

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Ways and Means to which was referred House Bill No. 481  
3 entitled “An act relating to supporting health care initiatives and establishing  
4 payroll and sugar-sweetened beverage taxes” respectfully reports that it has  
5 considered the same and recommends that the bill be amended as follows:

6 First: By striking out the applicable reader assistance headings and  
7 Secs. 1–7 (increasing access to health care providers and health insurance  
8 coverage), 8 (Office of Health Care Advocate), 10 and 11 (investments in  
9 future structural reforms in health care), and 21 (appropriation) in their entirety

10 Second: By striking out the reader assistance heading and Secs. 23 (sugar  
11 sweetened beverage tax) and 24 (monitoring), and inserting in lieu thereof the  
12 following:

13 \* \* \* Excise Tax on Sweetened Beverages \* \* \*

14 Sec. 23. 32 V.S.A. chapter 227 is added to read:

15 CHAPTER 227. SWEETENED BEVERAGE TAX

16 § 9401. DEFINITIONS

17 As used in this chapter:

18 (1) “Beverage for medical use” means a beverage suitable for human  
19 consumption and manufactured for use as an oral nutritional therapy for  
20 persons who cannot absorb or metabolize dietary nutrients from food or  
21 beverages, or for use as an oral rehydration electrolyte solution for infants and

1 children formulated to prevent or treat dehydration due to illness. “Beverage  
2 for medical use” shall also mean a “medical food” as defined in Section 5(b)(3)  
3 of the Orphan Drug Act at 21 U.S.C. § 360ee(b)(3). “Beverage for medical  
4 use” shall not include drinks commonly referred to as “sports drinks” or any  
5 other common names that are derivations thereof.

6 (2) “Commissioner” means the Commissioner of Taxes and his or her  
7 authorized agents and employees.

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

10 (4) “Department” means the Vermont Department of Taxes.

11 (5) “Distribution” or “distribute” means the transfer of title or  
12 possession from one person to another for consideration, or within a business  
13 entity, or between business entities subject to the same ownership or control,  
14 such as by a wholesale or warehousing unit to a retail outlet, or between two or  
15 more employees or contractors. “Distribution” or “distribute” shall not mean  
16 the retail sale to a consumer.

17 (6) “Distributor” means any person, including a manufacturer and a  
18 wholesale dealer, who receives, stores, manufactures, bottles, or distributes  
19 syrup, powder, or sweetened beverages for sale to retailers, whether or not that  
20 person also sells such products to consumers. “Distributor” also means any  
21 person importing or causing to be imported syrup, powder, or sweetened

1 beverages into the State from outside the State for sale to a retailer or  
2 consumer.

3 (7) “Place of business” means any place where syrup, powder, or  
4 sweetened beverages are manufactured or received for sale in the State.

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

9 (9) “Retailer” means any person who sells syrup, powder, or sweetened  
10 beverages to consumers in the State.

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

13 (11) “Sweetened beverage” means any nonalcoholic beverage,  
14 carbonated or noncarbonated, that is intended for human consumption as a  
15 beverage and contains any added natural or artificial sweetener or sugar  
16 substitute. As used in this definition, “nonalcoholic beverage” means any  
17 beverage that contains less than one-half of one percent alcohol per volume.

18 (12) “Sweetener” means any substance suitable for human consumption  
19 that humans perceive as sweet and includes sucrose, fructose, glucose, other  
20 sugars, fruit juice concentrates, aspartame, sucralose, cyclamate, saccharin,  
21 stevia, or other sugar substitutes.

1           (13) “Syrup” means a liquid mixture of ingredients used in making,  
2           mixing, or compounding sweetened beverages using one or more other  
3           ingredients, such as water, ice, powder, simple syrup, fruits, vegetables, fruit  
4           juice, vegetable juice, or carbonation or other gas.

5           § 9402. TAX IMPOSED

6           (a) There is imposed an excise tax on every distributor of \$0.005 per ounce  
7           upon sweetened beverages sold in the State.

8           (b) There is imposed an excise tax on every distributor of \$0.005 per ounce  
9           of syrup and powder sold in the State. For purposes of calculating the tax  
10           under this subsection, the taxable volume of syrup or powder shall be equal to  
11           the largest volume of sweetened beverage resulting from use of the syrup or  
12           powder according to the manufacturer’s instructions.

13           § 9403. RETURNS AND REMITTANCES

14           (a) Any distributor liable for the tax imposed by this chapter shall, on or  
15           before the 15th day of every month, return to the Commissioner, under oath of  
16           a person with legal authority to bind the distributor, a statement containing its  
17           name and place of business, the quantity of syrup, powder, and sweetened  
18           beverages subject to the excise tax imposed by this chapter sold in the  
19           preceding month, and any other information required by the Commissioner,  
20           along with the tax due.

1        (b) All 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        § 9404. RECORDS

5        Every distributor shall maintain, for not less than three years, accurate  
6        records showing all transactions subject to tax liability under this chapter.  
7        These records are subject to inspection by the Commissioner at all reasonable  
8        times during normal business hours.

9        § 9405. EXEMPTIONS

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

12       (1) Syrup, powder, or sweetened beverages sold to the U.S. government,  
13       its subdivisions, or under any other circumstances in which the State is without  
14       power to impose the tax.

15       (2) Syrup, powder, or sweetened beverages sold by a distributor for  
16       resale or consumption outside the State.

17       (3) Syrup, powder, or sweetened beverages sold by a distributor to  
18       another distributor and not intended for resale to a consumer if the purchasing  
19       distributor holds a license issued under section 9406 of this chapter and if the  
20       sales invoice clearly indicates that the sale is exempt.

1           (4) Beverages in which milk, or soy, rice, or similar milk substitute, is  
2           the primary ingredient or the first listed ingredient on the label of the beverage.

3           (5) Coffee or tea without added sweetener.

4           (6) Infant formula.

5           (7) Beverages for medical use.

6           (8) Water without any sweeteners.

7           (9) Beverages consisting of 100 percent natural fruit or vegetable juice  
8           with no added sweetener. As used in this subdivision, “natural fruit juice” and  
9           “natural vegetable juice” mean the original liquid resulting from the pressing  
10           of fruits or vegetables or the liquid resulting from the dilution of dehydrated  
11           natural fruit juice or natural vegetable juice.

12           (10) Maple syrup, as that term is defined in 6 V.S.A. § 481, or beverages  
13           sweetened with maple syrup.

14           § 9406. LICENSE REQUIRED

15           Each distributor shall secure a license from the Commissioner before  
16           engaging in the business of selling sweetened beverages in the State.

17           § 9407. APPLICATION FOR AND ISSUANCE OF LICENSE

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

20           (b) Licenses shall be issued by the Commissioner on application, without  
21           charge, on forms prescribed by the Commissioner, stating the name and

1 address of the applicant, the address of the place of business, the type of  
2 business, and any other information the Commissioner may require for the  
3 proper administration of this chapter.

4 § 9408. TERM OF LICENSES

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

11 § 9409. REVOCATION AND SUSPENSION OF LICENSES

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

15 § 9410. PENALTIES

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

20 (b) Any person subject to the provisions of this chapter who sells or offers  
21 for sale any syrup, powder, or sweetened beverages in the State without

1 holding a license as required by this chapter is liable for a penalty of up to  
2 \$100.00 for each day such sales are made or offered.

3 § 9411. APPEALS

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

11 § 9412. BONDING

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

16 § 9413. RULES AND REGULATIONS

17 The Commissioner is authorized to adopt rules and procedures to  
18 accomplish the purposes of this chapter.

19 Sec. 24. MONITORING

20 The Department of Health shall develop criteria and components for an  
21 independent evaluation to assess the impact that the sweetened beverage tax



1 has on consumption of products affected by the implementation of the tax.

2 Specifically, the evaluation shall seek to determine the impact of the

3 exclusions on consumer purchasing and health outcomes.

4 Third: By striking out the reader assistance heading and Sec. 25 (payroll  
5 tax) in their entirety, and inserting in lieu thereof the following:

6 \* \* \* Cigarette and Tobacco Taxes \* \* \*

7 Sec. 25. 32 V.S.A. § 7771 is amended to read:

8 § 7771. RATE OF TAX

9 \* \* \*

10 (d) The tax imposed under this section shall be at the rate of ~~137.5~~ 150  
11 mills per cigarette or little cigar and for each 0.0325 ounces of roll-your-own  
12 tobacco. The interest and penalty provisions of section 3202 of this title shall  
13 apply to liabilities under this section.

14 Sec. 25a. 32 V.S.A. § 7811 is amended to read:

15 § 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

16 There is hereby imposed and shall be paid a tax on all other tobacco  
17 products, snuff, and new smokeless tobacco possessed in the State of Vermont  
18 by any person for sale on and after July 1, 1959 which were imported into the  
19 State or manufactured in the State after that date, except that no tax shall be  
20 imposed on tobacco products sold under such circumstances that this State is  
21 without power to impose such tax, or sold to the United States, or sold to or by

1 a voluntary unincorporated organization of the U.S. Armed Forces operating a  
2 place for the sale of goods pursuant to regulations promulgated by the  
3 appropriate executive agency of the United States. The tax is intended to be  
4 imposed only once upon the wholesale sale of any other tobacco product and  
5 shall be at the rate of 92 percent of the wholesale price for all tobacco products  
6 except snuff, which shall be taxed at ~~\$2.29~~ \$2.50 per ounce, or fractional part  
7 thereof, new smokeless tobacco, which shall be taxed at the greater of ~~\$2.29~~  
8 \$2.50 per ounce or, if packaged for sale to a consumer in a package that  
9 contains less than 1.2 ounces of the new smokeless tobacco, at the rate of ~~\$2.75~~  
10 \$3.00 per package, and cigars with a wholesale price greater than \$2.17, which  
11 shall be taxed at the rate of \$2.00 per cigar if the wholesale price of the cigar is  
12 greater than \$2.17 and less than \$10.00, and at the rate of \$4.00 per cigar if the  
13 wholesale price of the cigar is \$10.00 or more. Provided, however, that upon  
14 payment of the tax within 10 days, the distributor or dealer may deduct from  
15 the tax two percent of the tax due. It shall be presumed that all other tobacco  
16 products, snuff, and new smokeless tobacco within the State are subject to tax  
17 until the contrary is established and the burden of proof that any other tobacco  
18 products, snuff, and new smokeless tobacco are not taxable hereunder shall be  
19 upon the person in possession thereof. Licensed wholesalers of other tobacco  
20 products, snuff, and new smokeless tobacco shall state on the invoice whether  
21 the price includes the Vermont tobacco products tax.

1 Sec. 25b. 32 V.S.A. § 7814 is amended to read:

2 § 7814. FLOOR STOCK TAX

3 (a) Snuff. A floor stock tax is hereby imposed upon every retail dealer of  
4 snuff in this State in the amount by which the new tax exceeds the amount of  
5 the tax already paid on the snuff. The tax shall apply to snuff in the possession  
6 or control of the retail dealer at 12:01 a.m. on July 1, ~~2014~~ 2015, but shall not  
7 apply to retail dealers who hold less than \$500.00 in wholesale value of such  
8 snuff. Each retail dealer subject to the tax shall, on or before July 25, ~~2014~~  
9 2015, file a report to the Commissioner in such form as the Commissioner may  
10 prescribe showing the snuff on hand at 12:01 a.m. on July 1, ~~2014~~ 2015, and  
11 the amount of tax due thereon. The tax imposed by this section shall be due  
12 and payable on or before August 25, ~~2014~~ 2015, and thereafter shall bear  
13 interest at the rate established under section 3108 of this title. In case of timely  
14 payment of the tax, the retail dealer may deduct from the tax due two percent  
15 of the tax. Any snuff with respect to which a floor stock tax has been imposed  
16 and paid under this section shall not again be subject to tax under section 7811  
17 of this title.

18 (b) Cigarettes, little cigars, or roll-your-own tobacco. Notwithstanding the  
19 prohibition against further tax on stamped cigarettes, little cigars, or  
20 roll-your-own tobacco under section 7771 of this title, a floor stock tax is  
21 hereby imposed upon every dealer of cigarettes, little cigars, or roll-your-own

1 tobacco in this State who is either a wholesaler, or a retailer who at 12:01 a.m.  
2 on July 1, ~~2014~~ 2015, has more than 10,000 cigarettes or little cigars or who  
3 has \$500.00 or more of wholesale value of roll-your-own tobacco, for retail  
4 sale in his or her possession or control. The amount of the tax shall be the  
5 amount by which the new tax exceeds the amount of the tax already paid for  
6 each cigarette, little cigar, or roll-your-own tobacco in the possession or  
7 control of the wholesaler or retail dealer at 12:01 a.m. on July 1, ~~2014~~ 2015,  
8 and on which cigarette stamps have been affixed before July 1, ~~2014~~ 2015.

9 A floor stock tax is also imposed on each Vermont cigarette stamp in the  
10 possession or control of the wholesaler at 12:01 a.m. on July 1, ~~2014~~ 2015, and  
11 not yet affixed to a cigarette package, and the tax shall be at the rate of ~~\$0.13~~  
12 \$0.25 per stamp. Each wholesaler and retail dealer subject to the tax shall, on  
13 or before July 25, ~~2014~~ 2015, file a report to the Commissioner in such form as  
14 the Commissioner may prescribe showing the cigarettes, little cigars, or  
15 roll-your-own tobacco and stamps on hand at 12:01 a.m. on July 1, ~~2014~~ 2015,  
16 and the amount of tax due thereon. The tax imposed by this section shall be  
17 due and payable on or before July 25, ~~2014~~ 2015, and thereafter shall bear  
18 interest at the rate established under section 3108 of this title. In case of timely  
19 payment of the tax, the wholesaler or retail dealer may deduct from the tax due  
20 two and three-tenths of one percent of the tax. Any cigarettes, little cigars, or  
21 roll-your-own tobacco with respect to which a floor stock tax has been

1 imposed under this section shall not again be subject to tax under section 7771  
2 of this title.

3 \* \* \* Sales Tax \* \* \*

4 Sec. 25c. 32 V.S.A. § 9701(31) is amended to read:

5 (31) “Food and food ingredients” means substances, whether in liquid,  
6 concentrated, solid, frozen, dried, or dehydrated form, that are sold for  
7 ingestion or chewing by humans and are consumed for their taste or nutritional  
8 value. “Food and food ingredients” does not include alcoholic beverages ~~or~~,  
9 tobacco, or dietary supplements.

10 Fourth: By striking out Sec. 26 (State Health Care Resources Fund) in its  
11 entirety and inserting in lieu thereof the following:

12 Sec. 26. 33 V.S.A. § 1901d(b) is amended to read:

13 (b) Into the Fund shall be deposited:

14 (1) all revenue from the tobacco products tax and from the cigarette tax  
15 levied pursuant to 32 V.S.A. chapter 205;

16 (2) revenue from health care provider assessments pursuant to  
17 subchapter 2 of chapter 19 of this title;

18 (3) revenue from the employer health care premium contribution  
19 pursuant to 21 V.S.A. chapter 25;

20 (4) revenue from the excise tax on sweetened beverages pursuant to  
21 32 V.S.A. chapter 227;

1           ~~(5)~~ revenue from health care claims assessments pursuant to 32 V.S.A.  
2           § 10402;

3           ~~(5)~~~~(6)~~ premium amounts paid by individuals unless paid directly to the  
4           insurer;

5           ~~(6)~~~~(7)~~ the proceeds from grants, donations, contributions, taxes, and any  
6           other sources of revenue as may be provided by statute, rule, or act of the  
7           General Assembly; and

8           ~~(7)~~~~(8)~~ any remaining balance in the terminated Catamount Fund as of  
9           June 30, 2012.

10           Fifth: In Sec. 27 (Department of Taxes; appropriation) by striking out  
11           “\$4,113,000.00” and inserting in lieu thereof “\$810,000.00” and by striking  
12           out “the payroll and sugar-sweetened beverage taxes” and inserting in lieu  
13           thereof “the sweetened beverage tax”

14           Sixth: By striking out Sec. 28 (Vermont liability as employer) in its entirety  
15           and inserting lieu thereof:

16           Sec. 28. [Deleted.]

17           Seventh: By striking out subsection (a) of Sec. 29 (repeal of elimination of  
18           HIT funding), and inserting in lieu thereof:

19           (a) [Deleted.]

1        Eighth: By striking out subsection (b) of Sec. 29 (elimination of employer  
2 assessment), and inserting in lieu thereof:

3        (b) [Deleted.]

4        Ninth: In Sec. 30 (effective dates), in subsection (a), by striking out “, 28  
5 (State of Vermont payroll tax liability), and 29 (repeals)”, in subsection (b), by  
6 striking out “November 1” and inserting in lieu thereof “August 1” and by  
7 striking out subsection (c) in its entirety and inserting in lieu thereof the  
8 following:

9        (c) Secs. 25 (cigarette tax), 25a (other tobacco products), 25b (floor tax),  
10 and 25c (sales tax definitions) shall take effect on July 1, 2015.

11        (d) Sec. 26 (State Health Care Resources Fund) shall take effect on  
12 August 1, 2016.

13 and that after passage the title of the bill be amended to read: “An act relating  
14 to supporting health care initiatives and establishing a sweetened beverage  
15 tax”.

16

17        (Committee vote: \_\_\_\_\_)

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\_\_\_\_\_

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Representative \_\_\_\_\_

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FOR THE COMMITTEE