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RELATING TO TAXATION -- SUGAR-SWEETENED BEVERAGE TAX

Introduced By: Representatives Ajello, Handy, Tanzi, Cimini, and Valencia

Date Introduced: January 31, 2013

Referred To: House Finance

It is enacted by the General Assembly as follows:

SECTION 1. Title 44 of the General Laws entitled "TAXATION" is hereby amended by adding thereto the following chapter:

CHAPTER 18.2

SUGAR-SWEETENED BEVERAGE TAX

44-18.2-1. Sugar-sweetened beverage tax. -- (a) There is hereby levied and imposed, in addition to all other taxes and fees now imposed by law, a sugar-sweetened beverage tax upon every sugar-sweetened beverage, syrup, powder or other base product sold within the state of Rhode Island by a distributor, manufacturer, or wholesaler to a retailer or other purchaser, calculated as follows:

(1) The tax on sugar-sweetened beverages shall be one dollar and twenty-eight cents ($1.28) per gallon of sugar-sweetened beverage.

(2) The tax on syrup, powder or other base product sold or offered for sale, either as syrup, powder or other base product or as a sugar-sweetened beverage derived from that syrup, powder or other base product, shall be equal to one dollar and twenty-eight cents ($1.28) per gallon of sugar-sweetened beverage produced from the syrup, powder or other base product. For the purposes of calculating the tax, the volume of sugar-sweetened beverage produced from the syrup, powder or other base product shall be the largest potential volume resulting from use of the syrup, powder or other base product according to the manufacturer's instructions.

(b) The tax shall be paid to the tax administrator by the distributor, manufacturer, or
wholesaler of the sugar-sweetened beverage, syrup, powder or other base product. All taxes paid
pursuant to this section are conclusively presumed to be a direct tax on the retail consumer, pre-
collected for the purpose of convenience and facility only.

(c) All sums received by the division of taxation under this section, after costs to
implement this section have been deducted, shall be allocated to the prevention and wellness trust
fund established under chapter 23-88 of the Rhode Island general laws.

(d) As used in this section, the following terms shall have the following meanings:

(1) “Distributor, manufacturer or wholesaler” means any person who receives, stores,
manufacturers, bottles or sells sugar-sweetened beverages, syrup, powder or other base product to
retail dealers, or to other distributors, manufacturers or wholesaler.

(2) “Milk” means natural liquid milk regardless or animal source or butterfat content;
natural milk concentrate, whether or not reconstituted, regardless of animal source or butterfat
content; or dehydrated natural milk, whether or not reconstituted.

(3) “Natural fruit juice” means the original liquid resulting from the pressing of fruit, the
liquid resulting from the reconstitution of fruit juice concentrate or the liquid resulting from the
restoration of water to dehydrated fruit juice.

(4) “Natural vegetable juice” means the original liquid resulting from the pressing of
vegetables, the liquid resulting from the reconstitution of vegetable juice concentrate or the liquid
resulting from the restoration of water to dehydrated vegetable juice.

(5) “Nonalcoholic beverage” means any beverage that is not included in the definition of
“beverage” in subdivision 3-1-1(1).

(6) “Powder, syrup or other base product” means any solid or liquid mixture of base
ingredients used in making, mixing or compounding sugar-sweetened beverages, by mixing the
powder, syrup or other base product with water, ice, a powder, syrup, simple syrup, fruits,
vegetables, fruit juice, vegetable juice, carbonation or other gas, or any other product suitable to
make a sugar-sweetened beverage.

(7) “Retailer” means any person, except a distributor, manufacturer or wholesaler, who
sells or otherwise dispenses sugar-sweetened beverages in the state of Rhode Island to the
ultimate consumer.

(8) “Sale” means the transfer of title or possession for a valuable consideration of tangible
personal property regardless of the manner by which the transfer is accomplished.

(9) “Sugar-sweetened beverage” means any nonalcoholic beverage, whether naturally or
artificially flavored, whether carbonated or noncarbonated, sold for human consumption,
containing sugar, corn syrup or any other high-calorie sweetener, including, but not limited to,
cola and other flavored drinks, and all other drinks and beverages commonly referred to as "soft
drinks," "sodas," "sports drinks" or "energy drinks."

(d) The following shall be exempt from the tax imposed by section 44-18.2-1:

(1) Beverages sweetened solely with non-caloric sweeteners;
(2) Coffee or tea, unless the coffee or tea is in a manufacturer's sealed bottle or other
container;
(3) Any frozen, freeze-dried or other concentrate to which only water is added to produce
a nonalcoholic beverage that is one hundred percent (100%) natural fruit juice or natural
vegetable juice;
(4) Any nonalcoholic beverage that is one hundred (100%) natural fruit juice or natural
vegetable juice;
(5) Any product, whether sold in liquid or powder form, that is intended by its
manufacturer for consumption by infants and that is commonly referred to as infant formula;
(6) Any product, whether sold in liquid or powder form, that is intended by its
manufacturer for use as a dietary supplement or for weight reduction; and
(7) Any product containing milk or milk products.

SECTION 2. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby
amended by adding thereto the following chapter:

CHAPTER 88
PREVENTION AND WELLNESS TRUST FUND

23-88-1. Definitions. -- As used in this chapter:
(1) "EOHHS" means the Rhode Island executive office of health and human services.
(2) "Fund" means the prevention and wellness trust fund.
(3) "Secretary" means the secretary of the Rhode Island executive office of health and
human services.

23-88-2. Prevention and wellness trust fund established. -- There shall be established a
separate fund to be known and cited as the prevention and wellness trust fund to be expended,
without further appropriations, by EOHHS. The fund shall consist of revenues collected by the
state including:

(1) Any revenue from appropriations or other monies authorized by the general court and
specifically designated to be credited to the fund;
(2) Any fines and penalties allocated to the fund under the Rhode Island general laws;
(3) Any interest earned on such revenues; and
(4) Any funds provided from other sources.
23-88-3. Expenditures from the prevention and wellness trust fund. -- (a) The
secretary, as trustee, shall administer the fund. The secretary, in consultation with the prevention
and wellness advisory board established in section 22-88-6, shall make expenditures from the
funds consistent with subsections (c), (d) and (e) below, provided that not more than fifteen
percent (15%) of the amounts held in the fund in any one year shall be used by EOHHS for the
combined cost of program administration, technical assistance to grantees or program evaluation.

(b) Revenues deposited in the fund that are unexpended at the end of the fiscal year shall
not revert to the general fund and shall be available for expenditure in the following fiscal year.

(c) All expenditures from the fund shall support one or more of the following purposes:

(1) Reduce rates of the most prevalent and preventable health conditions, including
substance abuse;

(2) Increase healthy behaviors;

(3) Increase the adoption of workplace-based wellness or health management programs
that result in positive returns on investment for employees and employers;

(4) Address health disparities; or

(5) Develop a stronger evidence base of effective prevention programming.

(d) The secretary shall annually award not less than seventy-five percent (75%) of the
fund through a competitive grant process to municipalities, community-based organization, health
care providers, regional and dissemination of evidence-based community preventive health
activities. To be eligible to receive a grant under this subsection, a recipient shall be:

(1) A municipality or group of municipalities working in collaboration;

(2) A community-based organization working in collaboration with one or more
municipalities;

(3) A health care provider or a health plan working in collaboration with one or more
municipalities and a community-based organization; or

(4) A regional planning agency.

Expenditures from the fund for such purposes shall supplement and not replace existing
local, state, private or federal public health-related funding.

(e)(1) A grant proposal submitted under subsection (d) shall include, but not be limited
to:

(i) A plan that defines specific goals for the reduction in preventable health conditions
and health care costs over a multi-year period;

(ii) The evidence-based programs the applicant shall use to meet the goals;

(iii) A budget necessary to implement the plan, including a detailed description of any
funding or in-kind contributions the applicant or applicants will be providing in support of the
proposal;

(iv) Any other private funding or private sector participation the applicant anticipates in
support of the proposal;

(v) A commitment to include women, racial and ethnic minorities and low income
individuals; and

(vi) The anticipated number of individuals that would be affected by implementation of
the plan.

(2) Priority may be given to proposals in a geographic region of the state with a higher
than average prevalence of preventable health conditions, as determined by the secretary, in
consultation with the prevention and wellness advisory board. If no proposals were offered in
areas of the state with particular need, EOHHS shall ask for a specific request for proposals for
that specific region. If the secretary determines that no suitable proposals have been received,
such that the specific needs remain unmet, EOHHS may work directly with municipalities or
community-based organizations to develop grant proposals.

(3) EOHHS shall, in consultation with the prevention and wellness advisory board,
develop guidelines for an annual review of the progress being made by each grantee. Each
grantee shall participate in any evaluation or accountability process implemented or authorized by
EOHHS.

(f) The secretary may annually expend no more than ten percent (10%) of the fund to
support the increased adoption of workplace-based wellness or health management programming,
such as:

(1) Developing and distributing informational tool-kits for employers, including a model
wellness guide developed by EOHHS;

(2) Providing technical assistance to employers implementing wellness programs;

(3) Hosting informational forums for employers;

(4) Promoting awareness of wellness tax credits provided through the state and federal
government;

(5) Public information campaigns that quantify the importance of healthy lifestyles,
disease prevention, care management and health-promotion programs; and

(6) Providing stipends or grants to employers for the implementation and administration
of workplace wellness programs in an amount up to fifty percent (50%) of the costs associated
with implementing the plan, subject to a cap as established by the secretary based on available
funds.
(g) EOHHS shall develop guidelines to annually review progress toward increasing the adoption of workplace-based wellness or health management programming.

23-88-4. Report on expenditures. -- (a) EOHHS shall, annually, on or before January 31, report on expenditures from the fund. The report shall include, but not be limited to:

(1) The revenue credited to the fund;

(2) The amount of fund expenditures attributable to the administrative costs of EOHHS;

(3) An itemized list of the funds expended through the competitive grant process and description of the grantee activities;

(4) The results of the evaluation of the effectiveness of the activities funded through grants; and

(5) An itemized list of expenditures used to support workplace-based wellness or health management programs.

(b) The report shall be provided to the chairpersons of the house and senate committees on health, education and welfare and shall be posted on the EOHHS's website.

23-88-5. Report on administration. -- (a) EOHHS shall, under the advice and guidance of the prevention and wellness advisory board, annually report on its strategy for administration and allocation of the funds, including relevant evaluation criteria. The report shall set forth the rationale for such strategy, including, but not limited to:

(1) A list of the most prevalent preventable health conditions in the state of Rhode Island, including health disparities experienced by populations based on race, ethnicity, gender, disability status, sexual orientation or socioeconomic status;

(2) A list of the most costly preventable health conditions in the state of Rhode Island;

(3) A list of evidence-based or promising community-based programs related to the conditions identified in subdivisions (1) and (2); and

(4) A list of evidence-based workplace wellness programs or health management programs related to the conditions in subdivisions (1) and (2).

(b) The report shall recommend specific areas of focus for allocation of funds. If appropriate, the report shall reference goals and best practices established by the national prevention and public health promotion council and the centers for disease control and prevention, including, but not limited to, the national prevention strategy, the healthy people report and the community prevention guide.

23-88-6. Prevention and wellness advisory board. -- (a) There shall be a prevention and wellness advisory board to make recommendations to the secretary concerning the administration and allocation of the fund, establish evaluation criteria and perform any other
functions specifically granted to it by law.

(b) The prevention and wellness advisory board shall consist of the secretary, or a designee, who shall serve as chairperson; the director of the Rhode Island department of health, or a designee; and fourteen (14) persons to be appointed as follows:

(1) One representative with expertise in public health research appointed by the governor;
(2) One representative with expertise in the field of health equity appointed by the governor;
(3) One representative with expertise in workplace wellness programs appointed by the governor;
(4) One representative of the interest of businesses appointed by the governor;
(5) One public health nurse or a school nurse appointed by the governor;
(6) One representative appointed by the Rhode Island Medical Society;
(7) One representative appointed by the Hospital Association of Rhode Island;
(8) One representative appointed by Blue Cross Blue Shield of Rhode Island;
(9) One representative appointed by United Healthcare;
(10) One representative appointed by Neighborhood Health Plan of Rhode Island;
(11) One representative from a consumer health organization appointed by the speaker of the house of representatives;
(12) An administrator of an employee assistance program appointed by the speaker of the house of representatives;
(13) One representative from a statewide public health organization appointed by the president of the senate; and
(14) One representative from an association representing community health workers appointed by the president of the senate.

3-88-7. Rules and regulations. -- The secretary shall promulgate rules and regulations as necessary to carry out the intent of this chapter.

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

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This act would impose a tax on distributors, manufacturers and wholesalers of sugar-
sweetened beverages, which revenue would fund the prevention and wellness trust fund. This act
would also establish the prevention and wellness trust fund and the prevention and wellness
advisory board.

This act would take effect upon passage.

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