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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

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:

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

3 CHAPTER 18.2

4 SUGAR-SWEETENED BEVERAGE TAX

5 **44-18.2-1. Sugar-sweetened beverage tax. --** (a) There is hereby levied and imposed, in  
6 addition to all other taxes and fees now imposed by law, a sugar-sweetened beverage tax upon  
7 every sugar-sweetened beverage, syrup, powder or other base product sold within the state of  
8 Rhode Island by a distributor, manufacturer, or wholesaler to a retailer or other purchaser,  
9 calculated as follows:

10 (1) The tax on sugar-sweetened beverages shall be one dollar and twenty-eight cents  
11 (\$1.28) per gallon of sugar-sweetened beverage.

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

19 (b) The tax shall be paid to the tax administrator by the distributor, manufacturer, or

1 wholesaler of the sugar-sweetened beverage, syrup, powder or other base product. All taxes paid  
2 pursuant to this section are conclusively presumed to be a direct tax on the retail consumer, pre-  
3 collected for the purpose of convenience and facility only.

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

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

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

11 (2) "Milk" means natural liquid milk regardless of animal source or butterfat content;  
12 natural milk concentrate, whether or not reconstituted, regardless of animal source or butterfat  
13 content; or dehydrated natural milk, whether or not reconstituted.

14 (3) "Natural fruit juice" means the original liquid resulting from the pressing of fruit, the  
15 liquid resulting from the reconstitution of fruit juice concentrate or the liquid resulting from the  
16 restoration of water to dehydrated fruit juice.

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

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

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

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

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

32 (9) "Sugar-sweetened beverage" means any nonalcoholic beverage, whether naturally or  
33 artificially flavored, whether carbonated or noncarbonated, sold for human consumption,  
34 containing sugar, corn syrup or any other high-calorie sweetener, including, but not limited to,

1 cola and other flavored drinks, and all other drinks and beverages commonly referred to as "soft  
2 drinks," "sodas," "sports drinks" or "energy drinks."

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

4 (1) Beverages sweetened solely with non-caloric sweeteners;

5 (2) Coffee or tea, unless the coffee or tea is in a manufacturer's sealed bottle or other  
6 container;

7 (3) Any frozen, freeze-dried or other concentrate to which only water is added to produce  
8 a nonalcoholic beverage that is one hundred percent (100%) natural fruit juice or natural  
9 vegetable juice;

10 (4) Any nonalcoholic beverage that is one hundred (100%) natural fruit juice or natural  
11 vegetable juice;

12 (5) Any product, whether sold in liquid or powder form, that is intended by its  
13 manufacturer for consumption by infants and that is commonly referred to as infant formula;

14 (6) Any product, whether sold in liquid or powder form, that is intended by its  
15 manufacturer for use as a dietary supplement or for weight reduction; and

16 (7) Any product containing milk or milk products.

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

19 CHAPTER 88

20 PREVENTION AND WELLNESS TRUST FUND

21 **23-88-1. Definitions.** -- As used in this chapter:

22 (1) "EOHHS" means the Rhode Island executive office of health and human services.

23 (2) "Fund" means the prevention and wellness trust fund.

24 (3) "Secretary" means the secretary of the Rhode Island executive office of health and  
25 human services.

26 **23-88-2. Prevention and wellness trust fund established.** -- There shall be established a  
27 separate fund to be known and cited as the prevention and wellness trust fund to be expended,  
28 without further appropriations, by EOHHS. The fund shall consist of revenues collected by the  
29 state including:

30 (1) Any revenue from appropriations or other monies authorized by the general court and  
31 specifically designated to be credited to the fund;

32 (2) Any fines and penalties allocated to the fund under the Rhode Island general laws;

33 (3) Any interest earned on such revenues; and

34 (4) Any funds provided from other sources.

1           **23-88-3. Expenditures from the prevention and wellness trust fund.** -- (a) The  
2 secretary, as trustee, shall administer the fund. The secretary, in consultation with the prevention  
3 and wellness advisory board established in section 22-88-6, shall make expenditures from the  
4 funds consistent with subsections (c), (d) and (e) below, provided that not more than fifteen  
5 percent (15%) of the amounts held in the fund in any one year shall be used by EOHHS for the  
6 combined cost of program administration, technical assistance to grantees or program evaluation.

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

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

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

12           (2) Increase healthy behaviors;

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

15           (4) Address health disparities; or

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

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

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

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

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

26           (4) A regional planning agency.

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

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

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

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

34           (iii) A budget necessary to implement the plan, including a detailed description of any

1 funding or in-kind contributions the applicant or applicants will be providing in support of the  
2 proposal;

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

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

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

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

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

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

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

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

26 (3) Hosting informational forums for employers;

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

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

31 (6) Providing stipends or grants to employers for the implementation and administration  
32 of workplace wellness programs in an amount up to fifty percent (50%) of the costs associated  
33 with implementing the plan, subject to a cap as established by the secretary based on available  
34 funds.

1 (g) EOHHS shall develop guidelines to annually review progress toward increasing the  
2 adoption of workplace-based wellness or health management programming.

3 **23-88-4. Report on expenditures.** -- (a) EOHHS shall, annually, on or before January  
4 31, report on expenditures from the fund. The report shall include, but not be limited to:

5 (1) The revenue credited to the fund;

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

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

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

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

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

15 **23-88-5. Report on administration.** -- (a) EOHHS shall, under the advice and guidance  
16 of the prevention and wellness advisory board, annually report on its strategy for administration  
17 and allocation of the funds, including relevant evaluation criteria. The report shall set forth the  
18 rationale for such strategy, including, but not limited to:

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

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

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

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

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

32 **23-88-6. Prevention and wellness advisory board.** -- (a) There shall be a prevention  
33 and wellness advisory board to make recommendations to the secretary concerning the  
34 administration and allocation of the fund, establish evaluation criteria and perform any other

1 functions specifically granted to it by law.

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

5 (1) One representative with expertise in public health research appointed by the governor;

6 (2) One representative with expertise in the field of health equity appointed by the  
7 governor;

8 (3) One representative with expertise in workplace wellness programs appointed by the  
9 governor;

10 (4) One representative of the interest of businesses appointed by the governor;

11 (5) One public health nurse or a school nurse appointed by the governor;

12 (6) One representative appointed by the Rhode Island Medical Society;

13 (7) One representative appointed by the Hospital Association of Rhode Island;

14 (8) One representative appointed by Blue Cross Blue Shield of Rhode Island;

15 (9) One representative appointed by United Healthcare;

16 (10) One representative appointed by Neighborhood Health Plan of Rhode Island;

17 (11) One representative from a consumer health organization appointed by the speaker of  
18 the house of representatives;

19 (12) An administrator of an employee assistance program appointed by the speaker of the  
20 house of representatives;

21 (13) One representative from a statewide public health organization appointed by the  
22 president of the senate; and

23 (14) One representative from an association representing community health workers  
24 appointed by the president of the senate.

25 **23-88-7. Rules and regulations. --** The secretary shall promulgate rules and regulations  
26 as necessary to carry out the intent of this chapter.

27 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO TAXATION -- SUGAR-SWEETENED BEVERAGE TAX

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

5           This act would take effect upon passage.

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