

1 H.214

2 Introduced by Representatives Till of Jericho, Dunn of Essex, Joseph of  
3 North Hero, McCullough of Williston, Mrowicki of Putney,  
4 Stevens of Waterbury, and Sullivan of Burlington

5 Referred to Committee on

6 Date:

7 Subject: Taxation; excise; sugar-sweetened beverages

8 Statement of purpose of bill as introduced: This bill proposes to impose an  
9 excise tax on sugar-sweetened beverages and to direct revenue from the tax to  
10 the Adverse Childhood Experiences Initiative Fund.

11 An act relating to the imposition of an excise tax on sugar-sweetened  
12 beverages

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

14 Sec. 1. LEGISLATIVE FINDINGS

15 (a) Vermont is facing a serious public health crisis as the incidence of  
16 preventable illnesses related to obesity, such as Type II diabetes, heart disease,  
17 and many forms of cancer, rises with overall rates of obesity in Vermont's  
18 population.

1       (b) More than 60 percent of adults and 29 percent of children in Vermont  
2       are either overweight or obese. The overall rate of obesity in Vermont has  
3       climbed from 10.7 percent in 1990 to 25.1 percent in 2015.

4       (c) Annually, the State of Vermont spends \$202 million to treat  
5       obesity-related illnesses in adults. A substantial amount of these costs are  
6       incurred by publicly funded health care programs such as Medicare  
7       (\$41 million) and Medicaid (\$57 million).

8       (d) There is overwhelming scientific evidence that consumption of  
9       sugar-sweetened beverages is directly linked to the incidence of obesity,  
10       obesity-related diseases, and dental caries.

11       (e) Sugar-sweetened beverages are the single largest source of added sugar  
12       in Americans' diets, representing 36 percent of the added sugars an average  
13       American consumes.

14       (f) Consumption of sugar-sweetened beverages represents the largest  
15       category of caloric intake in American children, surpassing milk in the late  
16       1990s.

17       (g) Sugar-sweetened beverages provide no nutritional value and contain  
18       unhealthy amounts of added sugar. The American Heart Association  
19       recommends a daily intake of six teaspoons of sugar for women and nine  
20       teaspoons for men. An average 20-ounce soda contains 16 teaspoons of added  
21       sugar.

1       (h) Research suggests that our bodies process liquid sugar differently than  
2       sugar in foods, especially those containing fiber.

3       (i) Studies also show that high-calorie beverages do not have the same  
4       appetite-suppressing effect on those who consume them as do the same number  
5       of calories consumed in solid food.

6       (j) Taxes and subsidies on food can influence consumption, and numerous  
7       peer-reviewed public health studies recommend that sugar-sweetened beverage  
8       taxes should be implemented as part of a comprehensive strategy to prevent  
9       obesity.

10      Sec. 2. 32 V.S.A. chapter 227 is added to read:

11               CHAPTER 227. SUGAR-SWEETENED BEVERAGE TAX

12               § 9401. DEFINITIONS

13               As used in this chapter:

14               (1) “Beverage for medical use” means a beverage suitable for human  
15       consumption and manufactured for use as an oral nutritional therapy for  
16       persons who cannot absorb or metabolize dietary nutrients from food or  
17       beverages or for use as an oral rehydration electrolyte solution for infants and  
18       children formulated to prevent or treat dehydration due to illness. “Beverage  
19       for medical use” shall also mean a “medical food” as defined in subdivision  
20       5(b)(3) of the Orphan Drug Act at 21 U.S.C. § 360ee. “Beverage for medical

1 use” shall not include drinks commonly referred to as “sports drinks” or any  
2 other common names that are derivations thereof.

3 (2) “Caloric sweetener” means any caloric substance suitable for human  
4 consumption that humans perceive as sweet and includes, without limitation,  
5 sucrose, fructose, glucose, fruit juice concentrate, or other sugars. “Caloric  
6 sweetener” excludes noncaloric sweeteners. As used in this definition,  
7 “caloric” means a substance that adds calories to the diet of a person who  
8 consumes that substance.

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

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

13 (5) “Department” means the Vermont Department of Taxes.

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

20 (7) “Distributor” means any person, including a manufacturer and a  
21 wholesale dealer, that receives, stores, manufactures, bottles, or distributes

1 syrup, powder, or sugar-sweetened beverages for sale to retailers, whether or  
2 not that person also sells such products to consumers. “Distributor” also  
3 means any person importing or causing to be imported syrup, powder, or  
4 sugar-sweetened beverages into the State from outside the State for sale to a  
5 retailer or consumer.

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

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

13 (10) “Retailer” means any person that sells syrup, powder, or  
14 sugar-sweetened beverages to consumers in the State.

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

17 (12) “Sugar-sweetened beverage” means any nonalcoholic beverage,  
18 carbonated or noncarbonated, that is intended for human consumption as a  
19 beverage and contains any added sweetener. As used in this definition,  
20 “nonalcoholic beverage” means any beverage that contains less than one-half  
21 of one percent alcohol per volume.

1           (13) “Sweetener” means any caloric substance suitable for human  
2           consumption that humans perceive as sweet and includes sucrose, fructose,  
3           glucose, other sugars, or fruit juice concentrates but does not include any  
4           substance that adds fewer than five calories per reference amount customarily  
5           consumed or per labeled serving.

6           (14) “Syrup” means a liquid mixture of ingredients used in making,  
7           mixing, or compounding sugar-sweetened beverages using one or more other  
8           ingredients, such as water, ice, powder, simple syrup, fruits, vegetables, fruit  
9           juice, vegetable juice, or carbonation or other gas.

10           § 9402. TAX IMPOSED

11           (a) There is imposed an excise tax on every distributor of \$0.02 per ounce  
12           upon sugar-sweetened beverages sold in the State.

13           (b) There is imposed an excise tax on every distributor of \$0.02 per ounce  
14           of syrup and powder sold in the State. For purposes of calculating the tax  
15           under this subsection, the taxable volume of syrup or powder shall be equal to  
16           the largest volume of sugar-sweetened beverage resulting from use of the syrup  
17           or powder according to the manufacturer’s instructions.

18           § 9403. RETURNS AND REMITTANCES

19           (a) Any distributor liable for the tax imposed by this chapter shall, on or  
20           before the 15th day of every month, return to the Commissioner, under oath of  
21           a person with legal authority to bind the distributor, a statement containing its

1 name and place of business, the quantity of syrup, powder, and  
2 sugar-sweetened beverages subject to the excise tax imposed by this chapter  
3 sold in the preceding month, and any other information required by the  
4 Commissioner, along with the tax due.

5 (b) There is established a special fund pursuant to chapter 7, subchapter 5  
6 of this title comprising the revenue from the tax imposed by this chapter  
7 together with any additions or interest accruing to the Fund. The Fund shall be  
8 called the “Adverse Childhood Experiences Initiative Fund.” The  
9 Commissioner of Finance and Management may draw warrants for  
10 disbursements from this Fund in anticipation of receipts. The monies in the  
11 Fund shall be available for the General Assembly to appropriate in accordance  
12 with subsection (c) of this section. Any remaining balance at the end of the  
13 fiscal year shall be carried forward in the Fund. The Fund shall be  
14 administered by the Secretary of Human Services.

15 (c) The funds in the Adverse Childhood Experiences Initiative Fund shall  
16 only be used to:

17 (1) subsidize initiatives focused on building resilience for persons  
18 experiencing adverse childhood experiences;

19 (2) support programs directed at preventing adverse childhood  
20 experiences; and

21 (3) support programs directed at improving childhood nutrition.

1     § 9404. RECORDS

2           Every distributor shall maintain, for not less than three years, accurate  
3     records showing all transactions subject to tax liability under this chapter.  
4     Distributors must identify the amount of tax collected as a separate invoice  
5     entry on sales to retailers. These records are subject to inspection by the  
6     Commissioner at all reasonable times during normal business hours.

7     § 9405. EXEMPTIONS

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

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

13           (2) Syrup, powder, or sugar-sweetened beverages sold by a distributor  
14     for resale or consumption outside the State.

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

19           (4) Beverages sweetened solely with noncaloric sweeteners.

20           (5) Beverages in which milk, or soy, rice, or similar milk substitute, is  
21     the primary ingredient or the first listed ingredient on the label of the beverage.

1           (6) Coffee or tea without added caloric sweetener.

2           (7) Infant formula.

3           (8) Beverages for medical use.

4           (9) Water without any caloric sweeteners.

5           (10) Beverages consisting of 100 percent natural fruit or vegetable juice

6           with no added sweetener. As used in this subdivision, “natural fruit juice” and

7           “natural vegetable juice” mean the original liquid resulting from the pressing

8           of fruits or vegetables or the liquid resulting from the dilution of dehydrated

9           natural fruit juice or natural vegetable juice.

10          § 9406. LICENSE REQUIRED

11           Each distributor shall secure a license from the Commissioner before

12           engaging in the business of selling sugar-sweetened beverages in the State.

13          § 9407. APPLICATION FOR AND ISSUANCE OF LICENSE

14           (a) A separate application and license is required for each wholesale outlet

15           when a distributor owns or controls more than one such outlet.

16           (b) Licenses shall be issued by the Commissioner on application, without

17           charge, on forms prescribed by the Commissioner, stating the name and

18           address of the applicant, the address of the place of business, the type of

19           business, and any other information the Commissioner may require for the

20           proper administration of this chapter.

1     § 9408. TERM OF LICENSES

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

8     § 9409. REVOCATION AND SUSPENSION OF LICENSES

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

12    § 9410. PENALTIES

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

17           (b) Any person subject to the provisions of this chapter that sells or offers  
18    for sale any syrup, powder, or sugar-sweetened beverages in the State without  
19    holding a license as required by this chapter is liable for a penalty of up to  
20    \$100.00 for each day such sales are made or offered.

1     § 9411. APPEALS

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

9     § 9412. BONDING

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

14     § 9413. RULES

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

17     Sec. 3. MONITORING

18           The Department of Health shall develop criteria and components for an  
19     independent evaluation to assess the impact that the sugar-sweetened beverage  
20     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.

3     Sec. 4. EFFECTIVE DATE

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