
HOUSE BILL 2798

State of Washington

64th Legislature

2016 Regular Session

By Representatives Robinson, Walkinshaw, Jinkins, Riccelli, Goodman, Ormsby, and Tarleton

Read first time 01/20/16. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to mitigating the adverse impacts of sugar-
2 sweetened beverages; adding a new chapter to Title 70 RCW;
3 prescribing penalties; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** SHORT TITLE. This chapter may be known
6 and cited as the sugar-sweetened beverages safety warning act.

7 NEW SECTION. **Sec. 2.** FINDINGS—INTENT. (1) The legislature finds
8 that:

9 (a) In the United States, obesity and overweight rates have
10 increased dramatically over the past thirty years. In Washington,
11 over sixty-one percent of all adults are overweight, with one-quarter
12 of all adults being obese. One-third of the nation's children are
13 either obese or overweight. Calorie intake by American adults has
14 increased by thirty percent in the past thirty years, with children's
15 calorie intake also increasing. This epidemic of obese and overweight
16 individuals has resulted in approximately one hundred ninety billion
17 dollars in health care costs nationally. Overweight children and
18 adults face an increased risk of diabetes, heart disease, stroke,
19 high blood pressure, certain types of cancer, arthritis, asthma, and
20 tooth decay. Research shows that sugar-sweetened beverage consumption

1 is associated with long-term weight gain and increased obesity rates
2 among children, adolescents, and adults.

3 (b) Evidence shows that consumption of sugar-sweetened beverages
4 is consistently associated with an increased risk of diabetes and
5 tooth decay. Type 2 diabetes is increasing among children; almost
6 one-quarter of teens have either diabetes or prediabetes. Tooth decay
7 is the most common chronic childhood disease. One-fourth of children
8 in the United States aged two to five years and half of children aged
9 twelve to nineteen years have experienced tooth decay. Children who
10 excessively consume sugar-sweetened beverages are at an increased
11 risk of dental caries, which can lead to pain, infection, tooth loss,
12 and, in rare cases, death.

13 (c) Sugar-sweetened beverages, such as sweetened fruit juices,
14 fruit drinks, carbonated soft drinks, sports drinks, energy drinks,
15 and flavored milks, offer little or no nutritional value. A twenty
16 ounce soft drink contains almost sixteen teaspoons of sugar, yet the
17 American heart association recommends that Americans consume no more
18 than six to nine teaspoons of sugar per day. Evidence demonstrates
19 that sugar-sweetened beverages have become a more significant part of
20 Americans' diets. Each day, nearly half of the people in the United
21 States over the age of two consume at least one sugar-sweetened
22 beverage, and one-quarter drink at least two hundred calories from
23 sugar-sweetened beverages. Almost half of sugar-sweetened beverage
24 calories consumed by Americans are consumed outside the home.

25 (2) It is the intent of the legislature to protect consumers and
26 promote informed purchasing decisions by requiring a warning about
27 the dangerous health effects of excessive consumption of sugar-
28 sweetened beverages.

29 NEW SECTION. **Sec. 3.** DEFINITIONS. The definitions in this
30 section apply throughout this chapter unless the context clearly
31 requires otherwise.

32 (1) "Beverage dispensing machine" means any device that dispenses
33 a sugar-sweetened beverage into an unsealed container as a ready-to-
34 drink beverage.

35 (2) "Caloric sweetener" means any substance containing calories,
36 suitable for human consumption, that humans perceive as sweet, and
37 includes, but is not limited to, sucrose, fructose, glucose, other
38 sugars, and fruit juice concentrate. "Caloric sweetener" does not
39 include noncaloric sweeteners.

1 (3) "Container" means any receptacle that is intended or used to
2 hold a sugar-sweetened beverage for individual sale to a consumer,
3 such as a bottle, box, can, cup, glass, or pouch.

4 (4) "Department" means the department of health, and any agency
5 or person lawfully designated by the department to enforce or
6 implement the provisions of this chapter.

7 (5) "Distribute" means to sell or otherwise provide a product to
8 any person for resale to a consumer in the ordinary course of
9 business within this state.

10 (6) "Nonalcoholic beverage" means any beverage that contains less
11 than one-half of one percent alcohol per volume.

12 (7) "Noncaloric sweetener" means any substance that contains
13 fewer than five calories per serving, suitable for human consumption,
14 that humans perceive as sweet, and includes, but is not limited to,
15 aspartame, saccharin, stevia, and sucralose.

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

19 (9) "Powder" means any solid mixture of ingredients that contains
20 caloric sweetener, which is intended to be used in making, mixing, or
21 compounding a sugar-sweetened beverage by combining the powder with
22 any one or more other ingredients.

23 (10) "Sale" or "sell" means any distribution or transfer for a
24 business purpose, whether or not consideration is received.

25 (11) "Sealed container" means a container holding a beverage,
26 which is closed or sealed before a retailer obtains the container for
27 resale.

28 (12) "Sugar-sweetened beverage" means any nonalcoholic beverage,
29 carbonated or noncarbonated, intended for human consumption that has
30 added caloric sweeteners and contains seventy-five calories or more
31 per twelve fluid ounces. "Sugar-sweetened beverage" does not include:

32 (a) A beverage consisting of one hundred percent natural fruit or
33 vegetable juice with no added caloric sweetener. For purposes of this
34 subsection (12)(a), "natural fruit juice" and "natural vegetable
35 juice" mean the original liquid resulting from the pressing of fruits
36 or vegetables, or the liquid resulting from the dilution of
37 dehydrated or concentrated natural fruit juice or natural vegetable
38 juice;

39 (b) A dietary aid, which means a liquid product manufactured for
40 use as:

1 (i) An oral nutritional therapy for persons who cannot absorb or
2 metabolize dietary nutrients from food or beverages;

3 (ii) A source of necessary nutrition used as a result of a
4 medical condition; or

5 (iii) An oral electrolyte solution for infants and children
6 formulated to prevent dehydration due to illness;

7 (c) Infant formula; and

8 (d) Sweetened medication.

9 (13) "Syrup" means any liquid mixture of ingredients that
10 contains caloric sweetener, which is intended to be used in making,
11 mixing, or compounding a sugar-sweetened beverage by combining the
12 syrup with any one or more other ingredients.

13 (14) "Unsealed container" means a container into which a beverage
14 is dispensed or poured at the business premises where the beverage is
15 purchased, and includes, but is not limited to, glasses, cups, and
16 all containers for fountain drinks.

17 NEW SECTION. **Sec. 4.** SAFETY WARNING REQUIRED FOR SEALED
18 CONTAINERS. (1) A person may not distribute, sell, or offer for sale
19 a sugar-sweetened beverage in a sealed container unless the container
20 bears the following safety warning and otherwise meets the
21 requirements of this section: "STATE OF WASHINGTON SAFETY WARNING:
22 Drinking beverages with added sugar(s) contributes to obesity,
23 diabetes, and tooth decay."

24 (2) The safety warning required by this section must be
25 prominently displayed and readily legible under normal conditions,
26 separate and apart from all other information, and must be on a
27 contrasting background.

28 (3) A person may not distribute, sell, or offer for sale a
29 multipack of sugar-sweetened beverages in sealed containers unless
30 the multipack of beverages bears the safety warning required by
31 subsection (1) of this section. The safety warning must be posted
32 conspicuously on at least two sides of the multipack, in addition to
33 being posted on each individual sealed container.

34 (4) A person may not distribute, sell, or offer for sale a syrup
35 or powder in packaging that is intended for retail sale in this state
36 unless the packaging of the syrup or powder bears the safety warning
37 required by subsection (1) of this section. The safety warning must
38 be posted conspicuously on the front of the packaging of the syrup or
39 powder.

1 (5) The department shall adopt rules necessary to administer and
2 implement the requirements of this section, including rules to
3 establish the size, font, colors, placement, and durability of the
4 safety warning. Notwithstanding subsection (1) of this section, the
5 department shall periodically adopt rules to create alternative
6 language for the safety warning required by this section and may
7 require that the alternative language be posted in lieu of the safety
8 warning set forth in subsection (1) of this section.

9 NEW SECTION. **Sec. 5.** VENDING MACHINES—BEVERAGE DISPENSING
10 MACHINES—POINT OF SALE—SAFETY WARNING REQUIRED. (1) Every person who
11 owns, leases, or otherwise legally controls the premises where a
12 vending machine or beverage dispensing machine is located, or where a
13 sugar-sweetened beverage is sold in an unsealed container, must
14 place, or cause to be placed, a safety warning in each of the
15 following locations:

16 (a) On the exterior of any vending machine that includes a sugar-
17 sweetened beverage for sale;

18 (b) On the exterior of any beverage dispensing machine used by a
19 consumer to dispense a sugar-sweetened beverage through self-service;
20 and

21 (c) At the point on the premises where any consumer would
22 normally order or request a sugar-sweetened beverage in an unsealed
23 container, when the unsealed container is filled by the person's
24 employee or agent rather than the consumer.

25 (2) The safety warning required by this section must use the
26 warning language prescribed by section 4(1) of this act.

27 (3) The safety warning required by this section must be
28 prominently displayed and readily legible under normal conditions,
29 separate and apart from all other information, and must be on a
30 contrasting background.

31 (4) The department shall adopt rules to establish the specific
32 guidelines for the safety warning required by this section, including
33 regulations to establish the size, font, colors, and placement of the
34 safety warning. Notwithstanding subsection (2) of this section, the
35 department shall periodically adopt rules to create alternative
36 language for the safety warning required by this section and may
37 require that the alternative language be posted in lieu of the safety
38 warning set forth in subsection (2) of this section.

1 NEW SECTION. **Sec. 6.** OUTREACH AND EDUCATION. The department
2 shall develop and conduct a retailer outreach and education program
3 designed to inform businesses about the requirements of this chapter
4 and provide retailers with examples of compliant safety warnings.
5 Nothing in this section creates a right of action in any person
6 against the state or its agents.

7 NEW SECTION. **Sec. 7.** EVALUATION. The department shall develop
8 criteria and components for an independent evaluation to assess the
9 impact of the safety warnings required by this chapter on consumer
10 purchasing and consumption patterns, and rates of diabetes and
11 obesity.

12 NEW SECTION. **Sec. 8.** ENFORCEMENT AND PENALTIES. (1) Each
13 container, multipack, and package of syrup or powder distributed,
14 sold, or offered for sale in violation of this chapter constitutes a
15 separate violation. Each day of a continuing violation of this
16 chapter constitutes a separate violation.

17 (2) The department shall enforce the provisions of this chapter
18 and adopt any rules necessary to implement this chapter.

19 (3) The department has the primary responsibility for inspections
20 for violations of this chapter.

21 (4) Actions pursuant to this section may be brought by the
22 attorney general in the name of the people of the state of
23 Washington.

24 (5) Any person who violates any of the requirements of this
25 chapter may be enjoined in any court of competent jurisdiction.

26 (6) Any person who has violated any of the requirements of this
27 chapter is liable for a civil penalty not to exceed two thousand five
28 hundred dollars per day for each violation, in addition to any other
29 penalty established by law. That civil penalty may be assessed and
30 recovered in a civil action brought in any court of competent
31 jurisdiction.

32 (7) This chapter may also be enforced through an administrative
33 proceeding that complies with chapter 34.05 RCW, the administrative
34 procedure act.

35 NEW SECTION. **Sec. 9.** PRESERVATION OF LOCAL AUTHORITY. Nothing
36 in this chapter preempts or prohibits adoption and implementation of
37 any policy related to sugar-sweetened beverages by a municipal

1 government or political subdivision of the state, except for any
2 policy requiring a safety warning on sugar-sweetened beverage
3 containers that is inconsistent with this act. A policy may not be
4 deemed inconsistent with this act if it affords greater consumer
5 protection than this act.

6 NEW SECTION. **Sec. 10.** Sections 1 through 9 and 12 of this act
7 constitute a new chapter in Title 70 RCW.

8 NEW SECTION. **Sec. 11.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

12 NEW SECTION. **Sec. 12.** This act takes effect July 1, 2017.

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