

1 H.343

2 Introduced by Representatives Till of Jericho, Brumsted of Shelburne,  
3 Campbell of St. Johnsbury, Carroll of Bennington, Christensen  
4 of Weathersfield, Cordes of Lincoln, Durfee of Shaftsbury,  
5 Houghton of Essex, LaLonde of South Burlington, Lanpher of  
6 Vergennes, McCormack of Burlington, McCullough of  
7 Williston, Mrowicki of Putney, Squirrell of Underhill, and  
8 Yantachka of Charlotte

9 Referred to Committee on

10 Date:

11 Subject: Taxation; excise; sugar-sweetened beverages

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

15 An act relating to the imposition of an excise tax on sugar-sweetened  
16 beverages

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

18 Sec. 1. LEGISLATIVE FINDINGS

19 (a) Vermont is facing a serious public health crisis as the incidence of  
20 preventable illnesses related to obesity, such as Type II diabetes, heart disease,

1 and many forms of cancer, rises with overall rates of obesity in Vermont's  
2 population.

3 (b) More than 60 percent of adults and 25 percent of high school students  
4 in Vermont are either overweight or obese. The rate of obesity for adults in  
5 Vermont has climbed from 10.7 percent in 1990 to 27.6 percent in 2017.

6 (c) Annually, the State of Vermont spends over \$200 million to treat  
7 obesity-related illnesses in adults. A substantial amount of these costs are  
8 incurred by publicly funded health care programs such as Medicare  
9 (\$41 million) and Medicaid (\$57 million).

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

13 (e) Sugar-sweetened beverages are the single largest source of added sugar  
14 in Americans' diets, representing 39 percent of the added sugars an average  
15 American consumes.

16 (f) Consumption of sugar-sweetened beverages represents the largest  
17 category of caloric intake in American children, surpassing milk in the late  
18 1990s.

19 (g) Sugar-sweetened beverages provide no nutritional value and contain  
20 unhealthy amounts of added sugar. The American Heart Association  
21 recommends a daily intake of six teaspoons of sugar for women and nine

1 teaspoons for men. A 12-ounce can of soda may contain eight to 13 teaspoons  
2 of sugar.

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

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

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

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

13 CHAPTER 227. SUGAR-SWEETENED BEVERAGE TAX

14 § 9401. DEFINITIONS

15 As used in this chapter:

16 (1) “Beverage for medical use” means a beverage suitable for human  
17 consumption and manufactured for use as an oral nutritional therapy for  
18 persons who cannot absorb or metabolize dietary nutrients from food or  
19 beverages or for use as an oral rehydration electrolyte solution for infants and  
20 children formulated to prevent or treat dehydration due to illness. “Beverage  
21 for medical use” shall also mean a “medical food” as defined in subdivision

1 5(b)(3) of the Orphan Drug Act at 21 U.S.C. § 360ee. “Beverage for medical  
2 use” shall not include drinks commonly referred to as “sports drinks” or any  
3 other common names that are derivations thereof.

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

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

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

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

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

1           (7) “Distributor” means any person, including a manufacturer and a  
2           wholesale dealer, that receives, stores, manufactures, bottles, or distributes  
3           syrup, powder, or sugar-sweetened beverages for sale to retailers, whether or  
4           not that person also sells such products to consumers. “Distributor” also  
5           means any person importing or causing to be imported syrup, powder, or  
6           sugar-sweetened beverages into the State from outside the State for sale to a  
7           retailer or consumer.

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

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

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

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

19           (12) “Sugar-sweetened beverage” means any nonalcoholic beverage,  
20           carbonated or noncarbonated, that is intended for human consumption as a  
21           beverage and contains any added sweetener. As used in this definition,

1 “nonalcoholic beverage” means any beverage that contains less than one-half  
2 of one percent alcohol per volume.

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

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

12 § 9402. TAX IMPOSED

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

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

1     § 9403. RETURNS AND REMITTANCES

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

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

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

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

3           (2) support programs directed at preventing adverse childhood  
4           experiences; and

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

6           § 9404. RECORDS

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

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

12          § 9405. EXEMPTIONS

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

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

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

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



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

3 (4) Beverages sweetened solely with noncaloric sweeteners.

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

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

7 (7) Infant formula.

8 (8) Beverages for medical use.

9 (9) Water without any caloric sweeteners.

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

15 § 9406. LICENSE REQUIRED

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

18 § 9407. APPLICATION FOR AND ISSUANCE OF LICENSE

19 (a) A separate application and license is required for each wholesale outlet  
20 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 that 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 that 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       § 9413. RULES

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

1       Sec. 3. MONITORING

2           The Department of Health shall develop criteria and components for an  
3           independent evaluation to assess the impact that the sugar-sweetened beverage  
4           tax has on consumption of products affected by the implementation of the tax.  
5           Specifically, the evaluation shall seek to determine the impact of these  
6           exclusions on consumer purchasing and health outcomes.

7       Sec. 4. EFFECTIVE DATE

8           This act shall take effect on July 1, 2019.