
HOUSE BILL 1975

State of Washington

65th Legislature

2017 Regular Session

By Representatives Jenkins, Robinson, Doglio, Stonier, Cody, Pollet, Dolan, Riccelli, Macri, Peterson, Ormsby, and Kagi

Read first time 02/06/17. Referred to Committee on Finance.

1 AN ACT Relating to a tax on sugar-sweetened beverages; adding a
2 new chapter to Title 82 RCW; repealing RCW 82.64.010, 82.64.020,
3 82.64.025, 82.64.030, 82.64.040, 82.64.050, 82.64.901, and 82.64.902;
4 and providing an effective date.

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

6 NEW SECTION. **Sec. 1.** INTENT. (1) The legislature finds that
7 both children and adults in the United States are eating and drinking
8 added sugar in excess of the daily recommended amount. The
9 legislature further finds that the daily consumption of sugary drinks
10 by a child increases that child's chances of obesity by fifty-five
11 percent and that daily consumption of sugary drinks by an adult
12 increases that adult's risk of tooth decay by thirty percent. The
13 legislature also finds that in 2012 approximately twenty-three
14 percent of tenth graders in Washington were overweight or obese.

15 (2) The legislature finds that almost half of all added sugars
16 consumed come from sugary drinks, such as soft drinks, energy drinks,
17 fruit-flavored drinks, sweetened tea and coffee, flavored waters, and
18 sports drinks, which offer little or no nutritional value.

19 (3) The legislature finds that sugary drinks are marketed as a
20 daily refreshment, particularly to children, youth, and communities
21 of color. The legislature also finds that a 2013 study found that

1 African-American children saw over twice as many television
2 advertisements for sugary and energy drinks than the white youth. The
3 legislature also finds that half of the adults and two-thirds of the
4 children in the United States consume one or more sugary drinks on
5 any given day.

6 (4) The legislature finds that Americans are exposed to three
7 times the amount of sugary drinks as sixty years ago and the per
8 capita consumption of sugary drinks exceeds forty gallons per year.
9 The legislature finds that Washingtonians consume an average of
10 twenty-two gallons per person per year. The legislature finds this
11 level of consumption put adults and children at an increased risk for
12 many serious chronic diseases, including type 2 diabetes, heart
13 disease, and hypertension. The legislature also finds that as of
14 2012, nine percent of Washington's population were diagnosed with
15 diabetes, and over one-third of Washington adults have prediabetes.
16 The legislature finds that sugary drinks can be traced to more than
17 one hundred eighty-four thousand deaths per year world-wide. The
18 legislature finds that imposing an excise tax on sugary drinks is the
19 most cost-effective way of reducing the negative health impact on the
20 people of Washington.

21 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
22 section apply throughout this chapter unless the context clearly
23 requires otherwise.

24 (1) "Alcoholic beverages" means any beverage regulated under
25 chapter 66.04 RCW.

26 (2) "Beverage for medical use" means:

27 (a) Any beverage suitable for human consumption and manufactured
28 for use as:

29 (i) An oral nutritional therapy for persons who cannot absorb or
30 metabolize caloric or dietary nutrients from usual food or beverages;

31 (ii) An oral rehydration electrolyte solution formulated to
32 prevent or treat dehydration due to illness; or

33 (iii) Any beverage that meets the statutory definition of
34 "medical food" under the orphan drug act in Title 21 U.S.C. Sec.
35 360ee(b)(3).

36 (b) Beverages for medical use do not include drinks commonly
37 referred to and marketed as "sports drinks," "energy drinks," or any
38 other common names derived thereof.

1 (3) "Caloric sweetener" means a substance or combination of
2 substances suitable for human consumption that adds calories to and
3 is perceived as sweet to humans when consumed, including but not
4 limited to sucrose, dextrose, fructose, glucose, other mon and
5 disaccharides; corn syrup or high fructose corn syrup; or any other
6 caloric sweetener designated by the department of health.

7 (4) "Concentrate" means a syrup, powder, frozen or gel mixture,
8 or other product containing one or more caloric sweeteners as an
9 ingredient, intended to be used in making, mixing, or compounding a
10 sugar-sweetened beverage by combining the concentrate with one or
11 more ingredients.

12 (5) "Diet beverage" means a beverage for human consumption that
13 contains an artificial noncaloric or low caloric sweetener,
14 including, but not limited to, aspartame, cyclamates, saccharin,
15 sucralose, acesulfame potassium, stevia, or any other noncaloric or
16 low caloric sweetener designated by the department of health.

17 (6) "Diet powder" means any fine, dry particles containing one or
18 more diet sweeteners as an ingredient to be used in making, mixing,
19 or compounding a diet beverage by combining the powder with one or
20 more ingredients.

21 (7) "Diet sweetener" means any substance or combination of
22 substances for human consumption that contains an artificial
23 noncaloric or low caloric sweetener, including, but not limited to,
24 aspartame, cyclamates, saccharin, sucralose, acesulfame potassium,
25 stevia, or any other noncaloric or low caloric sweetener designated
26 by the department of health.

27 (8) "Diet syrup" means any liquid mixture containing one or more
28 diet sweeteners as an ingredient to be used in making, mixing, or
29 compounding a diet beverage by combining the syrup with one or more
30 other ingredients.

31 (9) "Diet syrup for home consumption" means any liquid mixture
32 containing one or more diet sweeteners as an ingredient that is
33 packaged and sold at retail to consumers for use at home, where it
34 may be used in making, mixing, or compounding a diet beverage.

35 (10) "Distribution" means the transfer of title or possession
36 from one person to another for consideration or within a single
37 business entity, such as by wholesale or warehousing unit to retail
38 outlet or between two or more employees or contractors.
39 "Distribution" or "distribute" does not mean a retail sale to a
40 consumer.

1 (11) "Distributor" means any person who distributes sugar-
2 sweetened beverage products in this state.

3 (12) "Milk product" means any beverage:
4 (a) That lists natural milk as the primary or first ingredient in
5 the product ingredient list; or
6 (b) In which water and grains, nuts, legumes, or seeds constitute
7 the first two ingredients in the product ingredient list.

8 (13) "Natural fruit juice" means the original liquid resulting
9 from the pressing of fruit, the liquid resulting from the
10 reconstitution of fruit juice concentrate, or the liquid resulting
11 from the restoration of water to dehydrated fruit juice.

12 (14) "Natural milk" means:
13 (a) Natural fluid milk, regardless of animal source or butterfat
14 content;
15 (b) Natural milk concentrate, whether or not reconstituted,
16 regardless of animal source or butterfat content;
17 (c) Dehydrated natural milk, whether or not reconstituted and
18 regardless of animal source or butterfat content; and
19 (d) Plant-based milk substitutes that are marketed as milk, such
20 as but not limited to soy milk, coconut milk, rice milk, and almond
21 milk.

22 (15) "Natural vegetable juice" means the original liquid
23 resulting from the pressing of one or more vegetables, the liquid
24 resulting from the reconstitution of vegetable juice concentrate or
25 the liquid resulting from the restoration of water to dehydrated
26 vegetable juice.

27 (16) "Powder" means any fine, dry particles containing one or
28 more caloric sweeteners as an ingredient to be used in making,
29 mixing, or compounding a sugar-sweetened beverage by combining the
30 powder with one or more ingredients.

31 (17) "Prepackaged beverage" means a beverage that is in bottles,
32 cans, plastic containers, or other containers that are ready for
33 retail sale.

34 (18) "Sugar-sweetened beverage" means any beverage intended for
35 human consumption that contains one or more caloric sweeteners
36 whether packaged for retail consumption, prepared from concentrate,
37 served as a fountain beverage, or in any other form.

38 (19) "Syrup" means any liquid mixture containing one or more
39 caloric sweeteners as an ingredient to be used in making, mixing, or

1 compounding a sugar-sweetened beverage by combining the syrup with
2 one or more other ingredients.

3 (20) "Syrup for home consumption" means any liquid mixture
4 containing one or more caloric sweeteners as an ingredient that is
5 packaged and sold at retail to consumers for use at home, where it
6 may be used in making, mixing, or compounding a sugar-sweetened
7 beverage.

8 NEW SECTION. **Sec. 3.** TAX ON SUGAR-SWEETENED BEVERAGES. (1) A
9 tax is imposed on the first sale of prepackaged sugar sweetened
10 beverages made by a distributor in this state. The rate of the tax is
11 equal to two cents per fluid ounce.

12 (2) A tax is imposed on syrup or powder sold or offered for sale
13 to a retailer for sale in this state to a consumer, either as syrup
14 or powder, or as a sugar-sweetened beverage derived from that syrup
15 or powder, that is equal to two cents per fluid ounce. For the
16 purposes of calculating the tax under this section, the volume of
17 sugar sweetened beverage produced from syrup or powder is the larger
18 of:

19 (a) The largest volume resulting from the use of the syrup or
20 powder according to any manufacturer's instructions; or

21 (b) The volume actually produced by the retailer, as reasonably
22 determined by the department.

23 (3) If there is a comparable tax imposed by a local jurisdiction
24 in this state on sugar-sweetened beverages, there must be a credit
25 against the amount due under this section equal to the local tax paid
26 by the distributor. A refund over this section is only allowed if the
27 local rate is less than the rate imposed under this section.

28 NEW SECTION. **Sec. 4.** TAX ON DIET BEVERAGES. (1) A tax is
29 imposed on the first sale of prepackaged diet beverages made by a
30 distributor in this state. The rate of the tax is equal to two cents
31 per fluid ounce.

32 (2) A tax is imposed on diet syrup or diet powder sold or offered
33 for sale to a retailer for sale in this state to a consumer, either
34 as diet syrup or diet powder or as a diet beverage derived from that
35 diet syrup or diet powder that is equal to two cents per fluid ounce.
36 For the purposes of calculating the tax under this section, the
37 volume of diet beverage produced from the diet syrup or diet powder
38 is the larger of:

1 (a) The largest volume resulting for the use of the diet syrup or
2 diet powder according to any manufacturer's instructions; or

3 (b) The volume actually produced by the retailer, as reasonably
4 determined by the department.

5 (3) If there is a comparable tax imposed by a local jurisdiction
6 in this state on diet beverages, there must be a credit against the
7 amount due under this section equal to the local tax paid by the
8 distributor. A refund over this section is only allowed if the local
9 rate is less than the rate imposed under this section.

10 NEW SECTION. **Sec. 5.** EXEMPTIONS. The following items are exempt
11 from the tax imposed under this chapter:

- 12 (1) Beverages with milk as principal ingredient;
- 13 (2) Beverages for medical use;
- 14 (3) Liquids sold for use as meal replacement;
- 15 (4) Infant formulas;
- 16 (5) Sweetened medications;
- 17 (6) One hundred percent natural vegetable and fruit juices;
- 18 (7) Alcoholic beverages; and
- 19 (8) Syrups and diet syrups intended for home use.

20 NEW SECTION. **Sec. 6.** DISTRIBUTION OF FUNDS. All funds collected
21 under this chapter must be deposited as follows:

- 22 (1) Fifty percent of the funds must be deposited into the public
23 health supplemental account; and
- 24 (2) Fifty percent of the funds must be deposited into the
25 education legacy trust fund.

26 NEW SECTION. **Sec. 7.** SYRUP TAX REPEAL. The following acts or
27 parts of acts are each repealed:

- 28 (1) RCW 82.64.010 (Definitions) and 1994 sp.s. c 7 s 905, 1991 c
29 80 s 1, & 1989 c 271 s 505;
- 30 (2) RCW 82.64.020 (Tax imposed—Wholesale, retail—Revenue
31 deposited in the general fund) and 2009 c 479 s 72, 1994 sp.s. c 7 s
32 906, 1991 c 80 s 2, & 1989 c 271 s 506;
- 33 (3) RCW 82.64.025 (Tax preferences—Expiration dates) and 2013 2nd
34 sp.s. c 13 s 1720;
- 35 (4) RCW 82.64.030 (Exemptions) and 1994 sp.s. c 7 s 907, 1991 c
36 80 s 3, & 1989 c 271 s 507;

- 1 (5) RCW 82.64.040 (Credit against tax) and 1994 sp.s. c 7 s 908,
2 1991 c 80 s 7, & 1989 c 271 s 508;
3 (6) RCW 82.64.050 (Wholesaler to collect tax from buyer) and 1991
4 c 80 s 4;
5 (7) RCW 82.64.901 (Effective dates—1989 c 271); and
6 (8) RCW 82.64.902 (Severability—1989 c 271).

7 NEW SECTION. **Sec. 8.** ADMINISTRATION. This act must be
8 administered by the department under chapter 82.32 RCW.

9 NEW SECTION. **Sec. 9.** REPORTING REQUIREMENTS. The joint
10 legislative audit and review committee must evaluate the impact of
11 the sugar-sweetened beverage tax on the consumption of such beverages
12 by Washington residents. The committee must develop a report that
13 includes an evaluation of the data on consumption by Washington
14 residents before and after the implementation of the tax in this
15 chapter, any relevant health data, the amount of revenue collected
16 and how the funds were spent. The department of health and the
17 department of revenue must provide the joint legislative audit and
18 review committee access to any data necessary to conduct the
19 evaluation under this section. By December 31, 2022, and in
20 compliance with RCW 43.01.036, the joint legislative audit and review
21 committee must submit the report required under this section to the
22 legislature and the committee must submit an updated report to the
23 legislature every biennium thereafter.

24 NEW SECTION. **Sec. 10.** NEW CHAPTER CREATION. Sections 1 through
25 9 of this act constitute a new chapter in Title 82 RCW.

26 NEW SECTION. **Sec. 11.** SEVERABILITY. If any provision of this
27 act or its application to any person or circumstance is held invalid,
28 the remainder of the act or the application of the provision to other
29 persons or circumstances is not affected.

30 NEW SECTION. **Sec. 12.** EFFECTIVE DATE. This act takes effect
31 January 1, 2018.

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