STATE OF RHODE ISLAND
IN GENERAL ASSEMBLY
JANUARY SESSION, A.D. 2021

A N A C T
RELATING TO TAXATION -- SUGARY DRINKS

Introduced By: Representatives Barros, Messier, Morales, Handy, Alzate, Shanley, Fogarty, Carson, Amore, and Kislak
Date Introduced: February 24, 2021
Referred To: House Health & Human Services

It is enacted by the General Assembly as follows:

SECTION 1. Legislative findings.

The General Assembly hereby finds and declares the following:

(1) Over seventy-nine thousand (79,000) Rhode Island adults report that they have been diagnosed with Type 2 diabetes. An additional three hundred eleven thousand two hundred (311,200) Rhode Island adults are at risk for developing diabetes.

(2) According to the Centers for Disease Control and prevention, diabetes is the seventh leading cause of death in Rhode Island.

(3) Hispanics and African Americans in Rhode Island have a higher prevalence of Type 2 diabetes than non-Hispanic Whites.

(4) The prevalence of obesity in the United States has increased over the past thirty (30) years. In Rhode Island, obesity rates have increased from eleven and 10/100 percent (11.1 %) in 1990 to thirty percent (30 %) in 2019. Low-income populations and communities of color in Rhode Island report higher rates of obesity than non-Hispanic white communities.

(5) There is overwhelming evidence of the link between obesity and diabetes with the consumption of sugary drinks. Rates of other conditions such as hypertension, arthritis, and kidney failure are higher in adults diagnosed with diabetes and obesity.

(6) According to nutritional experts, sugary drinks provide little to no nutritional value, but contain massive quantities of added sugars. A twenty ounce (20 oz.) bottle of soda contains approximately sixteen (16) teaspoons of sugar, yet the American Heart Association recommends...
that Americans consume no more than six (6) to nine (9) teaspoons of sugar per day.

(7) Sugary drinks are a unique contributor to excess caloric consumption. Research indicates that approximately fifty percent (50%) of excess calories consumed by Americans comes from sugary drinks, with the average American consuming nearly fifty (50) gallons of sugary drinks per year.

(8) Studies on the taxation of sugary drinks have estimated a fifty-five to one (55-1) return on investment in health care savings. In Seattle, WA, a one and seventy-five hundredths cent ($0.175) per ounce tax has generated twenty-four million dollars ($24,000,000) in revenues annually. Revenues from sugary drink taxes have been invested in low-income communities and communities of color to increase access to healthy foods by funding fruit and vegetable vouchers.

(9) One in seven (7) Rhode Island citizens lack reliable access to nutritious, affordable food. Communities of color and low-income communities are more likely to be affected by food insecurity.

(10) Research indicates that improving the affordability of healthy foods can reduce food insecurity and equitably improve the health of affected communities.

SECTION 2. Title 44 of the General Laws entitled “TAXATION” is hereby amended by adding thereto the following chapter:

CHAPTER 70
SUGARY DRINKS TAX

44-70-1. Short title.

This chapter shall be known and may be cited as the “Sugary Drinks Tax”.

44-70-2. Legislative intent.

It is the intent of the general assembly, by adopting the sugary drinks tax, to:

(1) Increase access to and promote consumption of fresh fruits and vegetables among Rhode Island’s most vulnerable populations whose health is adversely impacted by the health conditions associated with sugary drinks;

(2) Improve the overall health and wellness of Rhode Island families, children and residents; and

(3) Reduce the burden of chronic disease in the ocean state.

44-70-3. Definitions.

For the purposes of this chapter, the following words shall have the following meanings:

(1) “Beverage for medical use” means a beverage suitable for human consumption and manufactured for use as an oral nutritional therapy for persons who cannot absorb or metabolize dietary nutrients from food or beverages, or for use as an oral rehydration electrolyte solution for
infants and children formulated to prevent or treat dehydration due to illness. "Beverage for medical
use" shall also mean a “medical food” as defined in section (b)(3) of the Orphan Drug Act (21
U.S.C. 360ee(b)(3)); this act defines medical food as "a food which is formulated to be consumed
or administered externally under the supervision of a physician and which is intended for the
specific dietary management of a disease or condition for which distinctive nutritional
requirements, based on recognized scientific principles, are established by medical evaluation.”
“Beverage for medical use” shall not include drinks commonly referred to as “sports drinks” or any
other common names that are derivations thereof.

(2) “Bottle” means any closed or sealed container regardless of size or shape, including,
without limitation, those made of glass, metal, paper, plastic, or any other material or combination
of materials.

(3) “Bottled sugary drink” means any sugary drink contained in a bottle that is ready for
consumption without further processing such as, without limitation, dilution or carbonation.

(4) “Caloric sweetener” means any caloric substance suitable for human consumption that
humans perceive as sweet and includes, without limitation: sugar, sucrose, dextrose, fructose,
glucose, and other monosaccharides and disaccharides; corn syrup or high fructose corn syrup;
honey; and any other substance designated by the department. “Caloric sweetener” excludes non-
caloric sweeteners. For purposes of this definition, “caloric” means a substance which adds calories
to the diet of a person who consumes that substance.

(5) "Concentrate" means a syrup, powder, frozen or gel mixture, or other product
containing one or more sweeteners as an ingredient, intended to be used in making, mixing, or
compounding a sweetened beverage by combining the concentrate with one or more other
ingredients.

(6) "Consumer" means a person who purchases a sugary drink for consumption and not for
sale to another.

(7) "Department" means the Rhode Island department of human services (DHS).

(8) "Director" means the director of the Rhode Island department of revenue and his or her
authorized agents and employees.

(9) "Distributor" means any person, including manufacturers, bottlers, and wholesale
dealers, who receives, stores, manufactures, bottles, and/or distributes bottled sugary drinks,
syrups, or powders, for sale to retailers doing business in the state, whether or not that person also
sells such products to consumers.

(10) "Distribution" or "distribute" means to supply to a distributor or retailer, deliver to a
retailer, facilitate acquisition by a retailer, or transport into the state for the purpose of selling any
sugary drink product in the state, or any combination of these activities.

(11) "Division" means the Rhode Island division of taxation

(12) "Milk" means natural liquid milk regardless of animal or plant source or butterfat
content; natural milk concentrate, whether or not reconstituted; or dehydrated natural milk, whether
or not reconstituted.

(13) "Natural fruit juice" means the original liquid resulting from the pressing of fruits, or
the liquid resulting from the dilution with water of dehydrated natural fruit juice.

(14) "Natural vegetable juice" means the original liquid resulting from the pressing of
vegetables, or the liquid resulting from the dilution with water of dehydrated natural vegetable
juice.

(15) "Non-caloric sweetener" means any non-caloric substance suitable for human
consumption that humans perceive as sweet and includes, without limitation, aspartame,
acesulfame-K, neotame, saccharin, sucralose, and stevia. "Non-caloric sweetener" excludes caloric
sweeteners. For purposes of this definition, "non-caloric" means a substance that contains fewer
than five (5) calories per serving

(16) "Person" means any natural person, partnership, cooperative association, limited
liability company, corporation, personal representative, receiver, trustee, assignee, or any other
legal entity.

(17) "Place of business" means any place where sugary drinks, syrups, or powders are
manufactured or received for sale in the state.

(18) "Powder" means any solid mixture of ingredients used in making, mixing, or
compounding sugary drinks by mixing the powder with any one or more other ingredients,
including without limitation water, ice, syrup, simple syrup, fruits, vegetables, fruit juice, vegetable
juice, carbonation, or other gas.

(19) "Retailer" means any person who sells or otherwise dispenses in the state a sugary
drink to a consumer whether or not that person is also a distributor as defined in this section.

(20) "Sale" means the transfer of title or possession for valuable consideration regardless
of the manner by which the transfer is completed.

(21) "State" means the state of Rhode Island

(22) "Sugary drink" means any nonalcoholic beverage, carbonated or noncarbonated,
which is intended for human consumption and contains any added caloric sweetener, whether in
bottles, prepared from concentrates, served as a fountain beverage, or in any form. "Sugary drink"
includes, without limitation, all drinks and beverages commonly referred to as soda, pop, cola, soft
drinks, sports drinks, energy drinks, fruit drinks, sweetened iced teas and coffees, and other
products with added caloric sweetener, flavored water with added caloric sweetener, and non-
alcoholic beverages that may or may not be mixed with alcohol or any other common names that
are derivations thereof. As used in this definition, “nonalcoholic beverage” means any beverage
that contains less than one-half (1/2) of one percent (1%) alcohol per volume.

(23) "Syrup" means a liquid mixture of ingredients used in making, mixing, or
compounding sugary drinks using one or more other ingredients including, without limitation,
water, ice, a powder, simple syrup, fruits, vegetables, fruit juice, vegetable juice, carbonation, or
other gas.

(24) "Water" means plain (non-flavored) or flavored with “natural fruit essence” (with no
calories), or “natural flavor”. The source of the water may be: artesian, mineral, spring, or well.
The type may also include carbonated (sparkling, club, seltzer), still, distilled, or purified (distilled,
demineralized, deionized, reverse osmosis).

44-70-4. Tax imposed.

(a) Effective January 1, 2022, there is hereby levied and imposed, in addition to all other
taxes and fees now imposed by law, a sugary drinks tax on every distributor for the privilege of
selling bottled sugary drinks, syrups or powders in the state of Rhode Island, calculated as follows:

(1) One and fifty hundredths (1.50) cents per ounce for bottled sugary drinks;

(2) The tax on syrups or powders offered for sale, either as syrup or powder or as a sugary
drink derived from that syrup or powder, is equal to one and fifty hundredths (1.50) cents per each
ounce of sugary drink produced from that syrup or powder. For purposes of calculating the tax, the
volume of sugary drink produced from syrups or powders shall be the larger of:

(i) The largest volume resulting from use of the syrups or powders according to any
manufacturer’s instructions; or

(ii) The volume actually produced by the retailer, as reasonably determined by the tax
administrator;

(3) The tax shall be paid upon the first nonexempt distribution of a sugary drink product in
the state. However, if a distributor or a retailer receives taxable products on which the tax has not
been paid, the distributor or retailer shall be liable for the tax. The amount of tax with respect to
such business is equal to the volume of sugary drinks the distributor distributes in the state
multiplied the applicable tax rate in subsection (a)(1) or (a)(2) of this section.

(b) The tax shall be administered in such a way to be reflected in the retail cost of the
sugary drink.

(c) Sums received by the division of taxation under this section shall be distributed at least
quarterly, credited and paid by the state treasurer to the department of human services to fund the
retail SNAP incentive program to increase access to and promote consumption of fresh fruits and
greens as outlined in § 44-70-15(a).

44-70-5. Permit required.

(a) Every distributor doing business in the state shall file with the division an application
for a permit to engage in such business, for each place of business owned and operated by the
distributor before January 1, 2022 or a distributor’s first acts which constitute the doing of business
in the state, whichever is first to occur. An application for a permit shall be filed on forms to be
furnished by the division for that purpose. An application must be subscribed and sworn to by a
person with legal authority to bind the business. The application shall identify the owners of the
applicant, the applicant’s mailing address, the place of business to which the permit shall apply,
and the nature of the business in which engaged, and any other information the division may require
for the enforcement of this chapter.

(b) Upon receipt of an application and any permit fee pursuant to this chapter, the division
may issue to the applicant, for the place of busi-
ness designated, a non-assignable permit,
authorizing the sale of sugary drinks, syrups, and powders in the state. No distributor shall sell any
sugary drink, syrup or powder without first obtaining a permit to do so under this chapter. Permits
issued pursuant to this section shall expire on January 31 of each year and may be renewed annually.

(c) A permit cannot be transferred from one person or entity to another, and a permit shall
at all times be prominently displayed in a distributor’s place of business. The division may refuse
to issue a permit to any person previously convicted of violations of this chapter under such
procedures as the division may establish by regulation.


Any distributor or retailer liable for the tax imposed by this chapter shall, on or before the
twentieth day of every month, return to the director under oath of a person with legal authority to
bind the distributor or retailer, a statement containing his or her name and place of business, the
quantity of sugary drinks, syrups, and powders subject to the excise tax imposed by this chapter
sold or offered for sale in the preceding month, and any other information required by the tax
administrator, along with the tax due.


Every distributor, and every retailer subject to this chapter, shall maintain for not less than
two (2) years accurate records, showing all transactions that gave rise, or may have given rise, to
tax liability under this chapter. Such records are subject to inspection by the tax administrator at all
reasonable times during normal business hours.

44-70-8. Exemptions.
The following shall be exempt from the tax imposed by this chapter:

1. Bottled sugary drinks, syrups, and powders sold to the United States government and American Indian tribal governments;

2. Bottled sugary drinks, syrups, and powders sold by a distributor to another distributor that holds a permit issued pursuant to chapter, if the sales invoice clearly indicates that the sale is exempt. If the sale is to a person or entity who is both a distributor and a retailer, the sale shall also be tax exempt and the tax shall be paid when the purchasing distributor/retailer resells the product to a retailer or a consumer. This exemption does not apply to any other sale to a retailer;

3. Bottled sugary drinks, syrups, and powders that the division has certified to have been manufactured by a manufacturer with worldwide gross income of less than two million dollars ($2,000,000) in the prior calendar year. In order for a bottled sugary drink, syrup, or powder to be eligible for exemption under this subsection, the manufacturer must apply to the division for certification according to rules established by the director of the division;

4. Bottled sugary drinks, syrups, and powders sold directly by a manufacturer to a consumer without the involvement of a third party to transport or distribute the bottled sugary drinks, syrups, or powders;

5. Beverages sweetened solely with non-caloric sweeteners;

6. Beverages consisting of one hundred percent (100%) natural fruit or vegetable juice with no added caloric sweetener;

7. Beverages in which milk, or soy, rice, or similar milk substitute, is the primary ingredient or the first listed ingredient on the label of the beverage;

8. Coffee or tea without added caloric sweetener;

9. Infant formula;

10. Beverages for medical use; or

11. Water without any caloric sweeteners.

Penalties.

(a) Any person subject to the provisions of this chapter who fails to pay the entire amount of tax imposed by this chapter by the date that payment is due, fails to submit a report or maintain records required by this chapter, or violates any other provision of this chapter, or rules and regulations promulgated by the division for the enforcement of this chapter, shall be guilty of a misdemeanor and shall also be liable for the amount of the tax that may be due and a penalty equal to fifty percent (50%) of the tax due. The division, or its duly authorized representative, may determine the amount due in the event of any payment or underpayment that may come to its attention and demand payment of all such taxes and penalties. Interest shall accrue on non-
under-payment of tax at a rate of twelve percent (12%) per year from the date the tax was due until
paid. For good reason shown the division may waive all or any part of the penalties imposed, but
shall have no power to waive interest.

(b) All administrative provisions of chapter 18 of title 44 including those which provide
for the apportionment of economic activity between that within the tax jurisdiction of the state and
such activity outside that jurisdiction, which fix damages, penalties and interest for nonpayment of
taxes and for noncompliance with the provisions of said chapter, and all other requirements and
duties imposed upon taxpayers, shall apply to all persons liable for taxes under the provisions of
this chapter, and the division shall exercise all the power and authority and perform all the duties
with respect to taxpayers under this chapter as are provided in chapter 18 of title 44, except where
there is conflict, and then the provisions of this chapter shall control.

44-70-10. Unpaid taxes.
All taxes and penalties imposed under the provisions of this chapter remaining due and
unpaid shall constitute a debt to the state, which may be collected from the person owing the same
by suit or any other legal remedy available.

44-70-11. Records of the division of taxation.
At the end of each month, the state auditor shall carefully check the books and records of
the director and his or her accounts with any bank or banks, and shall verify the amounts collected
pursuant to this chapter and paid to the department of human services. Any duty herein required of
the state auditor may be performed by any duly trained clerk in his or her office, designated by the
state auditor for that purpose.

44-70-12. Exercise of powers and duties.
Whenever in this chapter any reference is made to any power or duty of the director the
reference is construed to mean that the power or duty shall be exercised by the director, under the
supervision and direction of the director of administration.

The director is hereby empowered to make such rules and regulations, and provide such
procedural measures, in cooperation with the state auditor, as may be reasonably necessary to
accomplish the purposes of this chapter.

44-70-14. Establishment of the retail SNAP incentives program fund.
(a) There shall be established a separate fund to be known as the retail SNAP incentives
program (RSIP) fund. The department of human services shall administer the fund. The fund shall
consist of revenues from the state generated by the tax imposed by § 44-70-4. The fund shall be
expended first for the implementation and administration of a retail SNAP incentives program to
promote healthy food access and nutrition among Rhode Island SNAP recipients.

(b) SNAP recipients will receive a minimum fifty cent ($0.50) credit on their electronic benefit transfer (EBT) card for each one dollar ($1.00) spent on eligible fruits and vegetables at participating RSIP retailers, up to a monthly limit as defined by the department. These credits shall be funded via the RSIP fund established in subsection (a) of this section.


(a) The department shall provide annually, and no later than three (3) months after the end of the fiscal year, information about tax revenues received and the programs and initiatives funded by these revenues, and any unspent funds to the general assembly and general public. The department shall develop an Internet website and post the annual report and additional materials to inform distributors, retailers, and the general public about the tax, its intent, its scope, and operation.

(b) The department shall contract with academic researchers to complete an evaluation of the following:

(1) The effects of the tax on sugary drink prices, sales and consumption one and three (3) years after tax implementation;

(2) The economic impacts of the tax including employment and business revenues in affected business sectors one and three (3) years after tax implementation; and

(3) Impacts of programs and initiatives funded by the tax.

(c) The evaluations set forth in subsection (b) of this section should specifically address the equity impacts of the tax. Evaluators should develop partnerships with community members to ensure community participation in the evaluation.


If any provision of this chapter, any rule or regulation made under this chapter, or the application of this chapter to any person or circumstance is held invalid by any court of competent jurisdiction, the remainder of the chapter, rule, or regulation, and the application of the provision to other persons or circumstances shall not be affected. The invalidity of any section or sections or parts of any section of this chapter shall not affect the validity of the remainder of the chapter.

SECTION 3. This act shall take effect upon passage.
EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N   A C T
RELATING TO TAXATION -- SUGARY DRINKS

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1 This act would create a tax on sugary drinks with the intent of discouraging excessive
2 consumption of those beverages and would create a dedicated revenue source for programs
3 designed to benefit public health in addition to the ultimate goal of reducing the health and
4 economic costs of obesity in the state.
5 This act would take effect upon passage.

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