

1 H.234

2 Introduced by Representatives Sharpe of Bristol, Burke of Brattleboro,
3 Clarkson of Woodstock, Dakin of Chester, Donovan of
4 Burlington, Ellis of Waterbury, French of Randolph, Hooper of
5 Montpelier, Jerman of Essex, Kitzmiller of Montpelier,
6 Krowinski of Burlington, Kupersmith of South Burlington,
7 Lanpher of Vergennes, Malcolm of Pawlet, Manwaring of
8 Wilmington, Miller of Shaftsbury, Mook of Bennington,
9 Mrowicki of Putney, Nuovo of Middlebury, O'Brien of
10 Richmond, O'Sullivan of Burlington, Peltz of Woodbury,
11 Rachelson of Burlington, Ram of Burlington, Russell of
12 Rutland City, Spengler of Colchester, Stevens of Waterbury,
13 Stuart of Brattleboro, Till of Jericho, Toleno of Brattleboro,
14 Waite-Simpson of Essex, Webb of Shelburne, Wilson of
15 Manchester, and Wizowaty of Burlington

16 Referred to Committee on

17 Date:

18 Subject: Taxation; excise; sugar-sweetened beverages

19 Statement of purpose of bill as introduced: This bill proposes to impose an
20 excise tax on sugar-sweetened beverages.

1 An act relating to the imposition of an excise tax on sugar-sweetened
2 beverages

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

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

5 CHAPTER 227. SUGAR-SWEETENED BEVERAGE TAX

6 § 9401. DEFINITIONS

7 As used in this chapter:

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

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

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

13 (4) “Distributor” means any person, including a manufacturer and a
14 wholesale dealer, who receives, stores, manufactures, bottles, or distributes
15 symp, powder, or sugar-sweetened beverages for sale to retailers, whether or
16 not that person also sells such products to consumers. “Distributor” also
17 means any person importing or causing to be imported syrup, powder, or
18 sugar-sweetened beverages into the state from outside the state for sale to a
19 retailer or consumer.

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

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

6 (7) “Retailer” means any person who sells syrup, powder, or
7 sugar-sweetened beverages to consumers in the state.

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

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

16 (A) beverages consisting of 100 percent natural fruit or vegetable
17 juice with no added sweetener. For purposes of this subdivision (9), “natural
18 fruit juice” and “natural vegetable juice” mean the original liquid resulting
19 from the pressing of fruits or vegetables or the liquid resulting from the
20 dilution of dehydrated natural fruit juice or natural vegetable juice;

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

7 (C) infant formula.

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

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

17 § 9402. TAX IMPOSED

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

20 (b) There is imposed on every distributor an excise tax of \$0.01 per ounce
21 of syrup and powder sold in the State. For purposes of calculating the tax

1 under this subsection, the taxable volume of syrup or powder shall be equal to
2 the largest volume of sugar-sweetened beverage resulting from use of the syrup
3 or powder according to the manufacturer's instructions.

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 of syrup, powder, and
9 sugar-sweetened beverages subject to the excise tax imposed by this chapter
10 sold in the preceding month, and any other information required by the
11 Commissioner, along with the tax due.

12 (b) There is established a special fund pursuant to 32 V.S.A. chapter 7,
13 subchapter 5 comprising one-half 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 in accordance
19 with subsection (d) of this section. Any remaining balance at the end of the
20 fiscal year shall be carried forward in the Fund.

1 (c) One-half of the revenue from the tax imposed by this chapter shall be
2 deposited in the State Health Care Resources Fund established under 33 V.S.A.
3 § 1901d.

4 (d) The funds in the Vermont Healthy Weight Initiative Fund may only be
5 used to:

6 (1) subsidize the purchase of fruits and vegetables by WIC and
7 3SquaresVT recipients;

8 (2) establish a revolving loan fund to facilitate the purchase of
9 energy-efficient refrigeration equipment for the sale of fruits and vegetables by
10 small food retailers;

11 (3) provide electronic benefits transfer terminals to all Vermont farmers'
12 markets as well as technical assistance, promotional support, and
13 reimbursement to farmers' markets for transaction costs;

14 (4) subsidize school meals for low-income Vermonters; and

15 (5) create a permanent and self-sustaining fund to support programs
16 combating obesity to be administered by a board comprising representatives
17 from the Agency of Human Services, the Agency of Education, and the
18 Agency of Agriculture, Food and Markets.

19 § 9404. RECORDS

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

1 Distributors must identify the amount of tax collected as a separate invoice
2 entry on sales to retailers. These records are subject to inspection by the
3 Commissioner at all reasonable times during normal business hours.

4 § 9405. EXEMPTIONS

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

7 (1) syrup, powder, or sugar-sweetened beverages sold to the
8 U.S. government, its subdivisions, or under any other circumstances in which
9 the State is without power to impose the tax;

10 (2) syrup, powder, or sugar-sweetened beverages sold by a distributor
11 for resale or consumption outside the State; and

12 (3) syrup, powder, or sugar-sweetened beverages sold by a distributor to
13 another distributor and not intended for resale to a consumer if the purchasing
14 distributor holds a license issued under section 9406 of this chapter and if the
15 sales invoice clearly indicates that the sale is exempt.

16 § 9406. LICENSE REQUIRED

17 Each distributor shall secure a license from the Commissioner before
18 engaging in the business of selling sugar-sweetened beverages in the State.

19 § 9407. APPLICATION FOR AND ISSUANCE OF LICENSE

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

1 (b) Licenses shall be issued by the Commissioner on application, without
2 charge, on forms prescribed by the Commissioner, stating the name and
3 address of the applicant, the address of the place of business, the type of
4 business, and any other information the Commissioner may require for the
5 proper administration of this chapter.

6 § 9408. TERM OF LICENSES

7 Each license issued under the provisions of this chapter shall be valid as
8 long as the licensee continues to do business at the place named, unless the
9 license is revoked or suspended by the Commissioner as provided in section
10 9409 of this chapter. If the business is sold or transferred or if the licensee
11 ceases to do business at the place named, the license shall immediately be
12 returned to the Commissioner for cancellation.

13 § 9409. REVOCATION AND SUSPENSION OF LICENSES

14 The Commissioner may revoke or suspend the license of any licensee for
15 failure to comply with any provision of this chapter or for failure to comply
16 with the provisions of 11 V.S.A. chapter 15.

17 § 9410. PENALTIES

18 (a) Any person subject to the provisions of this chapter who fails to pay the
19 tax imposed by this chapter by the date that payment is due or fails to submit a
20 return as required by this chapter is subject to the provisions of section 3202 of
21 this title (interest and penalties).

1 (b) Any person subject to the provisions of this chapter who sells or offers
2 for sale any syrup, powder, or sugar-sweetened beverages in the State without
3 holding a license as required by this chapter is liable for a penalty of up to
4 \$100.00 for each day such sales are made or offered.

5 § 9411. APPEALS

6 Any person aggrieved by an action taken by the Commissioner under this
7 chapter may appeal in writing to the Commissioner for a review. The
8 Commissioner shall then grant a hearing under 3 V.S.A. chapter 25 and notify
9 the aggrieved person in writing of his or her determination. The
10 Commissioner's determination may be appealed within 30 days to the Superior
11 Court of the county of this State in which the taxpayer resides or has a place of
12 business or to the Superior Court of Washington County.

13 § 9412. BONDING

14 When the Commissioner, in his or her discretion, considers it necessary to
15 protect the revenues raised under this chapter, he or she may require any
16 licensee to file with him or her a bond under the terms of section 3114 of this
17 title.

18 Sec. 2. MONITORING

19 The Department of Health shall develop criteria and components for an
20 independent evaluation to assess the impact that the sugar-sweetened beverage
21 tax has on consumption of products affected by the implementation of the tax.

1 Specifically, the evaluation shall seek to determine the impact of these
2 exclusions on consumer purchasing and health outcomes. The amount of
3 \$100,000.00 is appropriated to the Department of Health for this purpose.

4 Sec. 3. EFFECTIVE DATE

5 This act shall take effect on July 1, 2013.