It is enacted by the General Assembly as follows:

SECTION 1. Legislative findings. The general assembly hereby finds and declares all of
the following:

(1) Over 79,000 Rhode Island adults report that they have been diagnosed with Type 2
diabetes. An additional 311,200 Rhode Island adults are at risk for developing diabetes.

(2) According to the Centers for Disease Control and Prevention, diabetes is the seventh
leading cause of death in Rhode Island.

(3) Hispanics and African Americans in Rhode Island have a higher prevalence of Type 2
diabetes than non-Hispanic Whites.

(4) The prevalence of obesity in the United States has increased over the past 30 years. In
Rhode Island, obesity rates have increased from 11.1 percent in 1990 to 30.0 percent in 2019. Low-
income populations and communities of color in Rhode Island report higher rates of obesity than
non-Hispanic white communities.

(5) There is overwhelming evidence of the link between obesity and diabetes with the
consumption of sugary drinks. Rates of other conditions such as hypertension, arthritis, and kidney
failure are higher in adults diagnosed with diabetes and obesity.

(6) According to nutritional experts, sugary drinks provide little to no nutritional value, but
contain massive quantities of added sugars. A 20-ounce bottle of soda contains approximately 16
teaspoons of sugar, yet the American Heart Association recommends that Americans consume no
more than 6 to 9 teaspoons of sugar per day.
(7) Sugary drinks are a unique contributor to excess caloric consumption. Research indicates that approximately 50 percent of excess calories consumed by Americans comes from sugary drinks, with the average American consuming nearly 50 gallons of sugary drinks per year.

(8) Studies on the taxation of sugary drinks have estimated a 55 to 1 return on investment in healthcare savings. In Seattle, WA, a 1.75 cent per ounce tax has generated $24 million in revenues annually. Revenues from sugary drink taxes have been invested in low-income communities and communities of color to increase access to healthy foods by funding fruit and vegetable vouchers.

(9) One in seven Rhode Island citizens lack reliable access to nutritious, affordable food. Communities of color and low-income communities are more likely to be affected by food insecurity.

(10) Research indicates that improving the affordability of healthy foods can reduce food insecurity and equitably improve the health of affected communities.

SECTION 2. Title 44 of the General Laws entitled “TAXATION” is hereby amended by adding thereto the following chapter:

CHAPTER 70
SUGARY DRINKS TAX

44-70-1. Legislative intent.
It is the intent of the general assembly, by adopting the sugary drinks tax, to:

(1) Increase access to and promote consumption of fresh fruits and vegetables among Rhode Island’s most vulnerable populations whose health is adversely impacted by the health conditions associated with sugary drinks;

(2) Improve the overall health and wellness of Rhode Island families, children and residents; and

(3) Reduce the burden of chronic disease in this state.

44-70-2. Definitions.
For the purposes of this chapter, the following words shall have the following meanings:

(1) “Beverage for medical use” means a beverage suitable for human consumption and manufactured for use as an oral nutritional therapy for persons who cannot absorb or metabolize dietary nutrients from food or beverages, or for use as an oral rehydration electrolyte solution for infants and children formulated to prevent or treat dehydration due to illness. "Beverage for medical use" shall also mean a "medical food" as defined in section 5(b)(3) of the Orphan Drug Act (21 U.S.C. 360ee(b)(3)). The Orphan Drug Act defines medical food as "a food which is formulated to be consumed or administered externally under the supervision of a physician and which is intended
for the specific dietary management of a disease or condition for which distinctive nutritional
requirements, based on recognized scientific principles, are established by medical evaluation."
"Beverage for medical use" shall not include drinks commonly referred to as sports drinks or any
other common names that are derivations thereof.

(2) "Bottle" means any closed or sealed container regardless of size or shape, including,
without limitation, those made of glass, metal, paper, plastic, or any other material or combination
of materials.

(3) "Bottled sugary drink" means any sugary drink contained in a bottle that is ready for
consumption without further processing such as, without limitation, dilution or carbonation.

(4) "Caloric sweetener" means any caloric substance suitable for human consumption that
humans perceive as sweet and includes, without limitation: sugar, sucrose, dextrose, fructose,
glucose, and other monosaccharides and disaccharides; corn syrup or high fructose corn syrup;
honey; and any other substance designated by the department of human services. "Caloric
sweetener" excludes non-caloric sweeteners. For purposes of this definition, "caloric" means a
substance which adds calories to the diet of a person who consumes that substance.

(5) "Concentrate" means a syrup, powder, frozen or gel mixture, or other product
containing one or more sweeteners as an ingredient, intended to be used in making, mixing, or
compounding a sweetened beverage by combining the concentrate with one or more other
ingredients.

(6) "Consumer" means a person who purchases a sugary drink for consumption and not for
sale to another.

(7) "Department" means the Rhode Island department of human services (DHS).

(8) "Director" means the director of the Rhode Island department of revenue and his or her
authorized agents and employees.

(9) "Distributor" means any person, including manufacturers, bottlers, and wholesale
dealers, who receives, stores, manufactures, bottles, and/or distributes bottled sugary drinks,
syrups, or powders, for sale to retailers doing business in the state, whether or not that person also
sells such products to consumers.

(10) "Distribution" or "distribute" means to supply to a distributor or retailer, deliver to a
retailer, facilitate acquisition by a retailer, or transport into the state for the purpose of selling any
sugary drink product in the state, or any combination of these activities.

(11) "Division" means the Rhode Island division of taxation

(12) "Milk" means natural liquid milk regardless of animal or plant source or butterfat
content; natural milk concentrate, whether or not reconstituted; or dehydrated natural milk, whether
or not reconstituted.

(13) “Natural fruit juice” means the original liquid resulting from the pressing of fruits, or the liquid resulting from the dilution with water of dehydrated natural fruit juice.

(14) “Natural vegetable juice” means the original liquid resulting from the pressing of vegetables, or the liquid resulting from the dilution with water of dehydrated natural vegetable juice.

(15) “Non-caloric sweetener” means any non-caloric substance suitable for human consumption that humans perceive as sweet and includes, without limitation, aspartame, acesulfame-K, neotame, saccharin, sucralose, and stevia. “Non-caloric sweetener” excludes caloric sweeteners. For purposes of this definition, “non-caloric” means a substance that contains fewer than five (5) calories per serving.

(16) “Person” means any natural person, partnership, cooperative association, limited liability company, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

(17) “Place of business” means any place where sugary drinks, syrups, or powders are manufactured or received for sale in the state.

(18) “Powder” means any solid mixture of ingredients used in making, mixing, or compounding sugary drinks by mixing the powder with any one or more other ingredients, including without limitation water, ice, syrup, simple syrup, fruits, vegetables, fruit juice, vegetable juice, carbonation, or other gas.

(19) “Retailer” means any person who sells or otherwise dispenses in the state a sugary drink to a consumer whether or not that person is also a distributor as defined in this section.

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

(21) “State” means the state of Rhode Island.

(22) “Sugary drink” means any nonalcoholic beverage, carbonated or noncarbonated, which is intended for human consumption and contains any added caloric sweetener, whether in bottles, prepared from concentrates, served as a fountain beverage, or in any form. “Sugary drink” includes, without limitation, all drinks and beverages commonly referred to as soda, pop, cola, soft drinks, sports drinks, energy drinks, fruit drinks, sweetened iced teas and coffees, and other products with added caloric sweetener, flavored water with added caloric sweetener, and non-alcoholic beverages that may or may not be mixed with alcohol or any other common names that are derivations thereof. As used in this definition, “nonalcoholic beverage” means any beverage that contains less than one-half of one percent (0.5%) alcohol per volume.
"Syrup" means a liquid mixture of ingredients used in making, mixing, or compounding sugary drinks using one or more other ingredients including, without limitation, water, ice, a powder, simple syrup, fruits, vegetables, fruit juice, vegetable juice, carbonation, or other gas.

"Water" means plain (non-flavored) or flavored with natural fruit essence (with no calories), or natural flavor. The source of the water may be: artesian, mineral, spring, or well. The type may also include carbonated (sparkling, club, seltzer), still, distilled, or purified (distilled, demineralized, deionized, reverse osmosis).

**44-70-3. Tax imposed.**

(a) There is hereby levied and imposed, in addition to all other taxes and fees now imposed by law, a sugary drinks tax on every distributor for the privilege of selling bottled sugary drinks, syrups or powders in the state of Rhode Island, calculated as follows:

(1) One and one-half cents ($0.015) per ounce for bottled sugary drinks;

(2) The tax on syrups or powders offered for sale, either as syrup or powder or as a sugary drink derived from that syrup or powder, is equal to one and one-half cents ($0.015) per each ounce of sugary drink produced from that syrup or powder. For purposes of calculating the tax, the volume of sugary drink produced from syrups or powders shall be the larger of:

(i) The largest volume resulting from use of the syrups or powders according to any manufacturer's instructions; or

(ii) The volume actually produced by the retailer, as reasonably determined by the tax administrator.

(3) The tax shall be paid upon the first nonexempt distribution of a sugary drink product in the state. However, if a distributor or a retailer receives taxable products on which the tax has not been paid, the distributor or retailer shall be liable for the tax. The amount of tax with respect to such business is equal to the volume of sugary drinks the distributor distributes in the state multiplied the applicable tax rate in subsection (a)(1) or (a)(2) of this section.

(b) The tax shall be administered in such a way to be reflected in the retail cost of the sugary drink.

(c) Sums received by the division of taxation under this section shall be distributed at least quarterly, credited and paid by the state treasurer to the department of human services to fund the Retail SNAP Incentive Program in order to increase access to and promote consumption of fresh fruits and vegetables as outlined in § 44-70-14(a).

**44-70-4. Permit required.**

(a) Every distributor doing business in the state shall file with the division of taxation an
application for a permit to engage in such business, for each place of business owned and operated
by the distributor before the sooner of January 1, 2022, or a distributor's first acts which constitute
the doing of business in the state. An application for a permit shall be filed on forms to be furnished
by the division for that purpose. An application must be subscribed and sworn to by a person with
legal authority to bind the business. The application shall identify the owners of the applicant, the
applicant's mailing address, the place of business to which the permit shall apply, and the nature of
the business in which engaged, and any other information the division may require for the
enforcement of this chapter.

(b) Upon receipt of an application and any permit fee hereafter provided for, the division
may issue to the applicant, for the place of business designated, a non-assignable permit,
authorizing the sale of sugary drinks, syrups, and powders in the state. No distributor shall sell any
sugary drink, syrup or powder without first obtaining a permit issued under this chapter. Permits
issued pursuant to this section shall expire on January 31 of each year and may be renewed annually.

(c) A permit cannot be transferred from one person to another, and a permit shall at all
times be prominently displayed in a distributor's place of business. The division may refuse to issue
a permit to any person previously convicted of violations of this chapter under such procedures as
the division may establish by regulation.


Any distributor or retailer liable for the tax imposed by this chapter shall, on or before the
twentieth day of every month, return to the director under oath of a person with legal authority to
bind the distributor or retailer, a statement containing the name of the person and place of business,
the quantity of sugary drinks, syrups, and powders subject to the excise tax imposed by this chapter
sold or offered for sale in the preceding month, and any other information required by the tax
administrator, along with the tax due.

44-70-6. Records of distributors.

Every distributor, and every retailer subject to this chapter, shall maintain for not less than
two (2) years accurate records, showing all transactions that gave rise, or may have given rise, to
tax liability under this chapter. Such records are subject to inspection by the tax administrator at all
reasonable times during normal business hours.

44-70-7. Exemptions.

The following items shall be exempt from the tax imposed by this chapter:

(1) Bottled sugary drinks, syrups, and powders sold to the United States Government and
American Indian Tribal Governments;

(2) Bottled sugary drinks, syrups, and powders sold by a distributor to another distributor
that holds a permit issued pursuant to this chapter, if the sales invoice clearly indicates that the sale
is exempt. If the sale is to a person who is both a distributor and a retailer, the sale shall also be tax
exempt and the tax shall be paid when the purchasing distributor/retailer resells the product to a
retailer or a consumer. This exemption does not apply to any other sale to a retailer:

(3) Bottled sugary drinks, syrups, and powders that the division of taxation has certified to
have been manufactured by a manufacturer with worldwide gross income of less than two million
dollars ($2,000,000) in the prior calendar year. In order for a bottled sugary drink, syrup, or power
to be eligible for exemption under this section, the manufacturer must apply to the division for
certification according to rules established by the director:

(4) Bottled sugary drinks, syrups, and powders sold directly by a manufacturer to a
consumer without the involvement of a third party to transport or distribute the bottled sugary
drinks, syrups, or powders;

(5) Beverages sweetened solely with non-caloric sweeteners;

(6) Beverages consisting of one hundred percent (100%) natural fruit or vegetable juice
with no added caloric sweetener;

(7) Beverages in which milk, or soy, rice, or similar milk substitute, is the primary
ingredient or the first listed ingredient on the label of the beverage;

(8) Coffee or tea without added caloric sweetener;

(9) Infant formula;

(10) Beverages for medical use; and

(11) Water without any caloric sweeteners.

44-70-8. Penalties.

(a) Any person subject to the provisions of this chapter who fails to pay the entire amount
of tax imposed by this chapter by the date that payment is due, fails to submit a report or maintain
records required by this chapter, or violates any other provision of this chapter, or rules and
regulations promulgated by the division for the enforcement of this chapter, shall be guilty of a
misdemeanor and shall also be liable for the amount of the tax that may be due and a penalty equal
to fifty percent (50%) of the tax due. The division, or its duly authorized representative, may
determine the amount due in the event of any nonpayment or underpayment that may come to its
attention and demand payment of all such taxes and penalties. Interest shall accrue on non-
or under-payment of tax at a rate of twelve percent (12%) per year from the date the tax was due until
paid. For good reason shown, the division may waive all or any part of the penalties imposed but
shall have no power to waive interest.

(b) All administrative provisions of chapter 18 of this title including those which provide
for the apportionment of economic activity between that within the tax jurisdiction of the state and
such activity outside that jurisdiction, which fix damages, penalties and interest for nonpayment of
taxes and for noncompliance with the provisions of said chapter, and all other requirements and
duties imposed upon taxpayers, shall apply to all persons liable for taxes under the provisions of
this chapter, and the division shall exercise all the power and authority and perform all the duties
with respect to taxpayers under this chapter as are provided in chapter 18 of this title, except where
there is conflict, and then the provisions of this chapter shall control.

44-70-9. Unpaid taxes as debt.

All taxes and penalties imposed under the provisions of this chapter remaining due and
unpaid shall constitute a debt to the state, which may be collected from the person owing the same
by suit or otherwise.

44-70-10. Records of the division of taxation.

At the end of each month, the state auditor shall carefully check the books and records of
the director and his or her accounts with any bank or banks, and shall verify the amounts collected
pursuant to this chapter and paid to the department of human services. Any duty herein required of
the state auditor may be performed by any duly trained clerk in the auditor's office, designated by
the state auditor for that purpose.

44-70-11. Exercise of powers and duties.

Whenever in this chapter any reference is made to any power or duty of the director, the
reference is construed to mean that the power or duty shall be exercised by the director, under the
supervision and direction of the director of administration.

44-70-12. Rules and regulations.

The division of taxation is hereby empowered to make such rules and regulations, and
provide such procedural measures, in cooperation with the state auditor, as may be reasonably
necessary to accomplish and implement the purposes of this chapter.


If any provision of this chapter, any rule or regulation made under this chapter, or the
application of this chapter to any person or circumstance is held invalid by any court of competent
jurisdiction, the remainder of the chapter, rule, or regulation, and the application of the provision
to other persons or circumstances shall not be affected. The invalidity of any section or sections or
parts of any section of this chapter shall not affect the validity of the remainder of the chapter.

44-70-14. Establishment of the retail SNAP incentives program fund.

(a) There shall be established a separate fund to be known as the Retail SNAP Incentives
Program (RSIP) fund. The department of human services shall administer the fund. The fund shall
consist of revenues from the state generated by the tax imposed by § 44-70-3. The fund shall be
expendied first for the implementation and administration of a Retail SNAP Incentives Program to
promote healthy food access and nutrition among Rhode Island SNAP recipients.

(b) SNAP recipients will receive a minimum fifty cents ($0.50) credit on their Electronic
Benefit Transfer (EBT) card for each one dollar ($1.00) spent on eligible fruits and vegetables at
participating RSIP retailers, up to a monthly limit as determined by the department. These credits
shall be funded via the RSIP fund established in this section.


(a) The department shall provide, annually and no later than three (3) months after the end
of the fiscal year, information to the general assembly and general public about tax revenues
received and the programs and initiatives funded by these revenues, and any unspent funds. The
department shall develop an Internet website and post the annual report and additional materials to
inform distributors, retailers, and the general public about the tax, its intent, its scope, and operation.

(b) The department shall contract with academic researchers to complete an evaluation of:

(1) The effects of the tax on sugary drink prices, sales and consumption one and three (3)
years after tax implementation;

(2) The economic impacts of the tax including employment and business revenues in
affected business sectors one and three (3) years after tax implementation; and

(3) The impacts of programs and initiatives funded by the tax. The evaluations should
specifically address the equity impacts of the tax. Evaluators should develop partnerships with
community members to ensure community participation in the evaluation.

SECTION 3. This act shall take effect on January 1, 2022.
EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
AN ACT
RELATING TO TAXATION -- SUGARY DRINKS TAX

***

This act would impose a tax of one and one-half cents ($0.015) per ounce on the sale of bottled sugary drinks and syrups or powders from which a sugary drink may be derived for the purpose of depositing the amount of the tax collected into the Retail SNAP Incentive Fund to promote healthy food access and nutrition among SNAP recipients.

This act would take effect on January 1, 2022.

==========
LC002083
==========