

1 H.37

2 Introduced by Representative Till of Jericho

3 Referred to Committee on

4 Date:

5 Subject: Taxation; excise tax; sugar-sweetened beverages

6 Statement of purpose of bill as introduced: This bill proposes to impose an  
7 excise tax on sugar-sweetened beverages and to direct revenue from the tax to  
8 the Adverse Childhood Experiences Initiative Fund.

9 An act relating to the imposition of an excise tax on sugar-sweetened  
10 beverages

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 Sec. 1. LEGISLATIVE FINDINGS

13 (a) Vermont is facing a serious public health crisis as the incidence of  
14 preventable illnesses related to obesity, such as Type II diabetes, heart disease,  
15 and many forms of cancer, rises with overall rates of obesity in Vermont's  
16 population.

17 (b) More than 60 percent of adults and more than 30 percent of high school  
18 students in Vermont are either overweight or obese. The rate of obesity for  
19 adults in Vermont has climbed from 10.7 percent in 1990 to 26.6 percent in  
20 2019.

1       (c) Annually, the State of Vermont spends over \$200 million to treat  
2       obesity-related illnesses in adults. A substantial amount of these costs is  
3       incurred by publicly funded health care programs such as Medicare and  
4       Medicaid.

5       (d) There is overwhelming scientific evidence that consumption of  
6       sugar-sweetened beverages is directly linked to the incidence of obesity,  
7       obesity-related diseases, and dental caries.

8       (e) Sugar-sweetened beverages are the single largest source of added sugar  
9       in Americans' diets, representing nearly half of the added sugars an average  
10       American consumes.

11       (f) Consumption of sugar-sweetened beverages represents the largest  
12       category of caloric intake in American children, surpassing milk in the late  
13       1990s.

14       (g) Sugar-sweetened beverages provide no nutritional value and contain  
15       unhealthy amounts of added sugar. The American Heart Association  
16       recommends a maximum daily intake of six teaspoons of sugar for women and  
17       nine teaspoons for men. A 12-ounce can of soda may contain eight to 13  
18       teaspoons of sugar.

19       (h) Research suggests that our bodies process liquid sugar differently than  
20       sugar in foods, especially those containing fiber.

1        (i) Studies also show that high-calorie beverages do not have the same  
2        appetite-suppressing effect on those who consume them as do the same number  
3        of calories consumed in solid food.

4        (j) Taxes and subsidies on food can influence consumption, and numerous  
5        peer-reviewed public health studies recommend that sugar-sweetened beverage  
6        taxes should be implemented as part of a comprehensive strategy to prevent  
7        obesity.

8        Sec. 2. 32 V.S.A. chapter 227 is added to read:

9                    CHAPTER 227. SUGAR-SWEETENED BEVERAGE TAX

10            § 9401. DEFINITIONS

11            As used in this chapter:

12            (1) “Beverage for medical use” means a beverage suitable for human  
13            consumption and manufactured for use as an oral nutritional therapy for  
14            individuals who cannot absorb or metabolize dietary nutrients from food or  
15            beverages or for use as an oral rehydration electrolyte solution for infants and  
16            children formulated to prevent or treat dehydration due to illness. “Beverage  
17            for medical use” also means a “medical food” as defined in subdivision 5(b)(3)  
18            of the Orphan Drug Act at 21 U.S.C. § 360ee. “Beverage for medical use”  
19            shall not include drinks commonly referred to as “sports drinks” or any other  
20            common names that are derivations thereof.

1           (2) “Caloric sweetener” means any caloric substance suitable for human  
2           consumption that humans perceive as sweet and includes, without limitation,  
3           sucrose, fructose, glucose, fruit juice concentrate, or other sugars. “Caloric  
4           sweetener” excludes noncaloric sweeteners. As used in this definition,  
5           “caloric” means a substance that adds calories to the diet of an individual who  
6           consumes that substance.

7           (3) “Commissioner” means the Commissioner of Taxes and his or her  
8           authorized agents and employees.

9           (4) “Consumer” means an individual who purchases or otherwise  
10          obtains a sugar-sweetened beverage for consumption and not for sale to  
11          another.

12          (5) “Department” means the Vermont Department of Taxes.

13          (6) “Distribution” or “Distribute” means the transfer of title or  
14          possession from one person to another for consideration or within a business  
15          entity or between or among business entities subject to the same ownership or  
16          control, such as by a wholesale or warehousing unit to a retail outlet or  
17          between two or more employees or contractors. “Distribution” or “Distribute”  
18          shall not mean the retail sale to a consumer.

19          (7) “Distributor” means any person, including a manufacturer and a  
20          wholesale dealer, that receives, stores, manufactures, bottles, or distributes  
21          syrup, powder, or sugar-sweetened beverages for sale to retailers, whether or

1 not that person also sells such products to consumers. “Distributor” also  
2 means any person importing or causing to be imported syrup, powder, or  
3 sugar-sweetened beverages into the State from outside the State for sale to a  
4 retailer or consumer.

5 (8) “Place of business” means any place where syrup, powder, or  
6 sugar-sweetened beverages are manufactured or received for sale in the State.

7 (9) “Powder” means any solid mixture of ingredients used in making,  
8 mixing, or compounding sugar-sweetened beverages by mixing the powder  
9 with any one or more other ingredients, including water, ice, syrup, simple  
10 syrup, fruits, vegetables, fruit juice, vegetable juice, or carbonation or  
11 other gas.

12 (10) “Retailer” means any person that sells syrup, powder, or  
13 sugar-sweetened beverages to consumers in the State.

14 (11) “Sale” means the transfer of title or possession for valuable  
15 consideration regardless of the manner by which the transfer is completed.

16 (12) “Sugar-sweetened beverage” means any nonalcoholic beverage,  
17 carbonated or noncarbonated, that is intended for human consumption as a  
18 beverage and contains any added sweetener. As used in this definition,  
19 “nonalcoholic beverage” means any beverage that contains less than one-half  
20 of one percent alcohol per volume.

1           (13) “Sweetener” means any caloric substance suitable for human  
2           consumption that humans perceive as sweet and includes sucrose, fructose,  
3           glucose, other sugars, or fruit juice concentrates but does not include any  
4           substance that adds fewer than five calories per reference amount customarily  
5           consumed or per labeled serving.

6           (14) “Syrup” means a liquid mixture of ingredients used in making,  
7           mixing, or compounding sugar-sweetened beverages using one or more other  
8           ingredients, such as water, ice, powder, simple syrup, fruits, vegetables, fruit  
9           juice, vegetable juice, or carbonation or other gas.

10       § 9402. TAX IMPOSED

11           (a) There is imposed an excise tax on every distributor of \$0.01 per ounce  
12           upon sugar-sweetened beverages sold in the State.

13           (b) There is imposed an excise tax on every distributor of \$0.01 per ounce  
14           of syrup and powder sold in the State. For purposes of calculating the tax  
15           under this subsection, the taxable volume of syrup or powder shall be equal to  
16           the largest volume of sugar-sweetened beverage resulting from use of the syrup  
17           or powder according to the manufacturer’s instructions.

18       § 9403. EXEMPTIONS

19           The following shall be exempt from the tax imposed by section 9402 of this  
20           chapter:

- 1           (1) Syrup, powder, or sugar-sweetened beverages sold to the  
2           U.S. government, its subdivisions, or under any other circumstances in which  
3           the State is without power to impose the tax.
- 4           (2) Syrup, powder, or sugar-sweetened beverages sold by a distributor  
5           for resale or consumption outside the State.
- 6           (3) Syrup, powder, or sugar-sweetened beverages sold by a distributor to  
7           another distributor and not intended for resale to a consumer if the purchasing  
8           distributor holds a license issued under section 9406 of this chapter and if the  
9           sales invoice clearly indicates that the sale is exempt.
- 10           (4) Beverages sweetened solely with noncaloric sweeteners.
- 11           (5) Beverages in which milk, or soy, rice, or similar milk substitute, is  
12           the primary ingredient or the first listed ingredient on the label of the beverage.
- 13           (6) Coffee or tea without added caloric sweetener.
- 14           (7) Infant formula.
- 15           (8) Beverages for medical use.
- 16           (9) Water without any caloric sweeteners.
- 17           (10) Beverages consisting of 100 percent natural fruit or vegetable juice  
18           with no added sweetener. As used in this subdivision, “natural fruit juice” and  
19           “natural vegetable juice” mean the original liquid resulting from the pressing  
20           of fruits or vegetables or the liquid resulting from the dilution of dehydrated  
21           natural fruit juice or natural vegetable juice.

1     § 9404. RETURNS, REMITTANCES, AND RECORDS

2           (a) Any distributor liable for the tax imposed by this chapter shall, on or  
3     before the 25th day of every month, return to the Commissioner, under oath of  
4     a person with legal authority to bind the distributor, a statement containing its  
5     name and place of business; the quantity of syrup, powder, and  
6     sugar-sweetened beverages subject to the excise tax imposed by this chapter  
7     sold in the preceding month; and any other information required by the  
8     Commissioner, along with the tax due.

9           (b) Every distributor shall maintain, for not less than three years, accurate  
10    records showing all transactions subject to tax liability under this chapter.  
11    Distributors must identify the amount of tax collected as a separate invoice  
12    entry on sales to retailers. These records are subject to inspection by the  
13    Commissioner at all reasonable times during normal business hours.

14    § 9405. ADVERSE CHILDHOOD EXPERIENCES INITIATIVE FUND

15           (a) There is established a special fund pursuant to chapter 7, subchapter 5  
16    of this title comprising the revenue from the tax imposed by this chapter  
17    together with any additions or interest accruing to the Fund. The Fund shall be  
18    called the “Adverse Childhood Experiences Initiative Fund.” The  
19    Commissioner of Finance and Management may draw warrants for  
20    disbursements from this Fund in anticipation of receipts. The monies in the  
21    Fund shall be available for the General Assembly to appropriate in accordance



1 with subsection (b) of this section. Any remaining balance at the end of the  
2 fiscal year shall be carried forward in the Fund. The Fund shall be  
3 administered by the Secretary of Human Services.

4 (b) The funds in the Adverse Childhood Experiences Initiative Fund shall  
5 only be used to:

6 (1) subsidize initiatives focused on building resilience for individuals  
7 experiencing adverse childhood experiences;

8 (2) support programs directed at preventing adverse childhood  
9 experiences; and

10 (3) support programs directed at improving childhood nutrition.

11 § 9406. LICENSE REQUIRED

12 Each distributor shall secure a license from the Commissioner before  
13 engaging in the business of selling sugar-sweetened beverages in the State.

14 § 9407. APPLICATION FOR AND ISSUANCE OF LICENSE

15 (a) A separate application and license shall be required for each wholesale  
16 outlet when a distributor owns or controls more than one such outlet.

17 (b) Licenses shall be issued by the Commissioner upon application, without  
18 charge, on forms prescribed by the Commissioner, stating the name and  
19 address of the applicant, the address of the place of business, the type of  
20 business, and any other information the Commissioner may require for the  
21 administration of this chapter.

1     § 9408. TERM OF LICENSES

2           Each license issued under the provisions of this chapter shall remain valid  
3     as long as the licensee continues to do business at the place named, unless the  
4     license is revoked or suspended by the Commissioner pursuant to section 9409  
5     of this chapter. The license shall be nonassignable and nontransferable and  
6     shall be surrendered immediately to the Commissioner if the business is sold or  
7     transferred or if the licensee ceases to do business at the place named.

8     § 9409. REVOCATION AND SUSPENSION OF LICENSES

9           The Commissioner may revoke or suspend the license of any licensee for  
10    failure to comply with any provision of this chapter or for failure to comply  
11    with the provisions of 11 V.S.A. chapter 15.

12    § 9410. PENALTIES AND INTEREST

13           (a) Any person subject to the provisions of this chapter that fails to pay the  
14    tax imposed by this chapter by the date that payment is due or fails to submit a  
15    return as required by this chapter shall be subject to the penalty and interest  
16    provisions of section 3202 of this title.

17           (b) Any person subject to the provisions of this chapter that sells or offers  
18    for sale any syrup, powder, or sugar-sweetened beverages in the State without  
19    holding a license as required by this chapter is liable for a penalty of up to  
20    \$100.00 for each day such sales are made or offered.

1     § 9411. APPEALS

2           Any person aggrieved by an action taken by the Commissioner under this  
3     chapter may appeal in writing to the Commissioner for a review. The  
4     Commissioner shall then grant a hearing under 3 V.S.A. chapter 25 and notify  
5     the aggrieved person in writing of his or her determination. The  
6     Commissioner's determination may be appealed within 30 days to the Superior  
7     Court of the county of this State in which the taxpayer resides or has a place of  
8     business or to the Superior Court of Washington County.

9     § 9412. BONDING

10           When the Commissioner, in his or her discretion, considers it necessary to  
11     protect the revenues raised under this chapter, he or she may require any  
12     licensee to file with him or her a bond under the terms of section 3114 of this  
13     title.

14     § 9413. RULES

15           The Commissioner is authorized to adopt rules and procedures to  
16     accomplish the purposes of this chapter.

17     Sec. 3. MONITORING

18           The Department of Health shall develop criteria and standards for an  
19     independent evaluation to assess the impact that the tax imposed under  
20     32 V.S.A. chapter 227 has on the consumption of sugar-sweetened beverage

1 products. The evaluation shall seek to determine the impact of exemptions on  
2 consumer purchasing behaviors and health outcomes.

3 Sec. 4. EFFECTIVE DATE

4 This act shall take effect on July 1, 2021.