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Legislation Text

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ORDINANCE

WHEREAS, 28% of Illinois' adult residents in 2012 were considered obese and the rate was even higher among African Americans (40.5%) and Hispanics (31.2%); and

WHEREAS, over 19% of Illinois children are obese, the ninth worst rate in the nation; and

WHEREAS, the obesity epidemic has led to a dramatic increase in obesity-related health conditions, such as type 2 diabetes, asthma, and heart disease; and

WHEREAS, obesity-related annual medical expenditures in Illinois are estimated at \$6.3 billion dollars annually; and

WHEREAS, numerous studies have established a link between obesity and consumption of sugar-sweetened beverages such as soft drinks, energy drinks, sweet teas, and sports drinks; and

WHEREAS, sugar-sweetened beverages are now the number one source of added sugar in the American diet (51% of added sugars); and

WHEREAS, a study found that a penny-per-ounce excise tax on sugar-sweetened beverages in Illinois could result in a 23.5% reduction in sugar-sweetened beverage consumption, a 9.3% reduction in youth obesity and 5.2% reduction in adult obesity; and

WHEREAS, this Wellness Fund would provide targeted prevention initiatives in Chicago communities; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The above recitals are expressly incorporated herein and made part hereof as though fully set forth herein.

SECTION 2. Title III of the Municipal Code is hereby amended by creating Chapter 3-47 underscored as follows:

3-47 CHICAGO SWEETENED-BEVERAGE TAX

ARTICLE I. (3-47-010 et seq.)

3-47-010. Title.

This chapter shall be known and cited as the "Chicago Sweetened-Beverage Tax Ordinance". The taxes imposed by this chapter are in addition to all other taxes imposed

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by the City of Chicago, State of Illinois or any other municipal corporation or political subdivision of the State of Illinois. Nothing in this chapter shall be construed to impose a tax upon any business or activity which, under the constitutions of the United States and the State of Illinois, may not be made the subject of taxation by the City.

3.47-020. Definitions.

When any of the following words or terms are used in this chapter, they shall have the meaning ascribed to them in this section:

- A. "Advisory Council" means the Advisory Council for Health and Wellness established in this chapter.
- B. "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.
- C. "Bottled sugar-sweetened beverage" means any sugar-sweetened beverage contained in a bottle that is ready for consumption without further processing such as, without limitation, dilution or carbonation.
- D. "Caloric sweetener" means any caloric substance suitable for human consumption which adds calories to the diet of a person who consumes that substance, is used as an ingredient of a beverage, syrup, or powder, and includes, without limitation, sucrose, fructose, glucose, fruit juice concentrate, or other sugars. "Caloric sweetener" excludes non-caloric sweeteners.
- E. "City" means the City of Chicago, Illinois.
- F. "City department" means the Department of Finance of the City.
- G. "Consumer" means a person who purchases a sugar-sweetened beverage for consumption and not for sale to another.
- H. "Fund" means the Chicago Wellness Fund, established pursuant to this chapter.
- I. "Non-caloric sweetener" means any non-caloric substance suitable for human consumption which does not add calories to the diet of a person who consumes that substance, is used as an ingredient of a beverage, syrup, or powder, and includes, without limitation, aspartame, saccharin, stevia, and sucralose. "Non-caloric sweetener" excludes caloric sweeteners.

J. "Powder" means any solid mixture of ingredients used in making, mixing, or compounding sugar-sweetened beverages by mixing the powder with any one or more other ingredients, including without limitation water, ice, syrup, simple syrup.

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fruits, vegetables, fruit juice, vegetable juice, carbonation or other gas. A powder which indicates on the label that it can be mixed with water is subject to the tax. Notwithstanding any other provision, a powder which indicates on the label that it cannot be mixed with water and is intended by the manufacturer to be mixed only with alcohol or milk is not subject to the tax.

K. "Public Health" means the Department of Public Health of the City.

L. "Retail seller" or "Retailer" means any person that engages in the business of selling a sugar-sweetened beverage to a Consumer in the City whether or not that person is also a Supplier.

M. "Sugar-sweetened beverage" means any nonalcoholic beverage, carbonated or noncarbonated, which is intended for human consumption and contains more than 5 grams of caloric sweetener per 12 fluid ounces. As used in this definition, "nonalcoholic beverage" means any beverage that contains less than one-half of one percent alcohol per volume. The term "Sugar-sweetened beverage" does not include:

- 1) beverages sweetened solely with non-caloric sweeteners;
- 2) beverages sweetened with 5 grams or less of caloric sweeteners per 12 fluid ounces;
- 3) beverages consisting of 100% natural fruit or vegetable juice with no caloric sweetener; "natural fruit juice" and "natural vegetable juice" mean the original liquid resulting from the pressing of fruits or vegetables, juice concentrate, or the liquid resulting from the dilution with water of dehydrated natural fruit juice or natural vegetable juice;
- 4) 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; "milk" means natural liquid milk regardless of animal or plant source or butterfat content, natural milk concentrate, whether or not reconstituted, regardless of animal or plant source or butterfat content, or dehydrated natural milk, whether or not reconstituted and regardless of animal or plant source or butterfat content;
- 5) coffee or tea without caloric sweetener;
- 6) infant formula;
- 7) medically necessary foods, as defined in the Federal Orphan Drug Act; and
- 8) water without any caloric sweeteners.

N. "Supplier" means any person, including manufacturers and wholesale dealers,

who receives, stores, manufactures, bottles, or distributes bottled sugar-sweetened beverages, syrups, or powders, for sale to Retailers doing business in the City State, whether or not that person also sells such products to Consumers.

O. "Syrup" means a liquid mixture of ingredients used in making, mixing, or compounding sugar-sweetened beverages 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. A syrup which indicates on the label that it can be mixed with water is subject to the tax. Notwithstanding any other provision, a syrup which indicates on the label that it cannot be mixed with water, and is intended by the manufacturer to be mixed only with alcohol or milk is not subject to the tax.

3.47-030. Rules and regulations.

The comptroller is authorized to adopt, promulgate, and enforce rules and regulations pertaining to the enforcement of this chapter.

ARTICLE II. (3-47-040 et seq.)

3-47-040. Tax imposed.

Pursuant to Section 8-11-6(a) of the Illinois Municipal Code, as amended, a tax is imposed on Suppliers for the privilege of selling the products governed by this chapter in the City. The rate of the tax shall be \$0.01 per ounce of Bottled sugar-sweetened beverages sold or transferred to a Retailer in the City. The rate of the tax on Syrup and Powder sold or transferred to a Retailer in the City, either as Syrup or Powder or as a Bottled sugar-sweetened beverage derived from that Syrup or Powder, is equal to \$0.01 per ounce for each ounce of Bottled sugar-sweetened beverage produced from that Syrup or Powder.

3-47-050. Collection of tax.

A. It shall be the duty of every Supplier to collect the tax imposed by Section 3-47-040 of this chapter from Retailers and remit the tax to the City department pursuant to Section 3-47-060. The Supplier shall collect the tax by adding the tax to the selling price of Bottled sugar-sweetened beverages, Syrup and Powder in the City.

B. If a Supplier fails to collect or remit the tax required to be collected by this section, the Supplier shall be liable to the City for the amount of such tax (unless the Retail Seller has paid such tax directly to the City department).

3-47-060. Monthly report of sales and tax remittances.

A. On or before the last day of each calendar month, every Supplier shall file with

the City department a sworn report of Sugar-sweetened Beverage, Syrup, and Powder sales made to Retailers during the immediately preceding calendar month. The report shall be in a form prescribed by the comptroller, containing such information as the comptroller may reasonably require. Each report of sales shall be accompanied by a remittance of the tax required to be collected by this article.

B. If a Supplier fails to collect the tax imposed by Section 3-47-040 from a Retail Seller, the Retail Seller shall file a monthly report of Sugar-sweetened Beverage, Syrup, and Powder purchases and shall pay the tax directly to the city department on or before the date required by Section 3-47-060(A).

C. Notwithstanding any other provision of this chapter, for all periods beginning on or after January 1, 2016, (1) all tax returns shall be filed with the Department on an annual basis on or before August 15 of each year in accordance with Sections 3-4-186 and 3-4-189 of this Code, (2) all tax payments and remittances shall be made in accordance with either Section 3-4-187 (payment of actual tax liabilities) or Section 3-4-188 (payment of estimated taxes), and (3) the provisions of Sections 3-4-186, 3-4-187, 3-4-188 and 3-4-189 shall control over any contrary provisions in this chapter regarding the subjects covered by those sections.

3-47-070. Commission for collecting and remitting tax.

Suppliers of Sugar-sweetened beverages, Syrup, and Powder may retain 1.75 percent of the tax they collect pursuant to this article to reimburse themselves for expenses incurred in collecting and remitting the tax. This commission shall not be allowed for taxes not timely remitted to the City department.

3-47-080. Registration.

A. Every Supplier of Sugar-sweetened beverages, Syrup, and Powder shall register with the City department on a form prescribed by the comptroller within 30 days after commencing business. Retail Sellers that pay the tax imposed by this chapter directly to the City department on a frequently recurring basis also shall register with the City department.

B. If any information provided by a person on a registration form ceases to be accurate, then the person shall file a corrected form with the City department prior to the following January 1st.

3-47-090. Books and records.

Every Supplier of Sugar-sweetened beverages, Syrup, and Powder, and every Retail Seller required to pay directly to the City department the tax imposed by Section 3-47-040 of this chapter, shall keep accurate books and records of its business, including all invoices and other source documents denoting the transactions that gave rise, or may have given rise, to any tax liability or exemption under this chapter. All such books and

records shall be kept in the English language and, at all reasonable times during business hours of the day, shall be open to inspection by the City department.

3-47-100. Application of Uniform Revenue Procedures Ordinance.

Whenever not inconsistent with the provisions of this article or whenever this article is silent, the provisions of the Uniform Revenue Procedure Ordinance, Chapter 3-4 of this Code, as amended, shall apply to and supplement this article.

ARTICLE II. (3-47-110 et seq.) 3-47-110.

Establishment of Chicago Wellness Fund.

The Chicago Wellness Fund is hereby created as a special fund of the City of Chicago. All of the moneys collected by the City department pursuant to the taxes imposed by Section 23-47-040 shall be deposited as follows: 2% shall be deposited in accounts for the Chicago Department of Public Health for administering this Chapter, and 98% shall be deposited into the Chicago Wellness Fund to be used for the purposes set forth herein. All interest earned on moneys in the Chicago Wellness Fund shall remain in the Fund.

3-47-120. Uses of Chicago Wellness Fund.

A. Moneys in the Chicago Wellness Fund shall be used to support community prevention and wellness initiatives, as follows:

- 1) Up to 1% shall be dedicated to administration of the Fund by Public Health, with administrative support from the Advisory Council and a Healthy in All Policies coordinator.
- 2) At least 1% but not more than 2% of the Fund shall be dedicated to evaluation of the impact of the "Chicago Sweetened-Beverage Tax Ordinance" on the health and wellness of Chicagoans. Evaluation of the Act shall be conducted by an independent evaluator selected by Public Health in consultation with the Advisory Council. Those funds may also be used to support relevant surveillance systems to support tracking of the impact of the Act. The evaluation shall encompass the impact of the Fund and the tax on the consumption of Sugar-sweetened beverages and obesity rates, among other indicators. The evaluation shall also include a summary of how moneys in the Fund were allocated and used. The evaluator shall report annually to the Advisory Council on the progress and results of the evaluation. The Advisory Council may adjust the percentage of funds allocated to each category every 3 years based on the evaluation results and current obesity prevention needs.

- 3) Two percent shall be dedicated to eligible entities to provide technical assistance to, and coordination of, strategies and activities of recipients of funding from the Fund, including, but not limited to, training and education around obesity prevention best practices, coordination of strategies across grantees, and quality improvement for obesity prevention and treatment initiatives.
- 4) Twenty percent shall be used to conduct evidence-based obesity and chronic disease prevention efforts to achieve at least one of the following goals: eliminating racial, ethnic, and socioeconomic disparities in obesity and chronic disease incidence: improving access to and consumption of healthy, safe, and affordable foods: reducing access to and consumption of calorie-dense, nutrient-poor foods: encouraging physical activity and decreasing sedentary behavior: raising awareness about the importance of nutrition and physical activity for the prevention of chronic diseases: supporting the consumption of foods that are grown or produced locally: supporting the use of evidence-based clinical preventive services: and promoting breastfeeding: and leading and coordinating the efforts of other organizations.
- 5) The remaining 75% shall be used to support the prevention of obesity, diabetes, cardiovascular disease, and cancer, as well as oral health improvement, including but not limited to the following:
- a) Funds to support school and early childhood health and wellness, including increased access to healthy foods, increased physical activity and physical education, improved quality of physical education, increased nutrition education, improved health, mental health, oral health, and social services in schools, increased opportunities for home economics courses (cooking and healthy grocery shopping education) and school and early childhood education facility improvements that support health.
 - b) Funds to support community nutrition and access to healthy foods, including nutrition education, healthy cooking programs, healthy vending initiatives, healthy food procurement, education regarding shopping for healthy foods, increased support for breastfeeding promotion programs, and increasing access to healthy foods.
 - c) Funds to support physical activity in the City, including active transportation, community walkability and bike-ability initiatives, multi-use trails, joint-use agreements, safe routes to schools programs, educational programs that promote physical activity, physical activity after school programs, environmental changes that

increase physical activity and initiatives that create physically safe and accessible areas for physical activity and play.

d) Funds to support worksite wellness, including promotion of nutrition, physical activity and preventive services in worksites, workplace policies, and environmental changes that support employee wellness.

e) Funds to support local food systems, including promotion of, access to, and consumption of local foods, farm-to-school and farm-to-institution programs, community gardens, urban agriculture projects, community-supported agriculture programs, farmers markets and double-value coupons programs for SNAP recipients at farmers markets, food hubs, beginning farmer training programs, and farm stands; and

f) Funds to support oral health improvement, including increased access to oral health education, dental sealants for children, and use of community prevention and health education strategies that reduce risk factors for oral and pharyngeal cancers.

B. Moneys in the Fund, spent in accordance with this chapter, shall be expended only for the purposes expressed in this Act and shall be used only to supplement existing levels of service and not to supplant current federal, state, or local funding for existing levels of services. Entities that are eligible to receive moneys from this Section include:

- 1) Units of local government, including the City, local school districts, and local park districts;
- 2) Non-profit organizations;
- 3) Universities and institutions of higher learning; and
- 4) Community-based health improvement coalitions.

C. Public Health shall distribute Fund moneys via grants to eligible entities within 120 days after the start of each fiscal year including:

- 1) Allocation of funds for staff and resources needed to administer the Fund and Advisory Council, including a Health in All Policies Coordinator to support the Advisory Council:
- 2) Distribution of the remaining funds to eligible entities as recommended by the Advisory Council for Health and Wellness based on a request for proposal process: and

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(3) To advise on the selection of evaluators and provide input on the evaluation design, goals, and methods, at least annually receive and review a progress report on the results of the evaluation.

3-47-130. Chicago Wellness Fund governance.

A. The Chicago Wellness Fund shall be governed by a multi-sector Advisory Council for Health and Wellness, with administration by Public Health and as described below. The Advisory Council for Health and Wellness shall be formed within six months of the creation of the Fund. The Council must be comprised of:

- 1) One representative from each of the following: Public Health, Chicago Department of Family & Support Services, the Chicago Board of Education, and the Chicago Department of Transportation, appointed by the head of that entity:
- 2) One obesity prevention advocate, appointed by the Mayor:
- 3) One physical education or health teacher representing an association that represents physical education and health teachers, appointed by the Mayor:
- 4) One oral health advocate representing a statewide coalition or organization working to promote oral health, appointed by the Governor:
- 5) One representative of an organization focusing on chronic disease prevention, appointed by the Mayor;
- 6) One representative of an organization or coalition focusing on employer wellness initiatives, appointed by the Mayor;
- 7) One person representing access to healthy foods initiatives, appointed by the Mayor:
- 8) One person representing community-based obesity prevention programs, appointed by the Mayor;
- 9) One representative of an association representing Hospitals, appointed by the Mayor;
- 10) One representative of an association representing public health practitioners, appointed by the Mayor;

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- 11) One representative of an organization representing pediatricians, appointed by the Mayor;
- 12) One representative of an organization representing primary care providers, appointed by the Mayor;
- 13) One dietician of an organization representing dieticians, appointed by the Mayor,-
- 14) Two people representing community based healthy Eating and active living coalitions, appointed by the Mayor; and
- (15) Four alderman appointed by the Mayor.

B. The Advisory Council shall have the following powers and duties:

- 1) To review and make recommendations to Public Health on fund allocation categories every 3 years based on an assessment of the City's current conditions and needs related to chronic disease prevention and the results of the evaluation report;
- 2) To develop and implement a request for proposal (RFP) process for allocating Fund moneys via grants to eligible entities across the State each year (or via multi-year grants);
- 3) Oversight of the RFP process, including selection of eligible entities to receive funds, selection of a recommended entity that can complete the evaluation, and submission of funding recommendations to Public Health;
- 4) To annually receive and review the evaluation progress; and
- 5) To submit a report to City Council every 3 years on the allocation of the funds and summary results of the impact evaluation of the Fund and the tax imposed under this chapter.

