
Referred to Committee on

Date:

Subject: Taxation; excise; sugar-sweetened beverages

Statement of purpose of bill as introduced: This bill proposes to impose an excise tax on sugar-sweetened beverages.
An act relating to the imposition of an excise tax on sugar-sweetened beverages

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

Sec. 1. 32 V.S.A. chapter 227 is added to read:

CHAPTER 227. SUGAR-SWEETENED BEVERAGE TAX

§ 9401. DEFINITIONS

As used in this chapter:

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

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

(3) “Department” means the Vermont Department of Taxes.

(4) “Distributor” means any person, including a manufacturer and a wholesale dealer, who receives, stores, manufactures, bottles, or distributes syrup, powder, or sugar-sweetened beverages for sale to retailers, 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.

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

(7) “Retailer” means any person who sells syrup, powder, or sugar-sweetened beverages to consumers in the state.

(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, and
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 32 V.S.A. chapter 7,
subchapter 5 comprising one-half 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 Healthy Weight Initiative 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 (d) of this section. Any remaining balance at the end of the
fiscal year shall be carried forward in the Fund.
(c) One-half of the revenue from the tax imposed by this chapter shall be deposited in the State Health Care Resources Fund established under 33 V.S.A. § 1901d.

(d) The funds in the Vermont Healthy Weight Initiative Fund may only be used to:

1. subsidize the purchase of fruits and vegetables by WIC and 3SquaresVT recipients;
2. establish a revolving loan fund to facilitate the purchase of energy-efficient refrigeration equipment for the sale of fruits and vegetables by small food retailers;
3. provide electronic benefits transfer terminals to all Vermont farmers’ markets as well as technical assistance, promotional support, and reimbursement to farmers’ markets for transaction costs;
4. subsidize school meals for low-income Vermonters; and
5. create a permanent and self-sustaining fund to support programs combating obesity to be administered by a board comprising representatives from the Agency of Human Services, the Agency of Education, and the Agency of Agriculture, Food and Markets.

§ 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. These 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 U.S. 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 distributor holds a license issued under section 9406 of this chapter and if the sales invoice clearly indicates that the sale is exempt.

§ 9406. LICENSE REQUIRED

Each distributor shall secure a license from the Commissioner 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 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 (interest and penalties).
(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 under 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 to the Superior Court of Washington County.

§ 9412. BONDING

When the Commissioner, in his or her discretion, considers it necessary to
protect the revenues raised 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.

Sec. 2. 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. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2013.