

JAN 20 2017

A BILL FOR AN ACT

RELATING TO OBESITY PREVENTION.

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

1 SECTION 1. The legislature finds that consumption of
2 sugar-sweetened beverages is linked to serious health problems,
3 including but not limited to: weight gain, obesity,
4 prediabetes, diabetes, tooth decay, heart disease, and other
5 health problems. In Hawaii, childhood obesity increased by
6 twenty-six per cent between 1999 and 2015, and adult obesity has
7 increased one hundred fifty-five per cent between 1990 and 2015.
8 As a result of health risks and complications related to
9 obesity, the current generation of children may be the first
10 generation not to outlive their parents. Obesity-related
11 medical expenditures in Hawaii were calculated to be over
12 \$470,000,000 in 2009, and are continuing to increase.

13 A 2004 study found that sugared soft drinks are the single
14 largest contributor of caloric intake in the United States.
15 According to nutritional standards, sugar-sweetened beverages,
16 such as non-diet soft drinks, energy drinks, sweet teas, and
17 sports drinks, offer little or no nutritional value and contain



1 massive quantities of added sugars and calories. For example, a
2 twelve-ounce can of soda contains the equivalent of
3 approximately eight to ten teaspoons of sugar. The American
4 Heart Association recently released a scientific statement
5 recommending that a person eating a 2,200 calorie diet should
6 eat no more than nine teaspoons of refined sugar in a day.
7 Sugar-sweetened beverages account for almost half the total
8 added-sugar intake in the United States population, and
9 sweetened beverages displace healthier and more nutrient-dense
10 beverages like milk, one hundred per cent fruit juice, and
11 water. A recent study found that adults who consumed about one
12 can of soda per day had a forty-six per cent higher risk of
13 developing prediabetes. Another study found that people who
14 consume one to two cans of sugary drinks per day have a twenty-
15 six per cent greater risk of developing type two diabetes than
16 people who rarely have such drinks.

17 In addition, drinking sugar-sweetened beverages can
18 significantly contribute to tooth decay. An analysis of data
19 from 1971 to 1974 found a strong association between the
20 frequency of between-meal consumption of soda and dental caries.
21 A recent study found that young children who drank carbonated



1 sugar-sweetened beverages had almost double the risk of dental
2 caries. A 2016 report finds that seventy-one per cent of third
3 graders in Hawaii are affected by tooth decay, making Hawaii the
4 state with the highest prevalence of tooth decay among third
5 graders in the nation. The State also recently received a
6 failing grade in a series of oral health report cards released
7 by The Pew Center on the States.

8 The legislature further finds that Americans are drinking
9 more sugar-sweetened beverages than ever before. From 1977 to
10 2002, Americans doubled the amount of sugar-sweetened beverages
11 they consumed. Currently, children and adults consume an
12 average of one hundred seventy-two and one hundred seventy-five
13 calories, respectively, from sugar-sweetened beverages a day.
14 Children and adolescents now consume ten to thirteen per cent of
15 their daily caloric intake from sugar-sweetened beverages.
16 There is also a strong correlation between weight gain and soda
17 consumption. In children, each additional twelve-ounce soft
18 drink consumed per day increases their likelihood of becoming
19 obese by sixty per cent. A 2009 California study found that
20 adults who drink one or more sodas a day are twenty-seven per



1 cent more likely to be overweight or obese than those who do not
2 drink soda.

3 The Division of Physical Activity, Nutrition and Obesity at
4 the Centers for Disease Control and Prevention recommends
5 decreasing the consumption of sugar-sweetened beverages as one
6 of six evidence-based strategies for preventing and reducing
7 excess weight and obesity. The 2010 Dietary Guidelines for
8 Americans also recommends reducing the intake of sugar-sweetened
9 beverages as a method to control caloric intake and manage body
10 weight.

11 A fee on sugar-sweetened beverages could have both fiscal
12 and health impacts. Economic disincentives are among the most
13 effective tools to change behavior as tobacco taxes have
14 demonstrated. Hawaii's tobacco taxes have helped to drive the
15 State's smoking rates to historic lows. Smoking among high
16 school students decreased forty-one per cent from 2005 to 2015.
17 Price has been shown to influence food purchasing behavior as
18 well. Based on the best estimates to date of the responsiveness
19 of demand for soft drinks to changes in price, a ten per cent
20 fee could result in about an eight per cent reduction in
21 consumption. A more recent modeling study predicted a twenty-



1 four per cent decrease in consumption in response to a twenty
2 per cent increase in price, which corresponds to the penny-per-
3 ounce tax proposed in many states. The effects could be higher
4 for heavy consumers of soft drinks. As of November 2016, seven
5 counties in four states (California, Philadelphia, Colorado and
6 Illinois) have enacted measures on sugar-sweetened beverage
7 fees.

8 The revenues from such a fee would provide a dedicated
9 source of funding in Hawaii to accelerate the progress in
10 promoting health and obesity prevention, particularly amongst
11 children. In order to counteract marketing and environmental
12 cues that lead to unhealthy behaviors that impact the health of
13 Hawaii's children, it is important to provide access to programs
14 and services that promote a healthy lifestyle and good
15 beginnings.

16 Traditional models of attempting to deal with high obesity
17 and tooth decay rates have focused on secondary prevention
18 methods and have not proven to be successful. Primary
19 prevention methods such as policy changes, including the
20 development of programs that help make nutritious foods more
21 affordable and accessible, provide safe and healthy places for



1 people to engage in physical activity and assist children in
2 having a healthy start. A substantial and sustained response is
3 needed to create cultural and societal changes so healthy
4 choices and lifestyles are the norm in Hawaii. Providing a
5 dedicated source of funding for these programs is vital to their
6 success.

7 The purpose of this Act is to discourage excessive
8 consumption of sugar-sweetened beverages and prevent obesity by,
9 among other things:

- 10 (1) Establishing a fee on sugar-sweetened beverages sold
11 in the State;
- 12 (2) Establishing the obesity and chronic disease
13 prevention special fund, the obesity and chronic
14 disease prevention trust fund, and the Hawaii
15 interagency obesity prevention council to support
16 obesity prevention programs; and
- 17 (3) From the fee revenues collected, allocating:
18 (A) per cent into the obesity and chronic
19 disease prevention trust fund;



1 (B) per cent to be used for the implementation
2 of state oral health promotion and prevention
3 services for Hawaii's children; and

4 (C) per cent to be used to restore basic adult
5 dental benefits to medicaid and QUEST integration
6 enrollees.

7 SECTION 2. Chapter 321, Hawaii Revised Statutes, is
8 amended as follows:

9 1. By adding a new part to be appropriately designated and
10 to read:

11 **"PART . SUGAR-SWEETENED BEVERAGES FEE**

12 **§321-A Definitions.** As used in this part, unless the
13 context otherwise requires:

14 "Bottle" means any closed or sealed container regardless of
15 size or shape, including those made of glass, metal, paper,
16 plastic, or any other material or combination of materials.

17 "Bottled sugar-sweetened beverage" means any sugar-
18 sweetened beverage contained in a bottle that is ready for
19 consumption without further processing, such as dilution or
20 carbonation.

21 "Caloric sweetener" means any substance:



1 (1) Suitable for human consumption and perceived by humans
2 as sweet, and includes, without limitation, sucrose,
3 fructose, glucose, other sugars, and fruit juice
4 concentrates;

5 (2) That adds calories to the diet of a person who
6 consumes that substance; and

7 (3) Does not include non-caloric sweeteners.

8 "Concentrate" means a syrup, powder, or base product that
9 is used for mixing, compounding, or making sweetened beverages
10 in a beverage dispensing machine. "Concentrate" does not
11 include any of the following:

12 (1) Any product that is solely used in preparing coffee or
13 tea;

14 (2) Any product for consumption by infants and which is
15 commonly referred to as "infant formula";

16 (3) Any product for use for weight reduction;

17 (4) Milk or milk products;

18 (5) Any frozen concentrate or freeze-dried concentrate to
19 which only water is added to produce a sweetened
20 beverage containing more than fifty per cent natural
21 fruit juice or more than fifty per cent natural



1 vegetable juice or more than fifty per cent combined
2 natural fruit juice and natural vegetable juice;

3 (6) Any product that is sold and is intended to be used
4 for the purpose of an individual consumer mixing a
5 sweetened beverage;

6 (7) Medical food; and

7 (8) Any product to which no caloric sweeteners have been
8 added.

9 "Consumer" means a person who purchases a sugar-sweetened
10 beverage for consumption and not for sale to another.

11 "Department" means the department of health.

12 "Director" means the director of health.

13 "Distribution" means the:

14 (1) Sale of bottled sugar-sweetened beverages or
15 concentrate to a retailer;

16 (2) Receipt of untaxed, bottled sugar-sweetened beverages
17 or concentrate in this State from an unregistered out-
18 of-state distributor by a retailer;

19 (3) Retail sale of untaxed, bottled sugar-sweetened
20 beverages, sugar-sweetened beverages, or concentrate
21 in this State; or



1 (4) Use or consumption of untaxed, bottled sugar-sweetened
2 beverages or concentrate in this state by a
3 distributor or retailer. For the purposes of this
4 paragraph, "use or consumption" includes the exercise
5 of any right or power over bottled sugar-sweetened
6 beverages or concentrate incident to the ownership
7 thereof, except that it does not include the sale of
8 that property or the keeping or retention thereof by a
9 distributor or retailer for the purpose of sale.

10 "Distributor" means any person, including any manufacturer
11 or wholesale dealer, who receives, stores, manufactures,
12 bottles, or distributes bottled sugar-sweetened beverages or
13 concentrate for sale to retailers doing business in the State
14 whether or not that person also sells such products to
15 consumers.

16 "Fund" means the obesity and chronic disease prevention
17 special fund established pursuant to section 321-F.

18 "Non-alcoholic beverage" means any beverage that contains
19 less than one-half of one per cent alcohol per volume.

20 "Non-caloric sweetener" means any substance that:

21 (1) Contains fewer than five calories per serving;



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1 (2) Is suitable for human consumption and perceived by
2 humans as sweet, including aspartame, saccharin,
3 stevia, and sucralose; and

4 (3) Does not include caloric sweeteners.

5 "Place of business" means any place where sugar-sweetened
6 beverages or concentrate is manufactured or received for sale in
7 the State.

8 "Powder" means any solid mixture of ingredients that:

9 (1) Contains a caloric sweetener; and

10 (2) Is used in making, mixing, or compounding sugar-
11 sweetened beverages by combining the powder with any
12 one or more other ingredients, including:

13 (A) Water;

14 (B) Ice;

15 (C) Syrup;

16 (D) Simple syrup;

17 (E) Fruits;

18 (F) Vegetables;

19 (G) Fruit juice;

20 (H) Vegetable juice;

21 (I) Carbonation; or



1 (J) Other gas.

2 "Retailer" means any person who sells or otherwise
3 dispenses in the State a sugar-sweetened beverage to a consumer
4 whether or not that person is also a distributor as defined in
5 this section.

6 "Sale" or "sell" means the transfer of title or possession
7 for valuable consideration regardless of the manner the transfer
8 is completed.

9 "Sugar-sweetened beverage" means any non-alcoholic
10 beverage, carbonated or noncarbonated, that is intended for
11 human consumption and contains any added caloric sweetener.

12 "Sugar-sweetened beverage" shall not include:

13 (1) Beverages consisting of one hundred per cent natural
14 fruit juice or natural vegetable juice with no added
15 caloric sweetener. For the purposes of this
16 paragraph, "natural fruit juice" or "natural vegetable
17 juice" means the original liquid resulting from the
18 pressing of fruits or vegetables, respectively, or the
19 liquid resulting from the dilution of dehydrated
20 natural fruit juice or natural vegetable juice,
21 respectively;



1 (2) Milk without any added caloric sweetener. For
2 purposes of this paragraph, "milk" means natural
3 liquid milk regardless of animal source or butterfat
4 content; natural milk concentrate, whether or not
5 reconstituted, regardless of animal source or
6 butterfat content; dehydrated natural milk, whether or
7 not reconstituted and regardless of animal source or
8 butterfat content; soy milk; or rice milk;

9 (3) Dietary aids. For the purposes of this paragraph,
10 "dietary aids" means liquid products manufactured for
11 use as:

12 (A) An oral nutritional therapy for persons who
13 cannot absorb or metabolize dietary nutrients
14 from food or beverages;

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

17 (C) An oral electrolyte solution for infants and
18 children formulated to prevent dehydration due to
19 illness;

20 (4) Infant formula; and



1 (5) Beverages containing less than 4.2 grams of added
2 caloric sweetener per eight ounces of beverage.

3 "Syrup" means a liquid mixture of ingredients that:

4 (1) Contains a caloric sweetener; and

5 (2) Is used in making, mixing, or compounding sugar-
6 sweetened beverages by combining the syrup with any
7 one or more other ingredients, including:

8 (A) Water;

9 (B) Ice;

10 (C) Powder;

11 (D) Simple syrup;

12 (E) Fruits;

13 (F) Vegetables;

14 (G) Fruit juice;

15 (H) Vegetable juice;

16 (I) Carbonation; or

17 (J) Other gas.

18 **§321-B Registration.** Every distributor, and any person
19 intending to become a distributor, shall register with the
20 department on forms to be prescribed, prepared, and furnished by
21 the department.



1 **§321-C Sugar-sweetened beverages fee imposed.** (a) Every
2 distributor selling sugar-sweetened beverages in the State shall
3 pay a fee that is imposed at the following rates:

4 (1) One cent per fluid ounce of bottled sugar-sweetened
5 beverages sold or offered for sale to a retailer for
6 sale in the State to a consumer; and

7 (2) One cent per fluid ounce of sugar-sweetened beverage
8 produced from concentrate sold or offered for sale to
9 a retailer for sale in the State to a consumer, either
10 as a concentrate or as a sugar-sweetened beverage
11 derived from that concentrate. The volume of sugar-
12 sweetened beverage produced from concentrate shall be
13 the largest volume resulting from use of the
14 concentrate according to the manufacturer's
15 instructions.

16 (b) A distributor shall add the amount of a fee levied by
17 this section to the price of sugar-sweetened beverages sold to a
18 retailer, and the retailer shall pass the amount of the fee
19 through to a consumer as a component of the final retail
20 purchase price. The amount of the fee shall be stated
21 separately on all invoices, signs, sales or delivery slips,



1 bills, and statements that advertise or indicate the price of
2 such beverages.

3 (c) Any retailer that sells bottled sugar-sweetened
4 beverages or concentrate in the State to a consumer shall become
5 liable at the time of sale to the consumer for the fee imposed
6 in subsection (a) if the fee imposed by this section has not
7 already been paid by a distributor.

8 **§321-D Exemptions.** The following shall be exempt from the
9 fee imposed by this part:

10 (1) Bottled sugar-sweetened beverages or concentrate sold
11 by a distributor or a retailer expressly for resale or
12 consumption outside the State; and

13 (2) Bottled sugar-sweetened beverages or concentrate sold
14 by a distributor to another distributor, if the sales
15 invoice clearly indicates that the sale is exempt;
16 provided that if the sale is to a person who is both a
17 distributor and a retailer, the sale shall also be
18 exempt from the fee and the fee shall be paid when the
19 purchasing distributor who is also a retailer resells
20 the product to a retailer or a consumer; provided



1 further that this exemption shall not apply to any
2 other sale to a retailer.

3 **§321-E Payment.** Every distributor, on or before the
4 fifteenth day of each month, shall file with the department a
5 form identifying all sales of sugar-sweetened beverages made
6 during the preceding month. The form shall be prescribed by the
7 department and shall contain any information as the department
8 deems necessary for the proper administration of the sugar-
9 sweetened beverages fee.

10 **§321-F Obesity and chronic disease prevention special**
11 **fund; established.** (a) There is established in the state
12 treasury the Hawaii obesity and chronic disease special fund
13 into which shall be deposited:

14 (1) All sugar-sweetened beverage fees; and

15 (2) All interest and earnings accruing from the investment
16 of moneys in the fund;

17 provided that of all sugar-sweetened beverage moneys received by
18 the State each fiscal year, the sum representing the first
19 \$ of those moneys shall first be deposited in the
20 state treasury in each fiscal year to the credit of the obesity
21 and chronic disease prevention special fund. The Hawaii obesity



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1 and chronic disease prevention special fund shall be
2 administered by the department.

3 (b) The moneys in the fund shall be disposed as follows:

4 (1) per cent shall be expended for the
5 implementation of state oral health promotion and
6 prevention services for Hawaii's children;

7 (2) per cent shall be expended to restore basic
8 adult dental benefits to medicaid and QUEST
9 integration enrollees; and

10 (3) shall be deposited into the Hawaii obesity and
11 chronic disease prevention trust fund under section
12 321-G.

13 **§321-G Hawaii obesity and chronic disease prevention trust**
14 **fund; established.** (a) There is established the Hawaii obesity
15 and chronic disease prevention trust fund as a separate fund of
16 a nonprofit entity having a board of directors and qualifying
17 under section 501(c)(3) of the Internal Revenue Code of 1986, as
18 amended, into which shall be deposited moneys received as
19 provided under section 321-F(b). The director of health, with
20 the concurrence of the governor, shall select, in accordance
21 with law, the entity based upon the proven record of



1 accomplishment of the entity in administering a similar trust
2 fund.

3 (b) Notwithstanding that the Hawaii obesity and chronic
4 disease prevention trust fund is established within a private
5 entity, the department of budget and finance shall have
6 oversight authority over the fund and may make periodic
7 financial audits of the fund; provided that the director of
8 finance may contract with a certified public accountancy firm
9 for this purpose. The director of health with the concurrence
10 of the governor in their sole discretion may rescind the
11 selection of the entity. If the selection of the entity is
12 rescinded, moneys in the trust fund shall revert back to the
13 State and shall be deemed to be trust moneys.

14 (c) The Hawaii obesity and chronic disease prevention
15 trust fund may receive appropriations, contributions, grants,
16 endowments, or gifts in cash or otherwise from any source,
17 including the State, corporations or other businesses,
18 foundations, government, individuals, and other interested
19 parties; provided that any appropriations made by the State
20 shall not supplant or diminish the funding of existing chronic



1 disease prevention programs or any health related programs
2 funded in whole or in part by the State.

3 (d) The assets of the Hawaii obesity and chronic disease
4 prevention trust fund shall consist of:

5 (1) Moneys deposited pursuant to section 321-F(b);

6 (2) Moneys appropriated to the Hawaii obesity and chronic
7 disease prevention trust fund by the state, county, or
8 federal government;

9 (3) Private contributions of cash or property; and

10 (4) Income and capital gains earned by the trust fund.

11 (e) The obesity and chronic disease prevention trust fund
12 shall:

13 (1) Ensure coordination and support of evidence-based
14 statewide obesity and chronic disease prevention
15 programs by the department or other state agencies,
16 including programs relating to diabetes,
17 cardiovascular disease, promotion of healthy
18 lifestyles, physical fitness, nutrition, early
19 childhood health, and other prevention-oriented public
20 health programs; and



- 1 (2) Support population-based programs that use
2 educational, environmental, policy, and other public
3 health approaches to achieve the following goals:
- 4 (A) Reduce racial, ethnic, and socioeconomic
 - 5 disparities in obesity and diabetes rates;
 - 6 (B) Improve access to and consumption of healthy,
 - 7 safe, and affordable foods;
 - 8 (C) Reduce access to and consumption of calorie-
 - 9 dense, nutrient-poor foods;
 - 10 (D) Encourage physical activity;
 - 11 (E) Decrease sedentary behavior;
 - 12 (F) Raise awareness about the importance of nutrition
 - 13 and physical activity to obesity prevention; and
 - 14 (G) Prevent and manage prediabetes, diabetes, and
 - 15 hypertension.
- 16 (f) The aggregate principal sum deposited in the Hawaii
17 obesity and chronic disease prevention trust fund shall be
18 invested by the entity selected under subsection (a) in a manner
19 intended to maximize the rate of return on investment of the
20 trust fund consistent with the objective of preserving the trust
21 fund's principal.



1 (g) If the entity selected under subsection (a) is
2 dissolved, the director of health, with the concurrence of the
3 governor, shall select a successor entity. If the Hawaii
4 obesity and chronic disease prevention trust fund is terminated,
5 the moneys remaining in the trust fund shall revert back to the
6 State and shall be deemed to be trust moneys.

7 (h) The administration of the Hawaii obesity and chronic
8 disease prevention trust fund shall be advised by the tobacco
9 prevention and control advisory board created under section
10 328L-6.

11 **§321-H Records to be kept.** (a) Every distributor and
12 retailer shall keep a record of all sales of sugar-sweetened
13 beverages made by the distributor or retailer in a form as the
14 department may prescribe.

15 (b) The records as required in subsection (a) shall be
16 made available, upon request, for inspection by the department;
17 provided that any proprietary information obtained by the
18 department shall be kept confidential and shall not be disclosed
19 to any other person, except:



- 1 (1) As may be reasonably required in an administrative or
2 judicial proceeding to enforce any provision of this
3 part or any rule adopted to implement this part; or
4 (2) Pursuant to an order issued by a court or
5 administrative agency hearings officer.

6 **§321-I Audit authority.** The director, or the duly
7 authorized agent of the director, may examine all records
8 required to be kept under this part and books, papers, and
9 records of any person engaged in the sale of sugar-sweetened
10 beverages to verify the accuracy of the payment of the fee
11 imposed by this part and other compliance with this part and
12 rules adopted pursuant thereto. A person in possession of
13 books, papers, and records subject to this section and the
14 person's agents and employees shall give the director, or the
15 duly authorized agent of the director, the means, facilities,
16 and opportunities for the examination.

17 **§321-J Contract for administrative services.** The
18 department may contract the services of a third party to
19 administer the sugar-sweetened beverages fee program under this
20 part.



1 **§321-K Management and financial audit.** The auditor shall
2 conduct a management and financial audit of the sugar-sweetened
3 beverages fee program for the first two fiscal years the program
4 is in effect following the implementation of rules, and for each
5 fiscal year thereafter ending in an even-numbered year. The
6 auditor shall submit the audit report to the legislature and the
7 department no later than twenty days prior to the convening of
8 the next regular session. The costs incurred by the auditor for
9 the audit shall be reimbursed by the fund.

10 **§321-L Administration by director; rules.** The
11 administration and enforcement of this part are vested in the
12 director, who shall adopt rules in accordance with chapter 91
13 for the enforcement and administration of this part.

14 **§321-M Criminal penalties.** Any person subject to this
15 part who:
16 (1) Fails to pay the entire fee imposed by this part by
17 the date that payment is due;
18 (2) Fails to register as a distributor;
19 (3) Fails to submit a form;
20 (4) Fails to maintain records as required by this part; or
21 (5) Violates any other provision of this part,



1 shall be guilty of a misdemeanor.

2 **§321-N Civil penalties.** (a) Any person subject to this
3 part who:

4 (1) Fails to pay the entire fee imposed by this part by
5 the date that payment is due;

6 (2) Fails to register as a distributor;

7 (3) Fails to submit a form;

8 (4) Fails to maintain records required by this part; or

9 (5) Violates any other provision of this part,

10 shall be liable for the amount of the fee that is due and a
11 penalty equal to fifty per cent of the fee due.

12 (b) The director, or the director's duly authorized
13 representative, may determine the amount of the fee and the
14 penalty due under subsection (a) in the event of any nonpayment
15 or underpayment and demand payment of all sugar-sweetened
16 beverage fees and penalties. Interest shall accrue on
17 nonpayment or underpayment of the fee at a rate of eight per
18 cent per year from the date the fee was due, until paid.

19 **§321-O Unpaid fees and debt.** All fees and penalties
20 imposed under this part remaining due and unpaid shall



1 constitute a debt to the State and may be collected from the
2 person owing same by suit or otherwise.

3 **§321-P Enforcement.** (a) If the director determines that
4 the sugar-sweetened beverages fee, penalties, or interest are
5 due and owing, the director shall notify the person of the
6 amount due and owing by certified mail.

7 (b) Any notice issued under subsection (a) shall become
8 final, unless not later than thirty days after the notice is
9 mailed, the person named therein requests in writing a hearing
10 before the director. Whenever a hearing is requested, the
11 amount owed shall become due and payable only upon completion of
12 all review proceedings and the issuance of a final order
13 confirming the fee, interest, and penalty in whole or in part.
14 Upon request for a hearing, the director shall require the
15 requestor to appear before the director for a hearing at the
16 time and place specified in the notice.

17 (c) Any hearing conducted under this section shall be
18 conducted as a contested case under chapter 91. If, after a
19 hearing held pursuant to this section, the director finds that
20 all or a portion of the fee, interest, or penalty is due, the



1 director shall take action to collect the amount due as provided
2 by subsection (d).

3 (d) If the amount of any fee, interest, or penalty is not
4 paid to the department within thirty days after it becomes due
5 and payable, the director may institute a civil action in the
6 name of the State to collect the fee, interest, and penalty. In
7 any proceeding to collect the fee, interest, or penalty imposed,
8 the director need show only that:

9 (1) Notice was given;

10 (2) A hearing was held or the time granted for requesting
11 a hearing expired without a request for a hearing;

12 (3) The fee, interest, or penalty was imposed; and

13 (4) The fee, interest, or penalty remains unpaid.

14 (e) In connection with any hearing held pursuant to this
15 section, the director shall have the power to subpoena the
16 attendance of witnesses and the production of evidence on behalf
17 of all parties.

18 **§321-Q Appeal.** As set forth in section 91-14, any person
19 aggrieved may appeal the determination of the director to the
20 appropriate court having jurisdiction over the matter.



1 **§321-R Distribution of revenues.** One hundred per cent of
2 revenues collected from the sugar-sweetened beverages fee,
3 interest payments, and penalty payments imposed pursuant to this
4 part shall be paid to the obesity and chronic disease prevention
5 special fund, established in section 321-F.

6 **§321-S Evaluation.** The department shall develop criteria
7 and components for an independent evaluation to assess the
8 impact of the fee imposed by this part on consumption of
9 products subject to the fee established by this part. The
10 evaluation shall seek to determine the impact of the fee on
11 sugar-sweetened beverage prices, consumer purchasing behavior,
12 and health outcomes. The reasonable costs of evaluation shall
13 be considered an implementation cost of this part.

14 **§321-T Costs.** The costs to implement this part may
15 include:

16 (1) Administrative, audit, independent evaluation, and
17 compliance activities associated with collection and
18 payment of the deposits of the sugar-sweetened
19 beverages fee program;



1 (2) Personnel to implement the sugar-sweetened beverages
2 fee program, including registration and enforcement
3 activities; and

4 (3) Associated office expenses.

5 **§321-U Annual reports.** The department shall provide
6 annual reports on the sugar-sweetened beverages fee program to
7 the legislature and the governor no later than twenty days prior
8 to the convening of each regular session for the period
9 beginning when the program is in effect following the adoption
10 of rules pursuant to section 321-L. The reports shall contain:

11 (1) Performance indicators;

12 (2) Measures of effectiveness;

13 (3) Organizational charts; and

14 (4) Position descriptions of every type of position
15 created and salaries paid to each employee.

16 If the administration of the program is contracted to a third
17 party pursuant to section 321-J, a copy of the contract shall be
18 appended to the next applicable report, and the contractor shall
19 abide by these reporting requirements as well. The contractor's
20 pay scales shall be comparable to equivalent civil service
21 positions."



1 2. By adding a new section to be appropriately designated
2 and to read:

3 "§321- Hawaii interagency obesity prevention council;
4 established. (a) There is established within the department of
5 health for administrative purposes the Hawaii interagency
6 obesity prevention council, which shall be an advisory board
7 exempt from section 26-34.

8 (b) The Hawaii interagency obesity prevention council
9 shall be responsible for:

- 10 (1) Formulating and advising the governor on the
11 implementation of a unified ten-year state obesity
12 prevention strategic plan to address child and adult
13 obesity in Hawaii;
- 14 (2) Promoting collaboration among public agencies and
15 private stakeholders to lower obesity rates in the
16 State;
- 17 (3) Monitoring the progress of the state obesity
18 prevention strategic plan;
- 19 (4) Providing recommendations to state agencies, the
20 legislature, and the private sector on improving the



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- 1 quality, availability, and coordination of obesity
2 prevention policies and activities;
- 3 (5) Developing specific strategies to address social
4 determinants of health as they relate to obesity
5 prevention; and
- 6 (6) Activating, coordinating, and maintaining responsive
7 action among the public, business, and educational
8 communities to become part of an obesity prevention
9 strategy.
- 10 (c) The state obesity prevention strategic plan formulated
11 pursuant to subsection (b) shall be in writing and shall be a
12 public document.
- 13 (d) The council shall consist of at least the following
14 members or each member's designee:
- 15 (1) The director of health, who shall serve as chair;
16 (2) The director of human services;
17 (3) The superintendent of education;
18 (4) A representative from the University of Hawaii John A.
19 Burns school of medicine;



1 (5) One member of the house of representatives to be
2 designated by the speaker of the house of
3 representatives;

4 (6) One member of the senate to be designated by the
5 president of the senate; and

6 (7) One member designated by the governor.

7 Additional members may be added as determined by the Hawaii
8 interagency obesity prevention council.

9 (e) Members of the Hawaii interagency obesity prevention
10 council shall serve without compensation.

11 (f) The Hawaii interagency obesity prevention council
12 shall meet quarterly or more frequently as it deems necessary.

13 A majority of the members of the Hawaii interagency obesity
14 prevention council shall constitute a quorum to do business and
15 to validate any decision or act of the council."

16 SECTION 3. Section 328L-6, Hawaii Revised Statutes, is
17 amended by amending subsection (e) to read as follows:

18 "(e) The tobacco prevention and control advisory board
19 shall advise the on the administration of the Hawaii tobacco
20 prevention and control trust fund[-] and Hawaii obesity and
21 chronic disease prevention trust fund."



1 SECTION 4. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$ or so
3 much thereof as may be necessary for fiscal year 2017-2018 and
4 the same sum or so much thereof as may be necessary for fiscal
5 year 2018-2019 for deposit into the Hawaii obesity and chronic
6 disease prevention special fund established pursuant to section
7 321-F, Hawaii Revised Statutes.

8 SECTION 5. There is appropriated out of the Hawaii obesity
9 and chronic disease prevention special fund the sum of
10 \$ or so much thereof as may be necessary for fiscal
11 year 2017-2018 and the same sum or so much thereof as may be
12 necessary for fiscal year 2018-2019 for the purposes set forth
13 in section 321-F, Hawaii Revised Statutes, established by this
14 Act.

15 The sums appropriated shall be expended by the department
16 of health for the purposes of this Act.

17 SECTION 6. In codifying the new sections added by section
18 2 of this Act, the revisor of statutes shall substitute
19 appropriate section numbers for the letters used in designating
20 the new sections in this Act.



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1 SECTION 7. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 8. This Act shall take effect on July 1, 2017;
4 provided that the fees imposed by section 321-C, Hawaii Revised
5 Statutes, shall be imposed upon the adoption of administrative
6 rules pursuant to section 321-L, Hawaii Revised Statutes, for
7 the enforcement and administration of part of chapter 321,
8 Hawaii Revised Statutes, established by this Act.

9

INTRODUCED BY: Rosalyn H. Bab
Ernie R. Inoué



S.B. NO. 375

Report Title:

Obesity and Chronic Disease Prevention; Sugar-sweetened Beverages Fee; Hawaii Interagency Obesity Prevention Council; Appropriation

Description:

Establishes a fee on sugar-sweetened beverages. Establishes an obesity and chronic disease prevention special fund, Hawaii obesity and chronic disease prevention trust fund, and Hawaii interagency obesity prevention council to support obesity prevention programs. Appropriates funds to the obesity and chronic disease prevention special fund.

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

