

JAN 17 2014

A BILL FOR AN ACT

RELATING TO HEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that obesity is a common
2 and costly problem for the State. Obesity increases the risk of
3 serious health conditions, including hypertension, type 2
4 diabetes, coronary heart disease, stroke, sleep apnea,
5 respiratory problems, and some types of cancer. In 2012, 23.6
6 per cent of the adult residents in Hawaii were found to be
7 obese. Over the last thirty years, obesity rates have soared in
8 all age groups, particularly among children.

9 The legislature further finds that there is a growing body
10 of research and evidence linking sugar-sweetened beverages with
11 obesity and chronic disease. Sugar-sweetened beverages are
12 beverages that have added caloric sweeteners of any kind, and
13 include sweetened fruit juices, fruit drinks, carbonated sodas,
14 sports drinks, energy drinks, and flavored milks. Over the past
15 several decades, the portion sizes of sugar-sweetened beverages
16 have increased dramatically, from an average of 13.6 ounces to
17 twenty-one ounces.



1 Sugar-sweetened beverages are the single largest source of
2 added sugars in the American diet. Limiting the intake of
3 sugar-sweetened beverages will encourage healthier diets in the
4 community, while offsetting economic costs associated with
5 health care and obesity.

6 The purpose of this Act is to promote the consumption of
7 healthy beverages by ensuring that healthy options are available
8 and accessible, and to reduce incentives to purchase and consume
9 excessively large sugar-sweetened beverages.

10 SECTION 2. The Hawaii Revised Statutes is amended by
11 adding a new chapter to be appropriately designated and to read
12 as follows:

13 **"CHAPTER**

14 **SALES OF SUGAR-SWEETENED BEVERAGES**

15 **§ -1 Definitions.** For the purposes of this chapter:

16 "Children's meal" means any combination of food or
17 beverages sold for a single price that is primarily marketed to,
18 intended for, or sold to children twelve years of age or younger
19 as determined by:

20 (1) A statement by the food establishment or its parent
21 company about the intended consumer of the meal,



1 including a label on the meal packaging, menu, or menu
2 board;

3 (2) Whether the meal is represented in its packaging,
4 display, promotion, or advertising for consumption by
5 children twelve years of age or younger; or

6 (3) Whether the meal is commonly recognized by consumers
7 as being intended for consumption by a child.

8 "Consumer" means a person who purchases a beverage for
9 consumption and not for resale.

10 "Container" means any individual receptacle, such as a
11 bottle, box, can, cup, glass, or pouch, that is intended or used
12 for holding a beverage.

13 "Container volume" means the total capacity of a container
14 regardless of the actual volume of liquid in the container or
15 the presence of ice.

16 "Department" means the department of health.

17 "Director" means the director of health.

18 "Food establishment" means any food establishment as
19 defined in section 11-12-2, Hawaii Administrative Rules.

20 "Sealed container" means a container holding a beverage,
21 which container is closed or sealed by a manufacturer or
22 distributor before it arrives at the food establishment.



1 "Self-service" means that the container is filled with a
2 beverage by the consumer.

3 "Sugar-sweetened beverage" means any nonalcoholic beverage,
4 carbonated or noncarbonated, that contains any added caloric
5 sweetener, including frozen beverages that are typically
6 consumed, or intended to be consumed, through a straw. As used
7 in this definition, "nonalcoholic beverage" means any beverage
8 that contains less than one-half of one per cent alcohol per
9 volume. "Sugar-sweetened beverage" does not include:

10 (1) A beverage consisting of one hundred per cent natural
11 fruit or vegetable juice with no added caloric
12 sweetener. For purposes of this paragraph, "natural
13 fruit juice" and "natural vegetable juice" mean the
14 original liquid resulting from the pressing of fruits
15 and vegetables, or the liquid resulting from the
16 dilution of dehydrated natural fruit juice or natural
17 vegetable juice;

18 (2) A dietary aid, which means a liquid product
19 manufactured for use as:

20 (A) An oral nutritional therapy for persons who
21 cannot absorb or metabolize dietary nutrients
22 from food or beverages;



1 (B) A source of necessary nutrition used due to a
2 medical condition; or

3 (C) An oral electrolyte solution for infants and
4 children formulated to prevent dehydration due to
5 illness; and

6 (3) Infant formula.

7 "Unsealed container" means a container into which a
8 beverage is dispensed or poured at the food establishment and
9 includes, without limitation, glasses, cups, and all containers
10 for fountain drinks.

11 **§ -2 Maximum serving size for sugar-sweetened beverages**
12 **in unsealed containers.** (a) No food establishment shall sell,

13 offer for sale, or provide a sugar-sweetened beverage in an
14 unsealed container with a container volume greater than sixteen
15 fluid ounces.

16 (b) No food establishment shall sell, offer for sale, or
17 provide to any consumer an unsealed container for self-service
18 with a container volume greater than sixteen fluid ounces.

19 **§ -3 Maximum serving size for sugar-sweetened beverages**
20 **in sealed containers.** No food establishment shall sell a sugar-

21 sweetened beverage in a sealed container holding a container
22 volume of more than sixteen fluid ounces.



1 **§ -4 Sale of sugar-sweetened beverages as part of a**
2 **children's meal prohibited.** No food establishment shall sell a
3 children's meal that includes a sugar-sweetened beverage. A
4 food establishment may sell a sugar-sweetened beverage
5 separately from a children's meal as part of the same
6 transaction if no discount is provided for the beverage
7 contingent upon purchasing the children's meal.

8 **§ -5 Implementation and enforcement.** (a) The
9 department shall implement, administer, and enforce this
10 chapter. The director is authorized to adopt all rules
11 consistent with this chapter and shall have all necessary powers
12 to enforce this chapter.

13 (b) The department shall develop and conduct a retailer
14 outreach and education program designed to inform retailers
15 about the requirements of this chapter and the link between
16 sugar-sweetened beverages and obesity. Nothing in this section
17 shall create a right of action in any licensee or other person
18 against the State or its agents.

19 **§ -6 Violations.** Each beverage sold or offered for sale
20 in violation of this chapter shall constitute a violation, and
21 each day of a continuing violation of this chapter shall
22 constitute a separate violation.



1 § -7 **Civil enforcement by civil penalties.** Any person
2 who violates this chapter may be liable for a civil penalty, not
3 to exceed \$50 per violation, and not to exceed \$ in
4 total for each thirty-day period."

5 SECTION 3. If any provision of this Act, or the
6 application thereof to any person or circumstance, is held
7 invalid, the invalidity does not affect other provisions or
8 applications of the Act that can be given effect without the
9 invalid provision or application, and to this end the provisions
10 of this Act are severable.

11 SECTION 4. This Act shall take effect on January 1, 2015.

12

INTRODUCED BY: 

S.B. NO. 2693

Report Title:

Sugar-sweetened Beverages; Serving Size Limitations

Description:

Beginning on 1/1/2015, sets a maximum serving size of sixteen fluid ounces for sugar-sweetened beverages in sealed and unsealed containers provided by food establishments; prohibits the sale of sugar-sweetened beverages as part of children's meals; and imposes a civil penalty of \$50 per violation.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

