H.615

Introduced by Representative Till of Jericho

Referred to Committee on

Subject: Health; dental health; dentists; Medicaid; taxation; sugar-sweetened beverages

Statement of purpose: This bill proposes to provide dental benefits to Medicaid-eligible pregnant women and mothers with young children; expand dental education in the classroom; authorize a community dental health coordinator pilot project; require water systems in Vermont to be fluoridated in accordance with guidelines established by the state board of health; impose an excise tax on sugar-sweetened beverages; and expand loan repayment and loan forgiveness programs for dentists.

An act relating to improving the oral health of Vermonter

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

Sec. 1. 33 V.S.A. § 1903b is added to read:

§ 1903b. DENTAL CARE

   (a) Upon receipt of any necessary waiver or waivers of applicable provisions of federal Medicaid laws, the department of Vermont health access shall provide dental benefits comparable to those available to state employees.
to pregnant women and mothers of children up to five years of age who are eligible for Medicaid or for a Medicaid waiver program. Recipients of dental benefits pursuant to this section shall not be subject to any cost-sharing or deductible requirements.

(b) The department shall reimburse dental providers at the level of the maximum allowable provider payment made to providers providing services to state employees participating in the state employees’ dental benefit plan.

(c) On or before January 15, 2014, the commissioner of Vermont health access shall submit a report to the general assembly containing an evaluation of the program established by this section and its impacts on improving the oral health of the affected population.

Sec. 2. COMMUNITY DENTAL HEALTH COORDINATOR PILOT

(a) The commissioner of health, in consultation with the Vermont oral health coalition, shall design a community dental health coordinator pilot project for the purpose of increasing access to oral health care by utilizing community dental health coordinators as members of dental teams in regions of the state designated by the commissioner. The commissioner shall submit design recommendations for the pilot project to the house committee on health care and senate committee on health and welfare no later than January 15, 2013.
(b) As used in this section:

(1) “Community dental health coordinator” means a dental assistant, dental hygienist, or other trained dental professional certified by the commissioner of health to provide educational services, preventive and limited palliative care services, and dental assessment services in a variety of settings under the supervision of a dentist licensed pursuant to 26 V.S.A. § 801.

(2) “Palliative care services” means nonsurgical, reversible procedures used to alleviate pain and stabilize acute or emergent problems, and may include:

(A) placing temporary and sedative restorative material in unexcavated carious lesions and unprepared tooth fractures;

(B) collecting and transmitting diagnostic data and images via a telemetric connection;

(C) dispensing and applying medications on the specific order of a dentist; and

(D) providing limited services for dental emergencies, in consultation with a supervising dentist.

(3) “Supervision” means authorization by a dentist of procedures for a community dental health coordinator to use in executing the dentist’s treatment plan.
Sec. 3. 18 V.S.A. § 108a is added to read:

§ 108a. WATER SUPPLY; FLUORIDATION

(a) As used in this section:

(1) “Consecutive system” means a public water system that buys or otherwise receives some or all of its finished water from a parent system.

(2) “Parent system” means a public water system that supplies finished water to one or more other public water systems.

(3) “Water system” means a facility, including a parent system, consecutive system, or other system that holds, treats, and supplies water for public consumption directly or through a consecutive system serving no fewer than 4,000 individuals.

(b) A corporation, municipality, government agency, or other entity that owns or controls a water system shall maintain a quantity of fluoride in the water supply as directed by the board of health.

(c) The board of health shall adopt rules pursuant to section 102 of this title regarding recommended concentrations of fluoride to be maintained in a water system to promote the oral health of the affected population and procedures for maintaining the recommended concentrations of fluoride, including:

(1) required equipment;

(2) type and frequency of data collection;

(3) reporting requirements; and
(4) type and frequency of testing for human and environmental health.

d) A water system for a municipality in this state that receives its water supply from a community in another state shall not be required to comply with the provisions of this section until a substantially similar fluoridation program has been implemented for the water system of the supplying community in the other state.

Sec. 4. 32 V.S.A. chapter 227 is added to read:

CHAPTER 227. SUGAR-SWEETENED BEVERAGE TAX

§ 9401. DEFINITIONS

As used in this chapter:

(1) “Catamount fund” means the Catamount fund established pursuant to 33 V.S.A. § 1986.

(2) “Commissioner” means the commissioner of taxes and his or her authorized agents and employees.

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

(4) “Department” means the department of taxes.

(5) “Distributor” means any person, including manufacturers and wholesale dealers, who receives, stores, manufactures, bottles, or distributes syrup, powder, or sugar-sweetened beverages for sale to retailers doing business in the state whether or not that person also sells such products to
consumers. “Distributor” also means any person importing or causing to be imported syrup, powder, or sugar-sweetened beverages into the state from outside the state for sale to a retailer or consumer.

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

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

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

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

(A) Beverages consisting of 100 percent natural fruit or vegetable juice with no added sweetener. For purposes of this subdivision (9), “natural fruit juice” and “natural vegetable juice” mean the original liquid resulting
from the pressing of fruits or vegetables, or the liquid resulting from the
dilution of dehydrated natural fruit juice or natural vegetable juice;

(B) Milk, with or without any added sweetener, which means natural
liquid milk regardless of animal source or butterfat content; natural milk
concentrate, whether or not reconstituted, regardless of animal source or
butterfat content; dehydrated natural milk, whether or not reconstituted and
regardless of animal source or butterfat content; or soy, rice, or similar milk
substitutes; or

(C) Infant formula.

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

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

§ 9402. TAX IMPOSED

(a) There is imposed an excise tax on every distributor of $0.01 per ounce
upon sugar-sweetened beverages sold in the state.
(b) There is imposed on every distributor an excise tax of $0.01 per ounce of syrup and powder sold in the state. For purposes of calculating the tax under this subsection, the taxable volume of syrup or powder shall be equal to the largest volume of sugar-sweetened beverage resulting from use of the syrup or powder according to the manufacturer’s instructions.

§ 9403. RETURNS AND REMITTANCES

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

(b) There is established a special fund pursuant to subchapter 5 of chapter 7 of this title comprising one-third of the revenue from the tax imposed by this chapter together with any additions or interest accruing to the fund. The fund shall be called the “Vermont oral health improvement fund.” The commissioner of finance and management may draw warrants for disbursements from this fund in anticipation of receipts. The monies in the fund shall be available for the general assembly to appropriate in accordance
with subsection (e) of this section. Any remaining balance at the end of the
fiscal year shall be carried forward in the fund.

(c) One-third of the revenue from the tax imposed by this chapter shall be
deposited in the Catamount fund.

(d) One-third of the revenue from the tax imposed by this chapter shall be
used to fund the credit in section 9413 of this chapter and the administration of
this chapter.

(e) The funds in the Vermont oral health improvement fund may only be
used to:

(1) support the Medicaid dental reimbursement rates administered by the
department of Vermont health access;

(2) support the repayment of educational loans owed by dentists
licensed pursuant to 26 V.S.A. chapter 13 and practicing dentistry in Vermont,
using funds appropriated to:

(A) the department of health for grants to the area health education
centers for repayment of such loans; and

(B) the dental student incentive scholarship and loan forgiveness
program administered by the Vermont Student Assistance Corporation;

(3) support the Head Start and school-based Tooth Tutor program
administered by the department of health;
(4) support costs incurred by entities that own or control water systems in complying with the fluoridation requirements of 18 V.S.A. § 801a; and

(5) support the Baby Bottle Tooth Decay education program administered by the department of health.

§ 9404. RECORDS

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

§ 9405. EXEMPTIONS

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

(1) Syrup, powder, or sugar-sweetened beverages sold to the United States government, its subdivisions, or under any other circumstances in which the state is without power to impose the tax;

(2) Syrup, powder, or sugar-sweetened beverages sold by a distributor for resale or consumption outside the state; and

(3) Syrup, powder, or sugar-sweetened beverages sold by a distributor to another distributor and not intended for resale to a consumer if the purchasing
§ 9406. LICENSE REQUIRED

Each distributor shall secure a license from the commissioner of taxes before engaging in the business of selling sugar-sweetened beverages in the state.

§ 9407. APPLICATION FOR AND ISSUANCE OF LICENSE

(a) A separate application and license is required for each wholesale outlet when a distributor owns or controls more than one such outlet.

(b) Licenses shall be issued by the commissioner on application without charge, on forms prescribed by the commissioner, stating the name and address of the applicant, the address of the place of business, the type of business, and any other information as the commissioner may require for the proper administration of this chapter.

§ 9408. TERM OF LICENSES

Each license issued under the provisions of this chapter shall be valid as long as the licensee continues to do business at the place named, unless the license is revoked or suspended by the commissioner as provided in section 9409 of this chapter. If the business is sold or transferred or if the licensee ceases to do business at the place named, the license shall immediately be returned to the commissioner for cancellation.
§ 9409. REVOCATION AND SUSPENSION OF LICENSES

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

§ 9410. PENALTIES

(a) Any person subject to the provisions of this chapter who fails to pay the tax imposed by this chapter by the date that payment is due or fails to submit a return as required by this chapter is subject to the provisions of section 3202 of this title.

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

§ 9411. APPEALS

Any person aggrieved by an action taken by the commissioner under this chapter may appeal in writing to the commissioner for a review. The commissioner shall then grant a hearing subject to the provisions of 3 V.S.A. chapter 25 and notify the aggrieved person in writing of his or her determination. The commissioner’s determination may be appealed within 30 days to the superior court of the county of this state in which the taxpayer resides or has a place of business, or the superior court of Washington County.
§ 9412. BONDING

When the commissioner, in his or her discretion, deems it necessary to protect the revenues to be obtained under this chapter, he or she may require any licensee to file with him or her a bond under the terms of section 3114 of this title.

§ 9413. RETAILER CREDIT

There shall be available a refundable credit against the tax imposed by section 5822 or 5832 of this title for any retailer who certifies that he or she has maintained the retail price differential created by this tax between sugar-sweetened beverages and other beverages. The credit shall be in the amount of one-quarter cent per ounce of sugar-sweetened beverage sold in the taxable year. The department of taxes shall develop forms and procedures for claiming this credit.

Sec. 5. MONITORING

The department of health shall develop criteria and components for an independent evaluation to assess the impact that the sugar-sweetened beverage tax has on consumption of products affected by the implementation of the tax. Specifically, the evaluation shall seek to determine the impact of these exclusions on consumer purchasing and health outcomes. The amount of $100,000.00 is appropriated to the department of health for this purpose.
Sec. 6. **WAIVERS**

The secretary of human services shall seek a waiver or waivers from the Centers for Medicare and Medicaid Services of such provisions of federal Medicaid law as may be necessary to implement the dental benefit program for eligible pregnant woman and mothers of children under the age of five established pursuant to 33 V.S.A. § 1903b.

Sec. 7. **APPROPRIATIONS**

(a) In fiscal year 2013, the sum of $425,000.00 is appropriated from the Vermont oral health improvement fund established in 32 V.S.A. chapter 227 to the department of health to expand participation and enhance programming in the Tooth Tutor program.

(b) In fiscal year 2013, the sum of $300,000.00 is appropriated from the Vermont oral health improvement fund established in 32 V.S.A. chapter 227 to the department of health to provide a grant to the area health education centers for the repayment of loans made to dentists who are licensed pursuant to 26 V.S.A. chapter 13 and practice dentistry in Vermont.

(c) In fiscal year 2013, the sum of $100,000.00 is appropriated from the Vermont oral health improvement fund established in 32 V.S.A. chapter 227 to the department of health to provide a grant to the Vermont Student Assistance Corporation for the dental student incentive scholarship and loan forgiveness program.
Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2012.