providers at the level of the
6 maximum allowable provider payment made to providers providing services to
7 state employees participating in the state employees' dental benefit plan.

8 (c) On or before January 15, 2014, the commissioner of Vermont health
9 access shall submit a report to the general assembly containing an evaluation
10 of the program established by this section and its impacts on improving the
11 oral health of the affected population.

12 Sec. 2. COMMUNITY DENTAL HEALTH COORDINATOR PILOT

13 (a) The commissioner of health, in consultation with the Vermont oral
14 health coalition, shall design a community dental health coordinator pilot
15 project for the purpose of increasing access to oral health care by utilizing
16 community dental health coordinators as members of dental teams in regions
17 of the state designated by the commissioner. The commissioner shall submit
18 design recommendations for the pilot project to the house committee on health
19 care and senate committee on health and welfare no later than January 15,
20 2013.

1 (b) As used in this section:

2 (1) "Community dental health coordinator" means a dental assistant,
3 dental hygienist, or other trained dental professional certified by the
4 commissioner of health to provide educational services, preventive and limited
5 palliative care services, and dental assessment services in a variety of settings
6 under the supervision of a dentist licensed pursuant to 26 V.S.A. § 801.

7 (2) "Palliative care services" means nonsurgical, reversible procedures
8 used to alleviate pain and stabilize acute or emergent problems, and may
9 include:

10 (A) placing temporary and sedative restorative material in
11 unexcavated carious lesions and unprepared tooth fractures;

12 (B) collecting and transmitting diagnostic data and images via a
13 telemetric connection;

14 (C) dispensing and applying medications on the specific order of a
15 dentist; and

16 (D) providing limited services for dental emergencies, in consultation
17 with a supervising dentist.

18 (3) "Supervision" means authorization by a dentist of procedures for a
19 community dental health coordinator to use in executing the dentist's
20 treatment plan.

1 Sec. 3. 18 V.S.A. § 108a is added to read:

2 § 108a. WATER SUPPLY; FLUORIDATION

3 (a) As used in this section:

4 (1) “Consecutive system” means a public water system that buys or
5 otherwise receives some or all of its finished water from a parent system.

6 (2) “Parent system” means a public water system that supplies finished
7 water to one or more other public water systems.

8 (3) “Water system” means a facility, including a parent system,
9 consecutive system, or other system that holds, treats, and supplies water for
10 public consumption directly or through a consecutive system serving no fewer
11 than 4,000 individuals.

12 (b) A corporation, municipality, government agency, or other entity that
13 owns or controls a water system shall maintain a quantity of fluoride in the
14 water supply as directed by the board of health.

15 (c) The board of health shall adopt rules pursuant to section 102 of this title
16 regarding recommended concentrations of fluoride to be maintained in a water
17 system to promote the oral health of the affected population and procedures for
18 maintaining the recommended concentrations of fluoride, including:

19 (1) required equipment;

20 (2) type and frequency of data collection;

21 (3) reporting requirements; and

1 (4) type and frequency of testing for human and environmental health.

2 (d) A water system for a municipality in this state that receives its water
3 supply from a community in another state shall not be required to comply with
4 the provisions of this section until a substantially similar fluoridation program
5 has been implemented for the water system of the supplying community in the
6 other state.

7 Sec. 4. 32 V.S.A. chapter 227 is added to read:

8 CHAPTER 227. SUGAR-SWEETENED BEVERAGE TAX

9 § 9401. DEFINITIONS

10 As used in this chapter:

11 (1) “Catamount fund” means the Catamount fund established pursuant
12 to 33 V.S.A. § 1986.

13 (2) “Commissioner” means the commissioner of taxes and his or her
14 authorized agents and employees.

15 (3) “Consumer” means a person who purchases or otherwise obtains a
16 sugar-sweetened beverage for consumption and not for sale to another.

17 (4) “Department” means the department of taxes.

18 (5) “Distributor” means any person, including manufacturers and
19 wholesale dealers, who receives, stores, manufactures, bottles, or distributes
20 syrup, powder, or sugar-sweetened beverages for sale to retailers doing
21 business in the state whether or not that person also sells such products to

1 consumers. “Distributor” also means any person importing or causing to be
2 imported syrup, powder, or sugar-sweetened beverages into the state from
3 outside the state for sale to a retailer or consumer.

4 (6) “Place of business” means any place where syrup, powder, or
5 sugar-sweetened beverages are manufactured or received for sale in the state.

6 (7) “Powder” means any solid mixture of ingredients used in making,
7 mixing, or compounding sugar-sweetened beverages by mixing the powder
8 with any one or more other ingredients, including water, ice, syrup, simple
9 syrup, fruits, vegetables, fruit juice, vegetable juice, carbonation, or other gas.

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

12 (9) “Sugar-sweetened beverage” means any nonalcoholic beverage,
13 carbonated or noncarbonated, which is intended for human consumption and
14 contains any added sweetener. As used in this definition, “nonalcoholic
15 beverage” means any beverage that contains less than one-half of one percent
16 alcohol per volume. However, the term “sugar-sweetened beverage” does
17 not include:

18 (A) Beverages consisting of 100 percent natural fruit or vegetable
19 juice with no added sweetener. For purposes of this subdivision (9), “natural
20 fruit juice” and “natural vegetable juice” mean the original liquid resulting

1 from the pressing of fruits or vegetables, or the liquid resulting from the
2 dilution of dehydrated natural fruit juice or natural vegetable juice;

3 (B) Milk, with or without any added sweetener, which means natural
4 liquid milk regardless of animal source or butterfat content; natural milk
5 concentrate, whether or not reconstituted, regardless of animal source or
6 butterfat content; dehydrated natural milk, whether or not reconstituted and
7 regardless of animal source or butterfat content; or soy, rice, or similar milk
8 substitutes; or

9 (C) Infant formula.

10 (10) "Sweetener" means any caloric substance suitable for human
11 consumption that humans perceive as sweet and includes sucrose, fructose,
12 glucose, other sugars, or fruit juice concentrates, but does not include any
13 substance that adds fewer than five calories per reference amount customarily
14 consumed or per labeled serving.

15 (11) "Syrup" means a liquid mixture of ingredients used in making,
16 mixing, or compounding sugar-sweetened beverages using one or more other
17 ingredients, such as water, ice, powder, simple syrup, fruits, vegetables, fruit
18 juice, vegetable juice, or carbonation or other gas.

19 § 9402. TAX IMPOSED

20 (a) There is imposed an excise tax on every distributor of \$0.01 per ounce
21 upon sugar-sweetened beverages sold in the state.

1 (b) There is imposed on every distributor an excise tax of \$0.01 per ounce
2 of syrup and powder sold in the state. For purposes of calculating the tax
3 under this subsection, the taxable volume of syrup or powder shall be equal to
4 the largest volume of sugar-sweetened beverage resulting from use of the syrup
5 or power according to the manufacturer's instructions.

6 § 9403. RETURNS AND REMITTANCES

7 (a) Any distributor liable for the tax imposed by this chapter shall, on or
8 before the 15th day of every month, return to the commissioner under oath of a
9 person with legal authority to bind the distributor a statement containing its
10 name and place of business, the quantity of syrup, powder, or sugar-sweetened
11 beverages subject to the excise tax imposed by this chapter sold in the
12 preceding month, and any other information required by the commissioner,
13 along with the tax due.

14 (b) There is established a special fund pursuant to subchapter 5 of chapter 7
15 of this title comprising one-third of the revenue from the tax imposed by this
16 chapter together with any additions or interest accruing to the fund. The fund
17 shall be called the "Vermont oral health improvement fund." The
18 commissioner of finance and management may draw warrants for
19 disbursements from this fund in anticipation of receipts. The monies in the
20 fund shall be available for the general assembly to appropriate in accordance

1 with subsection (e) of this section. Any remaining balance at the end of the
2 fiscal year shall be carried forward in the fund.

3 (c) One-third of the revenue from the tax imposed by this chapter shall be
4 deposited in the Catamount fund.

5 (d) One-third of the revenue from the tax imposed by this chapter shall be
6 used to fund the credit in section 9413 of this chapter and the administration of
7 this chapter.

8 (e) The funds in the Vermont oral health improvement fund may only be
9 used to:

10 (1) support the Medicaid dental reimbursement rates administered by the
11 department of Vermont health access;

12 (2) support the repayment of educational loans owed by dentists
13 licensed pursuant to 26 V.S.A. chapter 13 and practicing dentistry in Vermont,
14 using funds appropriated to:

15 (A) the department of health for grants to the area health education
16 centers for repayment of such loans; and

17 (B) the dental student incentive scholarship and loan forgiveness
18 program administered by the Vermont Student Assistance Corporation;

19 (3) support the Head Start and school-based Tooth Tutor program
20 administered by the department of health;

1 (4) support costs incurred by entities that own or control water systems
2 in complying with the fluoridation requirements of 18 V.S.A. § 801a; and

3 (5) support the Baby Bottle Tooth Decay education program
4 administered by the department of health.

5 § 9404. RECORDS

6 Every distributor shall maintain for not less than three years accurate
7 records, showing all transactions subject to tax liability under this chapter.

8 Distributors must identify the amount of tax collected as a separate invoice
9 entry on sales to retailers. Such records are subject to inspection by the
10 commissioner at all reasonable times during normal business hours.

11 § 9405. EXEMPTIONS

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

14 (1) Syrup, powder, or sugar-sweetened beverages sold to the United
15 States government, its subdivisions, or under any other circumstances in which
16 the state is without power to impose the tax;

17 (2) Syrup, powder, or sugar-sweetened beverages sold by a distributor
18 for resale or consumption outside the state; and

19 (3) Syrup, powder, or sugar-sweetened beverages sold by a distributor to
20 another distributor and not intended for resale to a consumer if the purchasing

1 distributor holds a license issued pursuant to section 9406 of this chapter and if
2 the sales invoice clearly indicates that the sale is exempt.

3 § 9406. LICENSE REQUIRED

4 Each distributor shall secure a license from the commissioner of taxes
5 before engaging in the business of selling sugar-sweetened beverages in the
6 state.

7 § 9407. APPLICATION FOR AND ISSUANCE OF LICENSE

8 (a) A separate application and license is required for each wholesale outlet
9 when a distributor owns or controls more than one such outlet.

10 (b) Licenses shall be issued by the commissioner on application without
11 charge, on forms prescribed by the commissioner, stating the name and address
12 of the applicant, the address of the place of business, the type of business, and
13 any other information as the commissioner may require for the proper
14 administration of this chapter.

15 § 9408. TERM OF LICENSES

16 Each license issued under the provisions of this chapter shall be valid as
17 long as the licensee continues to do business at the place named, unless the
18 license is revoked or suspended by the commissioner as provided in section
19 9409 of this chapter. If the business is sold or transferred or if the licensee
20 ceases to do business at the place named, the license shall immediately be
21 returned to the commissioner for cancellation.

1 § 9409. REVOCATION AND SUSPENSION OF LICENSES

2 The commissioner may revoke or suspend the license of any licensee for
3 failure to comply with any provision of this chapter or for failure to comply
4 with the provisions of 11 V.S.A. chapter 15.

5 § 9410. PENALTIES

6 (a) Any person subject to the provisions of this chapter who fails to pay the
7 tax imposed by this chapter by the date that payment is due or fails to submit a
8 return as required by this chapter is subject to the provisions of section 3202 of
9 this title.

10 (b) Any person subject to the provisions of this chapter who sells or offers
11 for sale any syrup, powder, or sugar-sweetened beverages in the state without
12 holding a license as required by this chapter is liable for a penalty of up to
13 \$100.00 for each day such sales are made or offered.

14 § 9411. APPEALS

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

1 § 9412. BONDING

2 When the commissioner, in his or her discretion, deems it necessary to
3 protect the revenues to be obtained under this chapter, he or she may require
4 any licensee to file with him or her a bond under the terms of section 3114 of
5 this title.

6 § 9413. RETAILER CREDIT

7 There shall be available a refundable credit against the tax imposed by
8 section 5822 or 5832 of this title for any retailer who certifies that he or she
9 has maintained the retail price differential created by this tax between
10 sugar-sweetened beverages and other beverages. The credit shall be in the
11 amount of one-quarter cent per ounce of sugar-sweetened beverage sold in the
12 taxable year. The department of taxes shall develop forms and procedures for
13 claiming this credit.

14 Sec. 5. MONITORING

15 The department of health shall develop criteria and components for an
16 independent evaluation to assess the impact that the sugar-sweetened beverage
17 tax has on consumption of products affected by the implementation of the tax.
18 Specifically, the evaluation shall seek to determine the impact of these
19 exclusions on consumer purchasing and health outcomes. The amount of
20 \$100,000.00 is appropriated to the department of health for this purpose.

1 Sec. 6. WAIVERS

2 The secretary of human services shall seek a waiver or waivers from the
3 Centers for Medicare and Medicaid Services of such provisions of federal
4 Medicaid law as may be necessary to implement the dental benefit program for
5 eligible pregnant woman and mothers of children under the age of five
6 established pursuant to 33 V.S.A. § 1903b.

7 Sec. 7. APPROPRIATIONS

8 (a) In fiscal year 2013, the sum of \$425,000.00 is appropriated from the
9 Vermont oral health improvement fund established in 32 V.S.A. chapter 227 to
10 the department of health to expand participation and enhance programming in
11 the Tooth Tutor program.

12 (b) In fiscal year 2013, the sum of \$300,000.00 is appropriated from the
13 Vermont oral health improvement fund established in 32 V.S.A. chapter 227 to
14 the department of health to provide a grant to the area health education centers
15 for the repayment of loans made to dentists who are licensed pursuant to
16 26 V.S.A. chapter 13 and practice dentistry in Vermont.

17 (c) In fiscal year 2013, the sum of \$100,000.00 is appropriated from the
18 Vermont oral health improvement fund established in 32 V.S.A. chapter 227 to
19 the department of health to provide a grant to the Vermont Student Assistance
20 Corporation for the dental student incentive scholarship and loan forgiveness
21 program.

1 Sec. 8. EFFECTIVE DATE

2 This act shall take effect on July 1, 2012.