**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 28 TO CHAPTER 21, TITLE 12 SO AS TO ENACT THE “SOUTH CAROLINA SWEETENED BEVERAGE TAX ACT”, TO PROVIDE FOR ITS IMPOSITION, ADMINISTRATION, AND ENFORCEMENT, AND TO PROVIDE FOR THE USE OF THE REVENUE OF THE TAX.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 21, Title 12 of the 1976 Code is amended by adding:

“Article 28

South Carolina Sweetened Beverage Tax Act

“Section 12‑21‑6810. As used in this article:

(1) ‘Beverage container’ means a closed or sealed glass, metal, paper, plastic, or any other type of container regardless of the size or shape of the container.

(2) ‘Bottle soft drink’ means a sweetened beverage contained in a beverage container.

(3) ‘Concentrate’ means a sweetened beverage syrup, simple syrup, powder, or base product for mixing, compounding, or making sweetened beverages.

(4) ‘Concentrate manufacturer’ means a person that manufactures concentrate for sale to distributors, dealers, consumers, or others in this State.

(5) ‘Milk’ means natural liquid milk, regardless of animal source or butterfat content, natural milk concentrate, whether or not reconstituted, regardless of animal source or butterfat content, or dehydrated natural milk, whether or not reconstituted.

(6) ‘Natural fruit juice’ means the original liquid resulting from the pressing of fruit, the liquid resulting from the reconstitution of natural fruit juice concentrate, or the liquid resulting from the restoration of water to dehydrated natural fruit juice.

(7) ‘Natural vegetable juice’ means the original liquid resulting from the pressing of vegetables, the liquid resulting from the reconstitution of natural vegetable juice concentrate, or the liquid resulting from the restoration of water to dehydrated natural vegetable juice.

(8) ‘Nonalcoholic beverage’ means all beverages not subject to alcoholic liquor taxes or beer and wine taxes under the laws of this State.

(9) ‘Powder’ or ‘base product’ means a mixture of ingredients in other than liquid form, used in making, mixing, or compounding sweetened beverages by mixing this product with water, ice, syrup, or simple syrup, fruits, vegetables, fruit juice, vegetable juice, or any other product suitable to make a sweetened beverage. ‘Powder’ or ‘base product’ does not include any of the following:

(a) a product sold in powder or other nonliquid mixture form that is solely used in preparing coffee or tea;

(b) a product sold in powder form for consumption by infants and which is commonly referred to as ‘infant formula’;

(c) a product sold in powder form for use for weight reduction;

(d) a product containing milk or milk products;

(e) a frozen concentrate or freeze‑dried concentrate to which only water is added to produce a sweetened beverage containing more than ten percent natural fruit juice or more than ten percent natural vegetable juice;

(f) a powder or other base product that is sold and used for the purpose of an individual consumer mixing a sweetened beverage.

(10) ‘Sale’ means the transfer of title or possession for consideration in any manner or by any means whatever.

(11) ‘Simple syrup’ means a mixture of sugar and water.

(12) ‘Sweetened beverage’ means a sweetened nonalcoholic beverage sold for human consumption including, but not limited to, the following: soda water, ginger ale, root beer, all beverages commonly referred to as cola, lime, lemon, lemon‑lime, and other flavored beverages, including a fruit or vegetable beverage containing ten percent or less natural fruit juice or natural vegetable juice, and all other drinks and beverages commonly referred to as ‘soda’, ‘soda pop’, and ‘soft drinks’. ‘Sweetened beverage’ does not include any of the following:

(a) a nonalcoholic beverage sweetened entirely with artificial sweeteners that do not add calories to the beverage;

(b) a product sold in liquid form for consumption by infants, which is commonly referred to as ‘infant formula’;

(c) a product sold in liquid form for use for weight reduction;

(d) water, to which no natural sweeteners have been added;

(e) a product containing milk or milk products.

(13) ‘Sweetened beverage manufacturer’ means a person who bottles, cans, or otherwise fills bottled sweetened beverages, or imports bottled sweetened beverages.

(14) ‘Syrup’ means the liquid mixture of ingredients used in making, or mixing, compounding sweetened beverages by mixing the syrup with water, simple syrup, ice, fruits, vegetables, fruit juice, vegetable juice, or any other product suitable to make a sweetened beverage.

Section 12‑21‑6820. A tax is imposed upon every sweetened beverage manufacturer or concentrate manufacturer, or other person who makes the first sale in this State of a sweetened beverage or concentrate at a rate of one cent for each 13.5 grams of sugar placed into the sweetened beverage or equivalent amount of concentrate, prorated for an amount less than 13.5 grams.

Section 12‑21‑6830. (A) The tax imposed pursuant to this article must be reported, paid, collected, and enforced in the same manner as the taxes imposed pursuant to Chapter 36 of this title, the South Carolina Sales and Use Tax Act, mutatis mutandis. The department shall prescribe forms and modify forms necessary for the administration of this article, including reporting forms. The revenues of the tax imposed pursuant to this article must be credited to the general fund of the State and not less than one-half of the amount so credited must be appropriated by the General Assembly in the annual general appropriations act to the State Department of Education for additional Education Finance Act (EFA) funding to school districts.

(B) The South Carolina Department of Revenue may promulgate those regulations necessary for the efficient administration of the tax imposed pursuant to this article.

Section 12‑21‑6840. On January 1, 2011, a tax of one cent for each 13.5 grams of sugar placed into a sweetened beverage or equivalent amount of concentrate owned at 12:01 a.m. on January 1, 2011, is imposed on the sweetened beverage manufacturer or concentrate manufacturer, or other person making first sale in this State of such sweetened beverage or concentrate to which the tax under this article has been imposed. The tax is prorated for amounts of less than 13.5 grams. On or before January 25, 2011, every such sweetened beverage manufacturer or concentrate manufacturer, or other person making first sale in this State of such sweetened beverage or concentrate shall make a report to the South Carolina Department of Revenue on a form prescribed and furnished by the department showing the amount of such sweetened beverage or equivalent amount of concentrate so owned at 12:01 a.m. on January 1, 2011, and the report must be accompanied by a remittance of the tax due.”

SECTION 2. This act takes effect January 1, 2011, except that the provisions of Section 12‑21‑6830(B) of the 1976 Code as added by this act take effect upon approval by the Governor.

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