

1 

2
3 Chairman Phil Mendelson



Councilmember Brianne K. Nadeau

4 

5
6 Councilmember Anita Bonds



Councilmember Mary M. Cheh

7 

8
9 Councilmember Elissa Silverman



Councilmember Charles Allen

10
11
12
13 A BILL

14
15
16
17 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

18
19
20
21
22 To establish nutrition standards and requirements for meals served in shelters, to encourage local
23 foods to be served in shelters, to establish monitoring requirements for food services, to
24 expressly permit the use of donated and recovered food at shelters; and to amend Title 47
25 of the District of Columbia Official Code by adding a new Chapter 52 to implement an
26 excise tax of 1.5 cents per ounce tax on the distribution of sugary drinks in the District, to
27 establish a procedure for administration and collection of said tax, to establish a Nutrition
28 Equity Catalyst Fund to be administered by the Food Policy Director, to establish a
29 priority of funding allocations for revenue generated from the tax, to require the Food
30 Policy Director to publish an annual report and the Office of Planning to contract with an
31 academic partner to publish policy impact evaluation reports, to give the Food Policy
32 Council grantmaking authority, and to repeal the currently existing tax on soft drinks.

33
34 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
35 act may be cited as the “Nutrition Equity Amendment Act of 2021”.

37 TITLE I. HEALTHY SHELTERS

38 Sec. 101. Definitions.

39 For the purposes of this act, the term:

40 (1) “Child and Adult Care Food Program” means the program authorized by
41 section 17 of the National School Lunch Act, approved October 7, 1975 (89 Stat. 522; 42 U.S.C.
42 § 1766).

43 (2) “DHS” means the Department of Human Services.

44 (3) “Family” has the same meaning as § 4-751.041(16).

45 (4) “Food service vendor” means a vendor providing food services to a shelter or
46 transitional housing overseen by the Department of Human Services.

47 (5) “Locally grown” means grown in Delaware, the District of Columbia,
48 Maryland, New Jersey, North Carolina, Pennsylvania, Virginia, or West Virginia.

49 (6) “Shelter” shall have the same meaning as provided in § 4-751.01(37).

50 (7) “Summer Food Service Program” means the program authorized by section 13
51 of the National School Lunch Act, approved October 7, 1975 (89 Stat. 522; 42 U.S.C. § 1761).

52 (8) “Transitional housing” shall have the same meaning as provided in § 4-
53 751.01(41).

54 Sec. 102. Nutritional standards and requirements for meals served in shelters.

55 (a) All breakfast, lunch, and supper meals served at shelters shall reflect the
56 recommendations in the Dietary Guidelines for Americans (“Dietary Guidelines”) published by

57 the United States Department of Health and Human Services and United States Department of
58 Agriculture.

59 (b) Food service vendors shall provide menus one week in advance in a manner and form
60 accessible to shelter residents, with room for substitutions and variations based on the nature of
61 local sourcing and food recovery practices such as donations.

62 (c) Shelters eligible for the Child and Adult Care Food Program and Summer Food
63 Service Program shall enroll in these programs, to ensure that children have access to quality
64 nutrition during out-of-school hours.

65 Sec. 103. Shelter meal contracting, reporting, and compliance.

66 All contracts for shelter and transitional housing food services shall:

67 (a) Expressly permit the use of donated and recovered food, provided that the food
68 service vendor demonstrates the capacity to ensure such donations or recovered foods are used in
69 ways that meet nutritional and food safety guidelines;

70 (b) Designate clear roles and responsibilities between shelter providers and food service
71 vendors and shelters and transitional housing, such as for food delivery, food handling, and food
72 preparation;

73 (c) Provide an additional 25 cents per meal reimbursement to food service vendors when
74 at least one component of a meal is composed predominantly of locally grown produce;
75 provided, that the food service vendors report the name and address of the farms where the
76 locally grown produce were grown to DHS; and

77 (d) Include monitoring requirements, which shall include:

- 78 (1) Quarterly meetings between DHS and food service vendors to discuss issues
79 related to the contract, including but not limited to:
- 80 (A) Required meal counts, including meal counts for residents with dietary
81 restrictions;
 - 82 (B) Practices for shelters and transitional housing facilities receiving
83 meals, including food delivery and storage;
 - 84 (C) Sourcing of local food items and ensuring menu compliance with
85 Dietary Guidelines;
 - 86 (D) Resident feedback on menus, quality, and quantity; and
 - 87 (E) Meal service plans involving emergency or hypothermia conditions;
- 88 (2) Biannual walk-throughs of food service vendor kitchens and shelters and
89 transitional housing facilities by DHS, vendor, and shelter and transitional housing facility staff,
90 as well as periodic spot-checks by DHS to ensure that performance meets the terms of the
91 contract; and
- 92 (3) Performance management requirements, including complaint logs.

93 Sec. 104. Rulemaking.

94 The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act,
95 approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules
96 to implement the provisions of Title I of the Nutrition Equity Amendment Act of 2021, as
97 introduced on March 24, 2021 (Bill 22-XXX).”.

98 TITLE II. NUTRITION EQUITY CATALYST TAX

99 Sec. 201. Title 47 of the D.C. Official Code is amended as follows:

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

102 “52. Nutrition Equity Catalyst Tax”.

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

104 “Chapter 52. Nutrition Equity Catalyst Tax.”

105 “47-5201. Definitions.

106 “For the purposes of this chapter, the term:

107 “(1) “Distribution” or “Distribute” means the transfer of possession from one
108 business entity to another business entity for consideration, or within a single business entity,
109 such as by a wholesale or warehousing unit to a retail outlet or between two or more employees
110 or contractors. “Distribution” or “Distribute” shall not mean the retail sale to a consumer.

111 “(2) “Distributor” means any person who distributes sugary drink.

112 “(3) “Natural common sweetener” includes granulated white sugar, brown sugar,
113 sucrose, fructose, glucose, and other sugars, including honey, molasses, xylem sap of maple
114 trees, or agave nectar.

115 “(4) “Retailer” means any person who sells sugary drink to a consumer.

116 “(5) “Sugary drink” means any beverage intended for human consumption that
117 lists as an ingredient any form of natural common sweetener. “Sugary drink” does not include
118 any:

119 “(A) Beverage where milk is the primary ingredient;

120 “(B) Beverage for medical use;

121 “(C) Product used to feed infants, including infant formula or baby
122 formula;
123 “(D) 100% natural fruit or vegetable juice;
124 “(E) Alcoholic beverage; or
125 “(F) Unsweetened drinks to which a purchaser can add, or can request that
126 a seller add, sugar or natural common sweetener at the point of sale.

127 “47-5202. Excise tax.

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

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

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

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

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

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

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

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

142 “(2) The tax shall be paid upon the first nonexempt distribution, except for any
143 exemptions under subsection (c) of this section, of a sugary drink in the District. Where there is a

144 chain of distribution within the District involving more than one distributor, the tax shall be
145 imposed on the first distributor subject to the jurisdiction of the District. If the tax is not paid as
146 set forth above for any reason, it shall be paid by subsequent distributors; provided, that the
147 distribution of sugary drink may not be taxed more than once in the chain of commerce.

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

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

150 “(2) Distribution of natural common sweeteners; or

151 “(3) Distribution of concentrates or powders for retail sale.

152 “47-5203. Administration of tax.

153 “(a) The Office of Tax and Revenue (“OTR”) may prescribe, adopt, and enforce rules and
154 regulations relating to the administration and enforcement of this chapter. Such rules and
155 regulations shall include:

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

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

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

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

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

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

166 “(7) The administrative process and procedures for any person against whom a
167 determination is made by OTR under this chapter or any person directly interested in such
168 determination shall follow a dispute or otherwise challenge a determination, and the form,
169 manner, and time within which a determination may be disputed or challenged.

170 “(b) OTR shall annually verify that the taxes owed under this chapter have been properly
171 applied, exempted, collected, and remitted.

172 “47-5204. Collection.

173 “(a) Every person engaged in or about to engage in business as a distributor in the District
174 shall register with the District in the manner and form determined by OTR no later than 30 days
175 after the date that the tax imposed by this chapter becomes effective. Registration after the date
176 the tax becomes effective does not relieve any person from the obligation of the tax on and after
177 the date of imposition.

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

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

188 “(d) In order to aid the collection of taxes due to the District under this chapter, any
189 distributor or retailer that distributes, receives, or sells sugary drinks shall provide information to
190 the District regarding the distribution of these products in accordance with rules and regulation
191 adopted by OTR.

192 “47-5205. Refunds.

193 “(a) Any tax under this Chapter that has been paid more than once or has been
194 erroneously or illegally collected or received by the District shall be refunded as determined by
195 the OTR.

196 “(b) Any tax under this Chapter that has been returned to the distributor within 6
197 months of the initial distribution and for which the entire purchase price has been refunded in
198 cash or credit shall be refunded as determined by OTR.

199 “(c) Claims must be filed with OTR and determined in accordance with the rules and
200 regulations, to be established by OTR, within one year from the date of payment of the tax to
201 the District. No refund shall be paid under this section unless a claimant provides written
202 documentation.

203 “47-5206. Not a sales and use tax.

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

207 “47-5207. Nutrition Equity Catalyst Fund administration and allocation.

208 “(a) There is established, as a special fund, the Nutrition Equity Catalyst Fund (“Fund”),
209 which shall be administered by the Food Policy Director within the Office of Planning, as
210 established by section 3 of the Food Policy Council and Director Establishment Act of 2014,

211 effective March 10, 2015 (D.C. Law 20-191; D.C. Official Code § 48-312), in accordance with
212 subsections (c) and (d) of this section.

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

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

217 “(1) To cover the fiscal impact of the repeal of the sales tax on “soft drinks” in
218 Title IV of the Nutrition Equity Amendment Act of 2021, as introduced on March 24, 2021
219 (B23-XXX);

220 “(2) To cover the fiscal impact of this Act;

221 “(3) \$5,000,000 to the Department of Health Care Finance for programs that
222 integrate healthy food access as a core component of health care (also known as “Food as
223 Medicine” interventions);

224 “(4) \$5,000,000 to the Department of Health for programs aimed at reducing and
225 preventing nutrition-related chronic diseases such as diabetes, hypertension, and heart disease;
226 including chronic disease management and prevention, and wraparound nutrition services;

227 “(5) \$1,000,000 to the Office of the Deputy Mayor for Economic Development
228 for the Nourish DC Fund to provide grants, loans, and technical assistance to local food
229 businesses in low food access communities;

230 “(6) \$250,000 to the Families First DC program to deliver nutrition education,
231 cooking lessons, and healthy shopping lessons at Family Success Centers.

232 “(7) \$250,000 to the Department of Human Services for the establishment of the
233 “Healthy Family Grants Program” to fund programs that deliver nutrition education, cooking

234 lessons, and healthy shopping lessons; programs that promote physical activity, inclusive play,
235 and the creation for safe play structures on the grounds of family shelters and transitional
236 housing; and building and maintenance of gardens at family shelters and transitional housing.

237 “(8) \$3,500,000 to the Office of the State Superintendent of Education for
238 experiential food literacy education for students in Grades Pre-Kindergarten through 5 that gives
239 students opportunities to grow, prepare, and eat food, and learn about healthy eating and
240 nutrition, to be provided in-house or by outside organizations; and

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

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

245 “(i) Food access and equity;

246 “(ii) Improving community nutrition and increasing physical
247 activity; or

248 “(iii) Reducing and preventing nutrition related chronic illnesses
249 such as diabetes, hypertension, and heart disease.

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

252 “(D) Recommendations on how to allocate remaining money in the Fund
253 shall be included in the Food Policy Council’s annual report, pursuant to section 3(c) of the Food
254 Policy Council and Director Establishment Act of 2014, effective March 10, 2015 (D.C. Law 20-
255 191; D.C. Official Code § 48-312(c)).

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

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

260 “47-5208. Reporting and evaluation requirements.

261 “(a)(1) The Food Policy Director and the Office of Planning shall publish an annual
262 report with the assistance of the appropriate District agencies, which shall include the following:

263 “(A) Data on tax revenue generated by the tax imposed in this chapter and
264 allocation of funding;

265 “(B) A summary of tax implementation efforts and any studies completed
266 or funded by the District government evaluating the implementation of the tax;

267 “(C) A summary of any studies completed or funded by the District
268 government on the impact of the tax on beverage prices, consumer purchasing behavior, sugary
269 drink sales, related health outcomes, and economic impacts, including impacts on employment
270 and retail revenue;

271 “(D) A summary of the programs and projects funded to date and their
272 progress to date; and

273 “(E) Any additional information that is deemed appropriate for inclusion.

274 “(2) The report outlined in subsection (a)(1) of this section shall be completed and
275 published annually by February 1 on the Food Policy Council’s website. The first report shall be
276 completed and published by February 1 after the first full fiscal year the tax is collected.

277 “(b)(1) The Office of Planning shall contract with academic researchers to complete a
278 policy impact evaluation report on the effects of the tax imposed in this chapter for at least the

279 first five years the tax is in effect. In contracting with academic researchers, the District shall
280 consider researchers with a proven track record of rigorous policy evaluation for impacts on
281 behavior, health, and economic outcomes. The evaluation shall assess, but not be limited to, the
282 following:

283 “(A) The process of implementing the tax, including perceptions of
284 District residents and specifically low-income households, food retailers, tax administrators, and
285 District officials;

286 “(B) The impact of the tax on economic outcomes, such as household food
287 expenditures, beverage prices and sales, jobs, and store revenues;

288 “(C) The impact of the tax on health behaviors, such as dietary purchases
289 and consumption; and

290 “(D) How funds are being used and the impact of that funding.

291 “(2) The report outlined in subsection (b)(1) of this section shall be completed and
292 published by May 1 on the Food Policy Council’s website after years one, three, and five,
293 following the first full fiscal year the tax is collected.

294 Sec. 202. Section 5 of the Food Policy Council and Director Establishment Act of 2014,
295 effective March 10, 2015 (D.C. Law 20-191; D.C. Official Code § 48-314), is amended as
296 follows:

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

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

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

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

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

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

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

309 Sec. 203. Chapter 20 of Title 47 of the District of Columbia Official Code is amended as
310 follows:

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

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

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

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

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

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

318 Sec. 204. Section 102(f) of the Healthy Schools Act of 2010, effective July 26, 2010
319 (D.C. Law 18-209; D.C. Official Code § 38-821.02(f)), is amended by striking the phrase “2020,
320 an amount of \$5,590,000 from the revenues derived from the collection of the tax imposed upon
321 all vendors by § 47-2002” and inserting the phrase “2021, an amount of \$5,590,000 from the
322 revenues derived from the collection of tax imposed by §47-5202” in its place.

323 TITLE III. GENERAL PROVISIONS

324 Sec. 301. Fiscal impact statement.

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

328 Sec. 302. Effective date.

329 This act shall take effect after approval by the Mayor (or in the event of veto by the
330 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
331 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
332 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
333 Columbia Register.