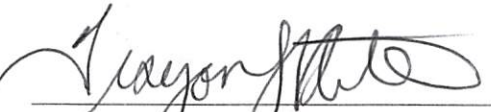
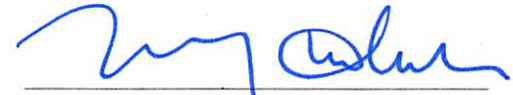


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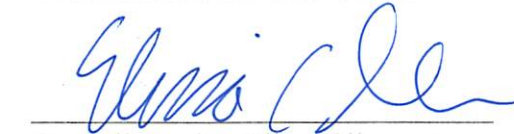

Councilmember Brianne K. Nadeau

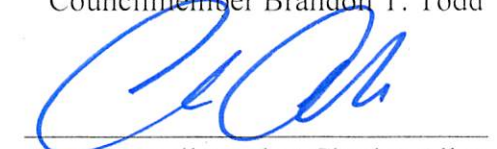
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6 Councilmember Frayon White, Sr.


Councilmember Mary M. Cheh

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10 Councilmember David Grosso


Councilmember Brandon T. Todd

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14 Councilmember Elissa Silverman


Councilmember Charles Allen

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18 Councilmember Anita Bonds

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21 A BILL

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25 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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30 To amend Title 47 of the District of Columbia Official Code by adding a new Chapter 52 to
31 implement a tax of 1.5 cents per ounce tax on the distribution of sugary drinks in the
32 District; to establish a procedure for administration and collection of said tax; to establish
33 a Healthy Beverage Choices Fund to be administered by the Food Policy Council; to
34 establish a priority of funding allocations for revenue generated from the tax; to give the
35 Food Policy Council grantmaking authority; to repeal the currently existing tax on soft
36 drinks; and to establish the Healthy People, Healthy Places Open Space Grant Program.

37
38 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
39 act may be cited as the "Healthy Beverage Choices Amendment Act of 2019".

40
41 TITLE I. HEALTHY BEVERAGE CHOICES TAX

42 Sec. 101. Title 47 of the D.C. Official Code is amended as follows:

43 (a) The table of contents is amended by adding a new chapter designation to read as
44 follows:

45 "52. Healthy Beverage Choices Tax".

46 (b) A new Chapter 52 is added to read as follows:

47 "Chapter 52. Healthy Beverage Choices Tax."

48 "47-5201. Definitions.

49 "For the purposes of this chapter, the term:

50 "(1) "Distribution" or "Distribute" means the transfer of possession from one
51 business entity to another business entity for consideration, or within a single business entity,
52 such as by a wholesale or warehousing unit to a retail outlet or between two or more employees
53 or contractors. "Distribution" or "Distribute" shall not mean the retail sale to a consumer.

54 "(2) "Distributor" means any person who distributes sugary drink.

55 "(3) "Natural common sweetener" includes granulated white sugar, brown sugar,
56 sucrose, fructose, glucose, and other sugars, including honey, molasses, xylem sap of maple
57 trees, or agave nectar.

58 "(4) "Retailer" means any person who sells sugary drink to a consumer.

59 "(5) "Sugary drink" means any beverage intended for human consumption that
60 lists as an ingredient any form of natural common sweetener. "Sugary drink" does not include
61 any:

62 "(A) Beverage where milk is the primary ingredient;

63 "(B) Beverage for medical use;

64 "(C) Product used to feed infants, including infant formula or baby
65 formula;

66 “(D) 100% natural fruit or vegetable juice;
67 “(E) Alcoholic beverage; or
68 “(F) Unsweetened drinks to which a purchaser can add, or can request that
69 a seller add, sugar or natural common sweetener at the point of sale.

70 “47-5202. Excise tax.

71 “(a) In addition to all other taxes imposed by the District, a tax of \$0.015 per fluid ounce
72 shall be imposed on the distribution of sugary drinks in the District. Taxable transactions
73 include:

74 “(1) The supply of a sugary drink to a retailer;

75 “(2) The acquisition of a sugary drink beverage by a retailer;

76 “(3) The delivery to a retailer in the District of any sugary drink; and

77 “(4) The transport of any sugary drink into the District by a retailer.

78 “(b)(1) The volume, in fluid ounces, of a sugary drink shall be calculated as follows:

79 “(A) For beverages, the volume in fluid ounces of sugary drinks
80 distributed to any person in the course of business; and

81 “(B) For syrups and concentrates, the largest volume in fluid ounces that
82 would typically be produced from the syrup or concentrate shall be determined based on the
83 manufacturer’s instructions, or if the distributor uses that concentrate or syrup to produce a
84 sugary drink, the regular practice of the distributor.

85 “(2) The tax shall be paid upon the first nonexempt distribution, except for any
86 exemptions under subsection (c) of this section, of a sugary drink in the District. Where there is a
87 chain of distribution within the District involving more than one distributor, the tax shall be
88 imposed on the first distributor subject to the jurisdiction of the District. If the tax is not paid as

89 set forth above for any reason, it shall be paid by subsequent distributors; provided, that the
90 distribution of sugary drink may not be taxed more than once in the chain of commerce.

91 “(c) The tax shall not apply to any:

92 “(1) Distributor that is not subject to taxation by the District; or

93 “(2) Distribution of natural common sweeteners.

94 “47-5203. Administration of tax.

95 “(a) The Office of Tax and Revenue may prescribe, adopt, and enforce rules and
96 regulations relating to the administration and enforcement of this chapter. Such rules and
97 regulations shall include:

98 “(1) The reexamination and correction of returns and payments;

99 “(2) The reporting of returns and payments;

100 “(3) Prescribing the methods, frequency, and schedules for the calculation,
101 collection, and payments of the tax;

102 “(4) The manner and form in which a distributor must register with the District,
103 and report and remit the tax;

104 “(5) The manner in which a distributor or retailer who receives a sugary drink
105 from a distributor shall report to the District the name of that distributor and the volume of
106 sugary drink;

107 “(6) The documentation that a distributor or a retailer is required to maintain; and

108 “(7) The administrative process and procedures for any person against whom a
109 determination is made by the Office of Tax and Revenue under this chapter or any person
110 directly interested in such determination shall follow a dispute or otherwise challenge a

111 determination, and the form, manner, and time within which a determination may be disputed or
112 challenged.

113 “(b) The Office of Tax and Revenue shall annually verify that the taxes owed under this
114 chapter have been properly applied, exempted, collected, and remitted.

115 “47-5204. Collection.

116 “(a) Every person engaged in or about to engage in business as a distributor in the District
117 shall register with the District in the manner and form determined by the Office of Tax and
118 Revenue no later than 30 days after the date that the tax imposed by this chapter becomes
119 effective. Registration after the date the tax becomes effective, does not relieve any person from
120 the obligation of the tax on and after the date of imposition.

121 “(b) Any person who fails to pay the tax to the District or any amount of tax required to
122 be collected and paid to the District within the time required by the rules and regulation
123 established by the Office and Tax and Revenue shall pay a penalty of 25% of the tax or amount
124 of the tax, in addition to the tax or amount of delinquent tax, plus interest, computed on the
125 amount of delinquent tax, inclusive of penalties at the rate of 1% per month, or fraction thereof,
126 from the date on which the tax or the amount of tax required to be collected became due and
127 payable to the District and until the date of payment.

128 “(c) The amount of any tax, penalty, and interest imposed by this chapter shall be deemed
129 a debt to the District. Any distributor owing money under the provisions of this chapter shall be
130 liable in an action brought in the name of the District for the recovery of such amount.

131 “(d) In order to aid the collection of taxes due to the District under this chapter, any
132 distributor or retailer that distributes, receives, or sells sugary drinks shall provide information to

133 the District regarding the distribution of these products in accordance with rules and regulation
134 adopted by the Office of Tax and Revenue.

135 “47-5205. Refunds.

136 “(a) Any tax under this Chapter that has been paid more than once or has been
137 erroneously or illegally collected or received by the District shall be refunded as determined by
138 the Office of Tax and Revenue.

139 “(b) Any tax under this Chapter that has been returned to the distributor within 6
140 months of the initial distribution and for which the entire purchase price has been refunded in
141 cash or credit shall be refunded as determined by the Office of Tax and Revenue.

142 “(c) Claims must be filed with the Office of Tax and Revenue and determined in
143 accordance with the rules and regulations to be established by the Office of Tax and Revenue
144 within one year from the date of payment of the tax to the District. No refund shall be paid
145 under this section unless a claimant provides written documentation.

146 “47-5206. Not a sales and use tax.

147 The tax imposed by this chapter shall be a tax upon the privilege of conducting business,
148 specifically, distributing sugary drink products within the District and it shall not be construed as
149 a sales, use, or other excise tax on the sale, consumption, or use of sugary drinks.

150 “47-5207. Healthy Beverage Choices Tax Fund administration and allocation.

151 “(a) There is established, as a special fund, the Healthy Beverage Choices Fund (“Fund”),
152 which shall be administered by the Food Policy Council, as established by section 3 of the Food
153 Policy Council and Director Establishment Act of 2014, effective March 10, 2015 (D.C. Law 20-
154 191; D.C. Official Code § 48-312), in accordance with subsections (c) and (d) of this section.

155 “(b) All revenue collected by the tax and penalties imposed in this chapter shall be
156 deposited in the Fund.

157 “(c) Revenue collected in the Fund shall be allocated annually, subject to the availability
158 of funding, in the following priority:

159 “(1) To cover the fiscal impact of the repeal of the sales tax on “soft drinks” in
160 Title III of the Healthy Beverage Choices Amendment Act of 2019, as introduced on October 8,
161 2019 (B23-XXX);

162 “(2) \$5,000,000 to the Office of the State Superintendent of Education to fund the
163 new section 11b created by Title II, Section 201(d) of the Birth-to-Three for All DC Amendment
164 Act of 2018 effective October 30, 2018 (D.C. Law 22-179; 65 DCR 9569);

165 “(3) \$5,000,000 to the Department of Health for policies and programs that
166 integrate healthy food access as a core component of health care (also known as “Food as
167 Medicine” interventions);

168 “(4) \$200,000 to the Department of Small and Local Business Development for
169 the Healthy Food Retail Program established by D.C. Official Code § 2-1212.31;

170 “(5) \$2,500,000 to fund the Healthy People, Healthy Places Open Space Grant
171 Program, established in title IV of the Healthy Beverage Choices Amendment Act of 2019, as
172 introduced on October 8, 2019 (B23-XXX); and

173 “(6)(A) Any remaining money in the Fund shall be used to fund and issue grants
174 to programs or projects that promote healthy eating and active living and prevent or reduce the
175 health consequence of the consumption of sugary drinks in the District.

176 “(B) Programs receiving funds or grants shall have a focus on:

177 “(i) Food access and equity;

178 “(ii) Improving community nutrition and increasing physical
179 activity; or

180 “(iii) Reducing and preventing nutrition related chronic illnesses
181 such as diabetes, hypertension, heart disease, childhood obesity and tooth decay.

182 “(C) Special consideration shall be given to programs that target
183 communities most affected by health disparities.

184 “(D) Recommendations on how to allocate remaining money in the Fund
185 shall be included in the Food Policy Council’s annual report, pursuant to section 3(c) of the Food
186 Policy Council and Director Establishment Act of 2014, effective March 10, 2015 (D.C. Law 20-
187 191; D.C. Official Code § 48-312(c)).

188 “(d) The money deposited into the Fund shall not revert to the General Fund of the
189 District of Columbia at the end of a fiscal year or at any other time.

190 “(e) The money deposited into the Fund may not be used for any purpose except for those
191 explicitly outlined in this section, and may not be reprogrammed by the Mayor.

192 TITLE II. FOOD POLICY COUNCIL GRANTMAKING AUTHORITY

193 Sec. 201. Section 5 of the Food Policy Council and Director Establishment Act of 2014,
194 effective March 10, 2015 (D.C. Law 20-191; D.C. Official Code § 48-314), is amended as
195 follows:

196 (a) Subsection (b) is amended as follows:

197 (1) Paragraph (5) is amended by striking the phrase “2013; and” and inserting the
198 phrase “2013;”.

199 (2) Paragraph (6) is amended by striking the phrase “economy.” and inserting the
200 phrase “economy; and”.

201 (3) A new paragraph (7) is added to read as follows:

202 “(7) Issue grants to community organizations and small businesses to increase
203 food access and equity and support the local food economy.”.

204 (b) A new subsection (c) is added to read as follows:

205 “(c) The Director shall have the authority to issue grants, in accordance with D.C.
206 Official Code § 47-5207(c), to community organizations and small businesses to increase food
207 access and equity and support the local food economy.”.

208 TITLE III. REPEAL OF SALES TAX

209 Sec. 301. Chapter 20 of Title 47 of the District of Columbia Official Code is amended as
210 follows:

211 (a) Section 47-2001 is amended as follows:

212 (1) Subsection (n) is amended as follows:

213 (A) Paragraph (1)(A)(iv) is repealed.

214 (B) Paragraph (2)(E) is amended by striking the phrase “consumption and
215 soft drinks;” and inserting the phrase “consumption;” in its place.

216 (2) Subsection (r-1) is repealed.

217 (b) Section 47-2002(a)(8) is repealed.

218 TITLE IV. HEALTHY PEOPLE, HEALTHY PLACES OPEN SPACE GRANT PROGRAM

219 Sec. 401. Healthy People, Healthy Places Open Space Grant Program.

220 (a) (1) The Mayor shall establish the “Healthy People, Healthy Places Open Space Grant
221 Program” (“Program”) to promote better health, social, and economic outcomes for District
222 residents and a more enjoyable experience for workers and visitors who contribute to a positive
223 fiscal impact on the local District economy.

224 (2) The Program shall accomplish these goals by providing financial assistance in
225 the form of annual or multi-year competitive grants to eligible applicants for the operation,
226 management, maintenance, capital improvement, and programming of parks and open spaces in
227 the District.

228 (b) The Program shall be administered by the Mayor pursuant to the Grant
229 Administration Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C. Office Code §
230 1-328.11 *et seq.*).

231 (c) An eligible applicant receiving a grant under the Program shall use grant amounts to
232 support enhanced operation, management, maintenance, infrastructure, capital improvements,
233 recreational and educational programming, workforce development, technical assistance and any
234 other service or activity consistent with the purposes of this act at a park or open space in the
235 District that is under the jurisdictional control of the District government or National Park
236 Service. Any such services or activities must be designed to enhance the park or open space for
237 the benefit of District residents, workers, and visitors.

238 (d)(1) The Mayor shall provide an annual report to Council at the beginning of each fiscal
239 year.

240 (2) The annual report shall detail the process by which grant recipients were
241 selected, the amount each grant recipient received, what contributions to the District's open
242 spaces are expected from the grant recipient, and an update on the use of grant funding by grant
243 recipients from the previous fiscal year.

244 Sec. 402. Eligible applicants and application requirements.

245 (a) (1) Eligible applicants ("organizations") to receive funds are Business Improvement
246 Districts, defined in section 3(6) of the Business Improvement Districts Act of 1996, effective

247 May 29, 1996 (D.C. Law 11-134; D.C. Official Code § 2-1215.02(6)), and non-profit entities, as
248 defined by § 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. § 501(c)(3)), that are in
249 good standing and demonstrate the financial and management capacity and track record to
250 responsibly manage public parks and public space in the District.

251 (2) Organizations may elect to apply in their individual capacity, or two or more
252 organizations may elect to file an application together.

253 (b) The application shall include the following:

254 (1) A requested amount of funds and description of the park or open space for
255 which the funds will be utilized;

256 (2) An annual, or multi-year, work plan describing how the funds will be used to
257 support enhanced operation, management, infrastructure, capital improvements, and recreational
258 and educational programming in the designated park or open space;

259 (3) A plan for equitable and inclusive open space access, including a description
260 of how the funds will be used to improve health outcomes, social interaction, and workforce
261 development; and

262 (4) A description of how use of the funds can be replicated across the District to
263 achieve the stated benefits of the program.

264 (c) Funding priority will be given to applications that incorporate the following:

265 (1) Targeted employment for maintenance activities of District residents that face
266 employment challenges;

267 (2) Plans for workforce development and career pathways for District residents
268 that face employment challenges; and

269 (3) Applications that include a component to enhance the capacity and
270 performance capability of organizations located in underserved non-Business Improvement
271 District areas.

272 (d) The application process shall include clearly defined evaluation benchmarks and
273 performance requirements to enable the measurement of the impact of the grant spending and
274 investments in parks or open spaces.

275 (e) Recipient organizations shall be allowed to use and carry over funds across multiple
276 fiscal years as detailed in its District-approved work plan. Any unspent grant funding shall be
277 returned to the grant making agency.

278 (f) No single organization may receive 15% of the total funds available under this title for
279 a single fiscal year.

280 TITLE V. GENERAL PROVISIONS

281 Sec. 501. Fiscal impact statement.

282 The Council adopts the fiscal impact statement in the committee report as the fiscal
283 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
284 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

285 Sec. 502. Effective date.

286 This act shall take effect after approval by the Mayor (or in the event of veto by the
287 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
288 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
289 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
290 Columbia Register.