

1 H.758

2 Introduced by Representatives Squirrell of Underhill, Brumsted of Shelburne,  
3 Dolan of Waitsfield, Macaig of Williston, Masland of Thetford,  
4 McCullough of Williston, Sullivan of Burlington, Till of  
5 Jericho, and Townsend of South Burlington

6 Referred to Committee on

7 Date:

8 Subject: Conservation and development; public water systems; potable water  
9 supplies; PFAS contamination

10 Statement of purpose of bill as introduced: This bill proposes to create a  
11 Vermont Drinking Water Protection Fund to fund monitoring of drinking water  
12 supplies for evidence of contamination from PFAS substances and other  
13 chemicals of concern. The bill also would fund treatment and remediation of  
14 contaminated drinking water supplies and fund alternative water supplies. The  
15 bill would provide that the Fund consist of revenue from an excise tax of  
16 \$0.15 per bottle of sugar-sweetened beverage sold in the State and revenue  
17 from an excise tax of \$0.01 per ounce of syrup or powder used to make sugar-  
18 sweetened beverages.

19 An act relating to creation of a Vermont Drinking Water Protection Fund

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

2 Sec. 1. 3 V.S.A § 2811 is added to read:

3 § 2811. VERMONT DRINKING WATER PROTECTION FUND

4 (a) As used in this section:

5 (1) “Agency” means the Agency of Natural Resources.

6 (2) “Administrative cost” means program and project costs incurred by  
7 the Agency of Natural Resources or a Fund grantee, including costs to conduct  
8 procurement, contract preparation, monitoring, reporting, and invoicing.

9 (3) “Chemical of emerging concern” means a substance that has not  
10 been regularly monitored or thoroughly evaluated for risks, but that has the  
11 potential to enter the environment and cause adverse health impacts.

12 (4) “Maximum Contaminant Level (MCL)” means the maximum  
13 permissible level of a contaminant in drinking water, as adopted by the  
14 Secretary.

15 (5) “PFAS substance” means perfluoroalkyl substances and  
16 polyfluoroalkyl substances that are detectable using standard analytical  
17 methods established by the U.S. Environmental Protection Agency, including  
18 regulated PFAS contaminants.

19 (6) “Potable water supply” has the same meaning as in 10 V.S.A.  
20 § 1972(6).

21 (7) “Public water system” has the same meaning as in 10 V.S.A. § 1671.

1        (b) There is created a special fund to be known as the Vermont Drinking  
2        Water Protection Fund that shall be managed in accordance with 32 V.S.A.  
3        chapter 7, subchapter 5 and administered by the Secretary. The Fund shall  
4        consist of revenues from the excise tax on sugar-sweetened beverages  
5        established under 32 V.S.A. chapter 227. The Secretary shall award grants  
6        according to the following priorities:

7                (1) As a first priority, grants to a public water system when a PFAS  
8                substance has been detected in order to:

9                        (A) monitor a public water supply for PFAS substances; and

10                      (B) establish an alternative water supply if:

11                                (i) levels of a PFAS substance are found to exceed an MCL set by  
12                      the Secretary, or

13                                (ii) if no MCL exists for a PFAS substance, levels exceed a level  
14                      set by a health advisory issued by the Vermont Department of Health; and

15                                (C) remediate or treat a public water supply if the party responsible  
16                      for contamination by a PFAS substance is unknown or in bankruptcy.

17                (2) As a second priority, grants to a private potable water system when a  
18                PFAS substance has been detected in order to:

19                        (A) establish an alternative water supply if:

20                                (i) levels of a PFAS substance are found to exceed an MCL set by  
21                      the Secretary, or

1                   (ii) if no MCL exists for a PFAS substance, levels exceed a level  
2 set by a health advisory issued by the Vermont Department of Health; and

3                   (B) treat a private potable water system if the party responsible for  
4 contamination from a PFAS substance is unknown or in bankruptcy.

5                   (3) As a third priority, grants to a public water system upon detection of  
6 a chemical of emerging concern for which the Secretary has adopted an MCL,  
7 or the Vermont Department of Health has issued a health advisory, to:

8                   (A) establish an alternative water supply if contaminant levels are  
9 found to exceed an MCL set by the Secretary; and

10                  (B) treat the public water system if the party responsible for  
11 contamination is unknown or in bankruptcy.

12                  (c) Monies in the Fund shall be used solely for the purposes listed in this  
13 section and for necessary costs incurred in administering the Fund. Not more  
14 than five percent of the annual appropriation to the Fund shall be used by the  
15 Agency for administrative costs. Not more than five percent of a total grant  
16 award shall be used by a grantee for administrative costs.

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

18                                 CHAPTER 227. SUGAR-SWEETENED BEVERAGE TAX

19                                 § 9401. DEFINITIONS

20                                 As used in this chapter:

1           (1) “Bottle” means any closed container of five gallons or less that is  
2           used to contain or convey a sugar-sweetened beverage.

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

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

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

8           (5) “Distributor” means any person, including a manufacturer and a  
9           wholesale dealer, who receives, stores, manufactures, bottles, or distributes  
10           syrup, powder, or sugar-sweetened beverages for sale to retailers, whether or  
11           not that person also sells the products to consumers. “Distributor” also means  
12           any person importing or causing to be imported syrup, powder, or sugar-  
13           sweetened beverages into the State from outside the State for sale to a retailer  
14           or consumer.

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

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

1           (8) “Retailer” means any person who sells syrup, powder, or sugar-  
2           sweetened beverages to consumers in the State.

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

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

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

16           (B) milk, with or without any added sweetener, which means natural  
17          liquid milk regardless of animal source or butterfat content; natural milk  
18          concentrate, whether or not reconstituted, regardless of animal source or  
19          butterfat content; dehydrated natural milk, whether or not reconstituted,  
20          regardless of animal source or butterfat content; or soy, rice, or similar milk  
21          substitutes;

1           (C) maple syrup or raw honey; or

2           (D) infant formula.

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

8           (12) “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. However, the term “syrup”  
12          does not include maple syrup or raw honey.

13          § 9402. TAX IMPOSED

14          (a) There is imposed on every distributor an excise tax of \$0.15 per bottle  
15          of sugar-sweetened beverage sold in the State.

16          (b) There is imposed on every distributor an excise tax of \$0.01 per ounce  
17          of syrup and powder sold in the State. For purposes of calculating the tax  
18          under this subsection, the taxable volume of syrup or powder shall be equal to  
19          the largest volume of sugar-sweetened beverage resulting from use of the syrup  
20          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 sugar-  
6     sweetened beverages subject to the excise tax imposed by this chapter sold in  
7     the preceding month; and any other information required by the Commissioner,  
8     along with the tax due.

9           (b) Revenue from the tax imposed by this chapter shall be deposited into  
10    the Vermont Drinking Water Protection Fund established under 3 V.S.A.  
11    § 2811 for use according to the purposes of the Fund.

12    § 9404. RECORDS

13           Every distributor shall maintain, for not less than three years, accurate  
14    records showing all transactions subject to tax liability under this chapter.  
15    Distributors shall identify the amount of tax collected on a separate invoice  
16    line on sales to retailers. These records are subject to inspection by the  
17    Commissioner at all reasonable times during normal business hours.

18    § 9405. EXEMPTIONS

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



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

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

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

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  
3     provided 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 who 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 who 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 Civil  
7     Division of the Superior Court of the county of this State in which the taxpayer  
8     resides or has a place of business or to the Civil Division of the Superior Court  
9     of Washington County.

10    § 9412. BONDING

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

15    Sec. 3. MONITORING

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

1       Sec. 4. LEGISLATIVE INTENT

2           It is the intent of the General Assembly that the excise tax created by Sec. 2  
3       of this act shall have the effect of raising the retail price of sugar-sweetened  
4       beverages by the amount of the tax. Executive agencies shall interpret and  
5       implement this tax in such a way as to further this intent.

6       Sec. 5. EFFECTIVE DATE

7           This act shall take effect on July 1, 2021.