

1 S.256

2 Introduced by Senators Miller and Carris

3 Referred to Committee on

4 Date:

5 Subject: Taxation; capital gains tax; sales and use tax; soft drinks; candy;
6 bottled water; groundwater withdrawal

7 Statement of purpose: This bill proposes “smart taxes” which are taxes that
8 influence certain human behaviors beneficial to the long-term goals of
9 Vermont. Specifically, the bill repeals changes made in 2009 to the treatment
10 of capital gains; imposes a sales and use tax on soft drinks and candy; imposes
11 a sales and use tax on bottled water; and imposes a groundwater withdrawal
12 royalty on the extraction of groundwater for the purpose of bottling.

13 An act relating to the taxation of capital gains, taxes on soft drinks, candy,
14 and bottled water, and a groundwater withdrawal royalty

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

16 * * * Capital Gains * * *

17 Sec. 1. 32 V.S.A. § 5811(21) is amended to read:

18 (21) “Taxable income” means federal taxable income determined
19 without regard to Section 168(k) of the Internal Revenue Code and:

1 (A) Increased by the following items of income (to the extent such
2 income is excluded from federal adjusted gross income):

3 (i) interest income from non-Vermont state and local obligations;

4 and

5 (ii) dividends or other distributions from any fund to the extent
6 they are attributable to non-Vermont state or local obligations; ~~and~~

7 ~~(iii) the amount in excess of \$5,000.00 of state and local income~~
8 ~~taxes deducted from federal adjusted gross income for the taxable year, but in~~
9 ~~no case in an amount that will reduce total itemized deductions below the~~
10 ~~standard deduction allowable to the taxpayer; and~~

11 (B) Decreased by the following items of income (to the extent such
12 income is included in federal adjusted gross income):

13 (i) income from United States government obligations;

14 (ii) ~~with respect to adjusted net capital gain income as defined in~~
15 ~~Section 1(h) of the Internal Revenue Code:~~

16 ~~(I) if the taxpayer is aged 70 or older as of the last day of the~~
17 ~~tax year, or for adjusted net capital gain income from the sale of a farm or from~~
18 ~~the sale of standing timber, each as defined in subdivision (26) of this section,~~
19 40 percent of adjusted net capital gain income but the total amount of decrease
20 under this subdivision (ii)~~(I)~~ shall not exceed 40 percent of federal taxable
21 income; ~~provided, however, that a taxpayer aged 70 or older as of the last day~~

1 of the tax year may elect to subtract his or her adjusted net capital gains
2 pursuant to subdivision ~~(21)(B)(ii)(II)~~ of this section.

3 ~~(II) for taxpayers aged 70 or older as of the last day of the tax~~
4 ~~year who so elect and for all other capital gain income, the first \$2,500.00 of~~
5 ~~adjusted net capital gain income; and~~

6 ~~(iii) recapture of state and local income tax deductions not taken~~
7 ~~against Vermont income tax.~~

8 Sec. 2. REPEAL

9 The following sections of No. 2 of the Acts of 2009 (Sp. Sess.) are repealed:

10 (1) Sec. 16b (amending the definition of taxable income for taxable
11 years beginning on and after January 1, 2011).

12 (2) Sec. 17 (providing definitions of the sale of a farm and the sale of
13 standing timber).

14 (3) Sec. 18(b) (providing an effective date for the change in the
15 treatment of capital gains).

16 (4) Sec. 18(c) (providing an effective date for the change in the
17 treatment of capital gains).

18 * * * Soft Drinks and Candy Tax * * *

19 Sec. 3. 32 V.S.A. § 9701(48) and (49) are added to read:

20 (48) Candy: means a preparation of sugar, honey, or other natural or
21 artificial sweeteners in combination with chocolate, fruits, nuts, or other

1 ingredients or flavorings in the form of bars, drops, or pieces. “Candy” shall
2 not include any preparation containing flour and shall require no refrigeration.

3 (49) Soft drinks: means nonalcoholic beverages that contain natural or
4 artificial sweeteners. “Soft drinks” does not include beverages that contain
5 milk or milk products; soy, rice, or similar milk substitutes; or greater than 50
6 percent of vegetable or fruit juice by volume.

7 * * * Bottled Water Tax * * *

8 Sec. 4. 32 V.S.A. § 9701(50), (51), and (52) are added to read:

9 (50) Bottle: means any closed container of five gallons or less which is
10 labeled by a manufacturer of bottled water and used to contain or convey
11 bottled water.

12 (51) Bottled water: means all water that is sealed in bottles and offered
13 for sale for human consumption and includes flavored water, vitamin water,
14 and carbonated water.

15 (52) Manufacturer of bottled water: means any processor, bottler, or
16 other person who fills or refills a bottle with bottled water and others engaged
17 in purifying, filtrating, or any other alteration of water for the purpose of
18 selling or reselling bottled water.

1 * * * Sales and Use Tax of Candy, Soft Drinks, and Bottled Water * * *

2 Sec. 5. 32 V.S.A. § 9741(13) is amended to read:

3 (13) Sales of food, ~~food stamps, purchases made with food stamps,~~ food
4 products (other than candy), and beverages (other than soft drinks and bottled
5 water), sold for human consumption off the premises where sold; food stamps,
6 purchases made with food stamps.

7 Sec. 6. 32 V.S.A. § 9771(9) is added to read:

8 (9) Bottled water.

9 Sec. 7. 32 V.S.A. § 9773(4) is amended and (5) is added to read:

10 (4) ~~Specified~~ Of specified digital products transferred electronically to
11 an end user.

12 (5) Of bottled water.

13 * * * Groundwater Withdrawal Royalty * * *

14 Sec. 8. 32 V.S.A. chapter 215 is added to read:

15 CHAPTER 215. SEVERANCE ROYALTIES

16 § 8701. DEFINITIONS

17 As used in this chapter:

18 (1) “Bottle” shall have the meaning set forth in section 9701 of this title.

19 (2) “Bottled water” shall have the meaning set forth in section 9701 of
20 this title.

21 (3) “Groundwater” shall have the meaning set forth in 10 V.S.A. § 1416.

1 (4) “Manufacturer of bottled water” shall have the meaning set forth in
2 section 9701 of this title.

3 (5) “Spring” shall have the meaning set forth in 10 V.S.A. § 1416.

4 (6) “Well” shall have the meaning set forth in 10 V.S.A. § 1416.

5 (7) “Withdraw” or “withdrawal” shall have the meaning set forth in
6 10 V.S.A. § 1416.

7 § 8702. IMPOSITION OF GROUNDWATER WITHDRAWAL ROYALTY

8 There is hereby imposed on each manufacturer of bottled water a
9 groundwater withdrawal royalty of \$0.12 per gallon of groundwater withdrawn
10 from a well or a spring within the state of Vermont for the purpose of
11 manufacturing bottled water.

12 § 8703. PAYMENT

13 Each manufacturer of bottled water shall prepare and submit to the
14 department a monthly report according to procedures established by the
15 commissioner showing the total gallons of groundwater withdrawn for the
16 purpose of bottling during the preceding month and other information the
17 commissioner may require. The groundwater withdrawal royalty shall be paid
18 each month to the department at the same time the report is submitted.

1 § 8704. RECORDS

2 Each manufacturer of bottled water shall keep a record of all groundwater
3 withdrawn in this state, and that record must be open at all times to inspection
4 by the commissioner of taxes.

5 § 8705. ENFORCEMENT

6 The groundwater withdrawal royalty imposed under this chapter shall be
7 enforced using the enforcement and collection provisions set forth in chapter
8 103 of this title.

9 Sec. 9. EFFECTIVE DATES

10 This act shall take effect upon passage, except that:

11 (1) Sec. 1 (amending definition of taxable income) shall apply to taxable
12 years beginning on and after January 1, 2010.

13 (2) Secs. 3, 4, 5, 6, and 7 (imposing a tax on soft drinks, candy, and
14 bottled water) shall take effect on July 1, 2010.

15 (3) Sec. 8 (imposing groundwater withdrawal royalty) shall take effect
16 on January 1, 2011.