

SENATE No. 2752

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Fourth General Court
(2025-2026)

SENATE, December 22, 2025.

The committee on Revenue to whom was referred the petition (accompanied by bill, Senate, No. 2034) of Jason M. Lewis and Michael J. Barrett for legislation to promote healthy alternatives to sugary drinks, report the accompanying bill (Senate, No. 2752).

For the committee,
James B. Eldridge

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An Act to promote healthy alternatives to sugary drinks.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 29 of the General Laws is hereby amended by inserting after
2 section 2MMMMMM the following section:-

3 Section 2LLLLLL. HEALTH PROMOTION FUND

4 There shall be established and set up on the books of the commonwealth a separate fund
5 to be known as the Commonwealth's Health Promotion Fund. The department of public health
6 shall administer the fund. The commissioner shall make expenditures from the fund for the
7 purposes of benefits, services and programs for communities most impacted by health inequity
8 and burdened by health outcomes, including, but not limited to, obesity, diabetes, and heart
9 disease.

10 The department of public health shall annually report on its strategy for administration
11 and allocation of the fund. The report shall set forth the rationale for such strategy, including, but
12 not limited to: (1) a list of the most prevalent preventable health conditions in the
13 commonwealth, including, but not limited to, health disparities experienced by populations based

on race, ethnicity, gender, disability status, sexual orientation or socio-economic status; (2) a list of the most costly preventable health conditions; (3) a list of evidence-based or promising community-based programs related to the conditions identified. The report shall recommend specific areas of focus for allocation of funds.

SECTION 2. Section 16 of chapter 62C, as appearing in the 2022 Official Edition, is hereby amended by inserting after subsection (n) the following subsection:-

(m) A distributor under chapter 64O shall, on or before the twentieth day of each calendar month or on or before the twentieth day of the month following each calendar quarter, as the commissioner shall require, file with the commissioner a return for each place of business maintained, stating the quantity of products subject to the excise tax imposed under section 2 of chapter 64O sold by the distributor in the commonwealth during the preceding calendar month or quarter, as the case may be, and such return shall contain or be accompanied by such further information as the commissioner shall require. If a licensee ceases to sell products subject to the excise tax imposed under section 2 of chapter 64O within the commonwealth, the distributor shall immediately file with the commissioner a return for the period ending with such cessation.

SECTION 3. The General Laws are hereby amended by inserting after chapter 64N the following chapter:-

Chapter 64O. SUGARY DRINK TAX

Section 1. Definitions. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:

(1) "Beverage for medical use", (A) 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; (B) a "medical food" as defined in section 5(b)(3) of the Orphan Drug Act (21 U.S.C. 360ee(b)(3); provided, however, that this definition shall not include sports drinks or any substantially similar to drinks.

(2) "Bottle", a 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", a sugary drink contained in a bottle that is ready for consumption without further processing, including, but not limited to, dilution or carbonation.

(4) "Commissioner", the commissioner of the department of revenue.

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

(6) "Department", the department of revenue.

(7) "Distributor", a person, including, but not limited to, manufacturers and wholesale dealers who receive, store, manufacture, bottle or distribute bottled sugary drinks, syrups or powders, for sale to retailers doing business in the commonwealth whether or not that person also sells such products to consumers.

(8) "Medical food," a food which is formulated to be consumed or administered enterally 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.

(9) "Milk", a 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.

(10) "Natural fruit juice", an original liquid resulting from the pressing of fruits, or the liquid resulting from the dilution with water of dehydrated natural fruit juice.

(11) "Natural vegetable juice", a original liquid resulting from the pressing of vegetables, or the liquid resulting from the dilution with water of dehydrated natural vegetable juice.

(12) "Nonalcoholic beverage", a beverage that contains less than one-half of one percent alcohol per volume.

(13) "Non-nutritive sweetener", a non-nutritive substance with fewer than 5 calories per serving suitable for human consumption that humans perceive as sweet and including, but not limited to, aspartame, acesulfame-K, neotame, saccharin, sucralose and stevia; provided, however, that a non-nutritive sweetener shall not include sugars.

(14) "Place of business", a place where sugary drinks, syrups or powders are manufactured or received for sale in the commonwealth.

(1) "Powder", a solid mixture of ingredients used in making, mixing or compounding sugary drinks by mixing the powder with one or more other ingredients, including, but not limited to, water, ice, syrup, simple syrup, fruits, vegetables, fruit juice, vegetable juice, carbonation or other gas.

(16) "Retailer", a person who sells or otherwise dispenses in the commonwealth a sugary drink to a consumer whether or not that person is also a distributor.

(17) "Sale", a transfer of title or possession for valuable consideration regardless of the manner by which the transfer is completed.

(18) "Sugars", a monosaccharide or disaccharide nutritive sweetener such as glucose, fructose, lactose, and sucrose, including, but not limited to, cane sugar, beet sugar, high-fructose corn syrup, honey, fruit juice concentrate, and other caloric sweeteners. For purposes of this definition, "nutritive" means a substance that contains 5 or more calories per serving.

(19) "Sugary drink" a nonalcoholic beverage, carbonated or noncarbonated, which is intended for human consumption and contains added sugars.

(20) "Syrup", a liquid mixture of ingredients used in making, mixing, or compounding sugary drinks using one or more other ingredients including, but not limited to, water, ice, a powder, simple syrup, fruits, vegetables, fruit juice, vegetable juice, carbonation or other gas.

(21) "Water", a no-calorie liquid water, which is either non-flavored or flavored without the use of sugars, including, but not limited to, carbonated water, club soda or seltzer that is distilled or purified.

Section 2.

(a) A distributor who is required to file a return under section 16 of chapter 62C shall, at the time of filing such return, pay to the commissioner: (1) one cent per ounce for the sale of a sugary drink to a retailer of a sugary drink with no less than 7.5 grams of sugars per 12 fluid ounces and no more than 30 grams of sugars per 12 fluid ounces and: (2) two cents per ounce

for the sale of a sugary drink to a retailer with more than 30 grams of sugars per 12 fluid ounces; provided, however, that a distributor who also functions as a retailer shall set aside the collected funds on or before the time when the sugary drink is placed for sale to the public.

(b) A distributor who is required to file a return under section 16 of chapter 62C shall, at the time of filing such return, pay to the commissioner: (1) one cent per ounce for the sale to a retailer of syrup or powder with no less than 7.5 grams of sugars per 12 fluid ounces and no more than 30 grams of sugars per 12 fluid ounces and: (2) two cents per ounce for the sale of syrup or powder with more than 30 grams of sugars per 12 fluid ounces provided, however, that a distributor who also functions as a retailer shall set aside the collected funds on or before the time when the sugary drink is placed for sale to the public.

Section 3: Exemptions

This chapter shall not apply to the sale of:

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

(b) 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 or retailer resells the product to a retailer or a consumer. This exemption does not apply to any other sale to a retailer;

(c) Beverages sweetened solely with non-nutritive sweeteners;

117 (d) Beverages consisting of 100 per cent natural fruit or vegetable juice with no added
118 sugars;

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

121 (f) Coffee or tea without added sugars;

122 (g) Infant formula;

123 (h) Beverages for medical use;

124 (i) Water without added sugars;

125 (j) Unsweetened drinks to which a purchaser can add, or can request that a seller add,
126 sugar or a sweetener at the point of sale.

127 Section 4: Application of Tax Revenue

128 The commissioner shall deposit revenue collected pursuant to this chapter as follows: (a)
129 40 per cent in the Commonwealth Care Trust Fund, established in section 2000 of chapter 29
130 and (b) 20 per cent in the medical assistance trust fund established in section 2QQQ of chapter
131 29; and (c) 40 per cent in the health promotion fund established in section 2LLLLLL of chapter
132 29.