

2012 -- S 2798

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LC02229
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO TAXATION -- SALES AND USE TAXES--LIABILITY AND
COMPUTATION

Introduced By: Senators Perry, Sosnowski, Nesselbush, Crowley, and Metts

Date Introduced: March 21, 2012

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 44-18 of the General Laws entitled "Sales and Use Taxes -
2 Liability and Computation" is hereby amended by adding thereto the following section:

3 **44-18-18.2. Sugar-sweetened beverage tax.** – (a) There is hereby levied and imposed, in
4 addition to all other taxes and fees now imposed by law, a sugar-sweetened beverage tax upon
5 every sugar-sweetened beverage, syrup, powder or other base product sold within the state of
6 Rhode Island by a distributor, manufacturer, or wholesaler to a retailer or other purchaser,
7 calculated as follows:

8 (1) The tax on sugar-sweetened beverages shall be one dollar and twenty-eight cents
9 (\$1.28) per gallon of sugar-sweetened beverage.

10 (2) The tax on syrup, powder or other base product sold or offered for sale, either as
11 syrup, powder or other base product or as a sugar-sweetened beverage derived from that syrup,
12 powder or other base product, shall be equal to one dollar and twenty-eight cents (\$1.28) per
13 gallon of sugar-sweetened beverage produced from the syrup, powder or other base product. For
14 the purposes of calculating the tax, the volume of sugar-sweetened beverage produced from the
15 syrup, powder or other base product shall be the largest potential volume resulting from use of the
16 syrup, powder or other base product according to the manufacturer's instructions.

17 (b) The tax shall be paid to the tax administrator by the distributor, manufacturer, or
18 wholesaler of the sugar-sweetened beverage, syrup, powder or other base product. All taxes paid

1 pursuant to this section are conclusively presumed to be a direct tax on the retail consumer, pre-
2 collected for the purpose of convenience and facility only.

3 (c) All sums received by the division of taxation under this section, after costs to
4 implement this section have been deducted, shall be allocated as follows:

5 (1) To the Rhode Island department of health to coordinate evidence-based statewide
6 childhood obesity prevention programs. This funding shall support programs that use educational,
7 environmental, policy and other public health approaches that achieve the following goals:
8 eliminate racial, ethnic and socio-economic disparities in childhood obesity rates; improve access
9 to and consumption of healthy, safe and affordable foods, reduce access to and consumption of
10 calorie-dense, nutrient-poor foods; encourage physical activity; decrease sedentary behavior; and
11 raise awareness about the importance of nutrition and physical activity to childhood obesity
12 prevention;

13 (2) To evidence-based community-based childhood obesity prevention programs. This
14 funding shall support programs that use educational, environmental, policy and other public
15 health approaches that achieve the following goals: eliminate racial, ethnic and socio-economic
16 disparities in childhood obesity rates; improve access to and consumption of healthy, safe and
17 affordable foods, reduce access to and consumption of calorie-dense, nutrient-poor foods;
18 encourage physical activity; decrease sedentary behavior; and raise awareness about the
19 importance of nutrition and physical activity to childhood obesity prevention. The director of the
20 Rhode Island department of health shall be responsible for the distribution of these funds to
21 community-based organizations, with priority given to low-income communities and
22 communities of color that are most affected by the obesity epidemic

23 (3) To evidence-based prevention, early recognition, monitoring and weight-management
24 intervention activities in the medical setting. The director of the Rhode Island department of
25 health shall be responsible for identifying activities and allocating these funds; and

26 (4) To elementary and secondary schools for educational, environmental, policy and
27 other public health approaches that promote nutrition and physical activity. The approaches
28 funded pursuant to this subsection can include improving or building school recreational facilities
29 to be used for recess and physical education; providing continuing education training for physical
30 education teachers; hiring qualified physical education teachers; implementing safe routes to
31 schools programs; improving the quality and nutrition of school breakfasts, lunches and snacks;
32 ensuring free, clean drinking water access throughout the school day; counter-advertising; and
33 incorporating practical nutrition education into the curriculum. The commissioner of the Rhode
34 Island department of elementary and secondary education shall be responsible for the distribution

1 of these funds.

2 (d) As used in this section, the following terms shall have the following meanings:

3 (1) “Distributor, manufacturer or wholesaler” means any person who receives, stores,
4 manufacturers, bottles or sells sugar-sweetened beverages, syrup, powder or other base product to
5 retail dealers, or to other distributors, manufacturers or wholesalers.

6 (2) “Milk” means natural liquid milk regardless of animal source or butterfat content
7 natural milk concentrate, whether or not reconstituted, regardless of animal source or butterfat
8 content; or dehydrated natural milk, whether or not reconstituted.

9 (3) “Natural fruit juice” means the original liquid resulting from the pressing of fruit, the
10 liquid resulting from the reconstitution of fruit juice concentrate or the liquid resulting from the
11 restoration of water to dehydrated fruit juice.

12 (4) “Natural vegetable juice” means the original liquid resulting from the pressing of
13 vegetables, the liquid resulting from the reconstitution of vegetable juice concentrate or the liquid
14 resulting from the restoration of water to dehydrated vegetable juice.

15 (5) “Nonalcoholic beverage” means any beverage that is not included in the definition of
16 “Beverage” in subdivision 3-1-1(1).

17 (6) “Powder, syrup or other base product” means any solid or liquid mixture of base
18 ingredients used in making, mixing or compounding sugar-sweetened beverages, by mixing the
19 powder, syrup or other base product with water, ice, a powder, syrup, simple syrup, fruits,
20 vegetables, fruit juice, vegetable juice, carbonation or other gas, or any other product suitable to
21 make a sugar-sweetened beverage.

22 (7) “Retailer” means any person, except a distributor, manufacturer or wholesaler, who
23 sells or otherwise dispenses sugar-sweetened beverages in the state of Rhode Island to the
24 ultimate consumer.

25 (8) “Sale” means the transfer of title or possession for a valuable consideration of
26 tangible personal property regardless of the manner by which the transfer is accomplished.

27 (9) “Sugar-sweetened beverage” means any nonalcoholic beverage, whether naturally or
28 artificially flavored, whether carbonated or noncarbonated, sold for human consumption
29 containing sugar, corn syrup or any other high-calorie sweetener, including, but not limited to,
30 cola and other flavored drinks, and all other drinks and beverages commonly referred to as “soft
31 drinks,” “sodas,” “sports drinks” or “energy drinks.”

32 (e) The following shall be exempt from the tax imposed by section 44-18-18.2:

33 (1) Beverages sweetened solely with non-caloric sweeteners;

34 (2) Coffee or tea, unless the coffee or tea is in a manufacturer’s sealed bottle or other

1 container;

2 (3) Any frozen, freeze-dried or other concentrate to which only water is added to produce
3 a nonalcoholic beverage that is one hundred percent (100%) natural fruit juice or natural
4 vegetable juice;

5 (4) Any nonalcoholic beverage that is one hundred percent (100%) natural fruit juice or
6 natural vegetable juice;

7 (5) Any product, whether sold in liquid or powder form, that is intended by its
8 manufacturer for consumption by infants and that is commonly referred to as infant formula;

9 (6) Any product, whether sold in liquid or powder form, that is intended by its
10 manufacturer for use as a dietary supplement or for weight reduction; and

11 (7) Any product containing milk or milk products.

12 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO TAXATION -- SALES AND USE TAXES--LIABILITY AND
COMPUTATION

- 1 This act would impose a tax on distributors, manufacturers and wholesalers of sugar-
- 2 sweetened beverages.
- 3 This act would take effect upon passage.

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