

117TH CONGRESS
1ST SESSION

H. R. 2772

To amend the Internal Revenue Code of 1986 to impose an excise tax on sugary drinks, to dedicate the revenues from such tax to the prevention, treatment, and research of diet-related health conditions in disproportionately impacted populations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 22, 2021

Ms. DELAURO introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to impose an excise tax on sugary drinks, to dedicate the revenues from such tax to the prevention, treatment, and research of diet-related health conditions in disproportionately impacted populations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Sugary Drinks Tax
5 Act of 2021” or as the “SWEET Act”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—The Congress finds that:

3 (1) The prevalence of obesity in the United
4 States has increased dramatically over the past 40
5 years. From the 1960s to the late 1970s, the preva-
6 lence was relatively constant, with about 15 percent
7 of the population classified as obese. After the
8 1970s, these rates began to climb. According to the
9 Centers for Disease Control and Prevention, well
10 over one-third of adults—42.4 percent (2017–18)—
11 and 18.5 percent (2015–2016) of youth in the
12 United States were obese. Although no group has es-
13 caped the epidemic, low-income people and commu-
14 nities of color are disproportionately affected. Nearly
15 half (49.6 percent) of African-American adults were
16 obese and 44.8 percent of Hispanic adults were
17 obese in 2017–2018.

18 (2) The percentage of children who are over-
19 weight has also increased dramatically in recent dec-
20 ades. After being relatively constant from the 1960s
21 to the 1970s, the prevalence of overweight children
22 has more than tripled among children between 6 and
23 11 years of age and nearly quadrupled among those
24 between 12 and 19 years of age. Despite significant
25 public and private investment, childhood obesity

1 rates among young people aged 2–19 remain high
2 affecting about 13.7 million children.

3 (3) There are significant racial and age dispari-
4 ties in obesity prevalence among children and adoles-
5 cents. In 2015–2016, obesity prevalence was higher
6 among Hispanics (25.8 percent) and non-Hispanic
7 Black youth (22.0 percent) than non-Hispanic White
8 youth (14.1 percent). The prevalence of obesity was
9 lower in non-Hispanic Asian youth (11.0 percent)
10 than in youth who were non-Hispanic White, non-
11 Hispanic Black, or Hispanic.

12 (4) Overweight and obesity are responsible for
13 an estimated \$190 billion in health care costs na-
14 tionally, or approximately five to ten percent of all
15 medical spending—with more than 20 percent of
16 these costs paid publicly through the Medicare and
17 Medicaid programs. The medical costs for people
18 with obesity are dramatically higher than those with-
19 out obesity.

20 (5) The obesity epidemic is of particular con-
21 cern because obesity increases the risk of diabetes,
22 heart disease, certain types of cancer, arthritis, asth-
23 ma, and breathing problems. Depending on their
24 level of obesity, from 60 percent to more than 80
25 percent of obese adults have type 2 diabetes, high

1 blood cholesterol, high blood pressure, or other re-
2 lated conditions. According to the CDC, nearly 60
3 percent of overweight children have at least one risk
4 factor for heart disease.

5 (6) Overweight and obesity increase the risk for
6 several types of common cancers, including post-
7 menopausal breast, colorectal, endometrial, kidney,
8 pancreatic, esophageal, and gall bladder cancer. Up
9 to one in four of all cancer cases and one in three
10 cancer deaths are due to poor nutrition, physical in-
11 activity, and overweight and obesity.

12 (7) There is overwhelming evidence of the link
13 between the consumption of sugary drinks, such as
14 non-diet soft drinks, energy drinks, sweet teas, and
15 sports drinks, and obesity and diabetes. Sugary
16 drinks are the only food or beverage shown to in-
17 crease the risk of overweight and obesity. Adults
18 who drink one sugary drink or more per day are 27
19 percent more likely to be overweight or obese, re-
20 gardless of income or ethnicity. After six months,
21 daily consumption of one liter of sugary drinks in-
22 creases fat deposits in the liver by 150 percent,
23 which directly contributes to both diabetes and heart
24 disease. Over 10 years, about two million type 2 dia-

1 betes cases in the United States are attributable to
2 consumption of sugary drinks.

3 (8) According to nutrition experts, sugary
4 drinks, such as soft drinks, energy drinks, sweet
5 teas, and sport drinks, offer little or no nutritional
6 value, but massive quantities of added sugars. A 20-
7 ounce bottle of soda contains about 16 teaspoons of
8 sugars. Yet, the American Heart Association rec-
9 ommends that Americans consume no more than six
10 to nine teaspoons of sugar per day from all food and
11 beverage sources.

12 (9) The 2020 Dietary Guidelines states that
13 sugary drinks are the top source of added sugars in
14 the American diet. For adults, sugary drinks (e.g.,
15 soda, sports drinks, energy drinks, fruit drinks) and
16 sweetened coffees and teas (including ready-to-drink
17 varieties) contribute over 40 percent of daily intake
18 of added sugars. In childhood, sugary drinks make
19 up about 15 to 25 percent of total added sugars in-
20 take. By adolescence, their contribution is 32 per-
21 cent and even higher when considering coffee and
22 tea beverages with added sugars (an additional 7
23 percent). The Dietary Guidelines Advisory Com-
24 mittee recommended that no more than 6 percent of
25 daily calories come from added sugars.

1 (10) Though sugary drink consumption is de-
2 clining modestly as people learn about their harmful
3 health effects, Americans are still consuming twice
4 as much of these products as they did in the 1970s.
5 Reports show that in recent years sugary drink pur-
6 chasing has only gone down 6 calories per person
7 per day since 2014. Five percent of Americans con-
8 sume at least 567 kcal from sugar drinks on any
9 given day—equal to more than four 12-ounce cans
10 of soft drink. On average, children consume more
11 than 30 gallons of sugary drinks every year. This is
12 enough to fill a bathtub.

13 (11) In a study of more than 50,000 female
14 nurses, women who increased their sugary drink
15 consumption from no more than one per week to at
16 least one per day gained an average of 10 pounds
17 over four years. Research also shows a significant
18 link between sugary drink consumption and weight
19 gain in children. In a randomized double-blind con-
20 trolled trial of roughly 640 children, those who were
21 given one 8-ounce serving of a sugary drink a day
22 gained more weight and body fat over 1½ years
23 than those who got one 8-ounce serving of a sugar-
24 free drink.

1 (12) Sugary drinks are a unique contributor to
2 excess caloric consumption. A large body of research
3 shows that calories from sugary drinks do not sat-
4 isfy hunger the way calories from solid food or fat
5 or protein-containing beverages such as those con-
6 taining milk and plant-based proteins. As a result,
7 sugary drinks tend to add to the calories people con-
8 sume rather than replace calories from other foods
9 and beverages.

10 (13) Overweight children have a much greater
11 chance of being obese as adults, with all the health
12 risks that entails.

13 (14) Type 2 diabetes, previously only seen
14 among adults, is now increasing among children.
15 Data show that almost a quarter of teens now have
16 either diabetes or prediabetes. If the current trends
17 are not reversed, it is predicted that one in three
18 children and nearly one-half of Latino and African-
19 American children born in the year 2000 will develop
20 type 2 diabetes in their lifetime.

21 (15) A 2015 review found that increasing sug-
22 ary drink consumption by one serving per day in-
23 creased the risk of heart disease by 17 percent and
24 hypertension by 8 percent. In 2012, 50,000 deaths
25 were associated with drinking too many sugary

1 drinks. Of that, 40,000 deaths in the U.S. were at-
2 tributed to heart problems and 10,000 deaths were
3 attributed to type 2 diabetes caused specifically by
4 consuming too many sugary drinks.

5 (16) Tooth decay (dental caries) is the single
6 most common chronic childhood disease, experienced
7 by more than one-fourth of United States children
8 aged 2–5 years and half of those aged 12–15 years.
9 About half of all children and two-thirds of adoles-
10 cents aged 12–19 years from lower-income families
11 have had decay. According to the American Academy
12 of Pediatric Dentistry, children who frequently or
13 excessively consume beverages high in sugar are at
14 increased risk for dental caries. Untreated dental
15 caries can lead to pain, infection, tooth loss, and in
16 severe cases, even death. It can slow normal growth
17 and development by restricting nutritional intake.
18 Children who are missing teeth may have chewing
19 problems that limit their food choices and result in
20 nutritionally inadequate diets.

21 (17) Local sugary drink taxes that have been
22 implemented and evaluated in the United States
23 have consistently decreased sales of taxed beverages
24 by a range of 10 to 39 percent. They have also
25 raised millions of dollars for community priorities.

1 (b) PURPOSES.—It is the intent of the Congress, by
 2 adopting the Sugary Drinks Tax Act (also known as the
 3 SWEET Act), to diminish the human and economic costs
 4 of diabetes, obesity, dental caries, and other diet-related
 5 health conditions. This Act is intended to discourage ex-
 6 cessive consumption of sugary drinks by increasing the
 7 price of these products and by creating a dedicated rev-
 8 enue source for programs and research designed to reduce
 9 the human and economic costs of diabetes, obesity, dental
 10 caries, and other diet-related health conditions in dis-
 11 proportionately impacted populations.

12 **SEC. 3. EXCISE TAX ON CERTAIN SUGARY DRINKS.**

13 (a) IN GENERAL.—Subchapter D of chapter 32 of the
 14 Internal Revenue Code of 1986 is amended by inserting
 15 after part I the following new part:

16 **“PART II—SUGARY DRINKS**

“Sec. 4171. Imposition of tax.

“Sec. 4172. Definitions.

“Sec. 4173. Special rules.

17 **“SEC. 4171. IMPOSITION OF TAX.**

18 “(a) IN GENERAL.—There is hereby imposed a tax
 19 on the sale or transfer of any specified sugary drink prod-
 20 uct by the manufacturer, producer, or importer thereof.

21 “(b) RATE OF TAX.—The rate of tax imposed under
 22 subsection (a) in such specified sugary drink products
 23 shall be calculated using the following tiered system:

1 “(1) For sugary drinks in cans, bottles, plastic
2 or other containers:

3 “(A) Tier 1: Drinks with fewer than 7.5g
4 of sugars per 12 fluid ounces will not be taxed.

5 “(B) Tier 2: Drinks with 7.5g to fewer
6 than 30g of sugars per 12 fluid ounces will be
7 taxed at a rate of \$0.02 per ounce.

8 “(C) Tier 3: Drinks with more than 30g of
9 sugars per 12 fluid ounces will be taxed at a
10 rate of \$0.03 per ounce.

11 “(2) For syrups and powders sold or offered for
12 sale to a retailer for sale to a consumer, either as
13 syrup or powder or as a sugary drink derived from
14 that syrup or powder, are taxable:

15 “(A) Syrups and powders shall be taxed
16 using the following tiered system:

17 “(i) Tier 1: If the drink made from
18 the syrup or powder have fewer than 7.5g
19 of sugars per 12 fluid ounces, the syrup or
20 powder will not be taxed.

21 “(ii) Tier 2: If the drink made from
22 the syrup or powder have 7.5g to fewer
23 than 30g of sugars per 12 fluid ounces, the
24 syrup or powder will be taxed at a rate

1 equal to \$0.02 per ounce of sugary bev-
2 erage produced from that syrup or powder.

3 “(iii) Tier 3: If the drink made from
4 the syrup or powder have more than 30g
5 of sugars per 12 fluid ounces, the syrup or
6 powder will be taxed at a rate equal to
7 \$0.03 per ounce of sugary drink produced
8 from that syrup or powder.

9 “(B) For purposes of calculating the tax,
10 the volume of sugary drink produced from syr-
11 ups or powders shall be the larger of (1) the
12 largest volume resulting from use of the syrups
13 or powders according to any manufacturer’s in-
14 structions, or (2) the volume actually produced
15 by the retailer, as reasonably determined by the
16 Secretary.

17 “(3) The Nutrition Facts label, as required by
18 the Food and Drug Administration, shall be used to
19 determine the amount of sugars per 12 ounces of
20 sugary drink by referencing the ‘Serving Size’ and
21 ‘Total Sugars’ lines on the label.

22 “(c) PERSONS LIABLE FOR TAX.—The manufac-
23 turer, producer, or importer referred to in subsection (a)
24 shall be liable for the tax imposed by such subsection.

1 “(1) It is suggested that the amount of tax im-
 2 posed by this section be passed along to consumers.
 3 Manufacturers, bottlers, wholesalers, or distributors
 4 should add the tax amount to the distribution price
 5 of sugary drinks, and retailers should add the tax
 6 amount to the retail price of sugary drinks.

7 **“SEC. 4172. DEFINITIONS.**

8 “(a) SPECIFIED SUGARY DRINK PRODUCT.—For
 9 purposes of this part—

10 “(1) IN GENERAL.—For purposes of this part,
 11 the term ‘specified sugary drink product’ means—

12 “(A) any liquid intended for human con-
 13 sumption which contains a caloric sweetener,
 14 and

15 “(B) any liquid, or solid mixture of ingre-
 16 dients, which—

17 “(i) contains a caloric sweetener, and

18 “(ii) is intended for use as an ingre-
 19 dient in a liquid described in subparagraph
 20 (A).

21 “(2) EXCEPTIONS.—The following shall not be
 22 treated as liquids described in paragraph (1)(A):

23 “(A) Any liquid the primary ingredients of
 24 which are milk or soy, rice, or similar plant-
 25 based milk substitute.

1 “(B) Any liquid composed entirely of one
2 or more of the following:

3 “(i) The original liquid resulting from
4 the pressing of fruit or vegetables.

5 “(ii) The liquid resulting from the re-
6 constitution of fruit or vegetable juice con-
7 centrate.

8 “(iii) The liquid resulting from the
9 restoration of water to dehydrated fruit or
10 vegetable juice.

11 “(C) Infant formula.

12 “(D) Any liquid products manufactured for
13 use as—

14 “(i) an oral nutritional therapy for
15 persons who cannot absorb or metabolize
16 dietary nutrients from food or beverages,

17 “(ii) a source of necessary nutrition
18 used due to a medical condition, or

19 “(iii) an oral electrolyte solution for
20 infants and children formulated to prevent
21 dehydration due to illness.

22 “(E) Any liquid with respect to which tax
23 is imposed under chapter 51 (relating to dis-
24 tilled spirits, wines, and beer) or under section
25 7652 by reason of the tax imposed under chap-

1 ter 51 being imposed on like articles of domes-
2 tic manufacture.

3 “(b) CALORIC SWEETENER.—For purposes of this
4 part, the term ‘caloric sweetener’ means monosaccharides,
5 disaccharides, and high-fructose corn syrup.

6 **“SEC. 4173. SPECIAL RULES.**

7 “(a) SWEETENER TAXED ONLY ONCE.—In the case
8 of any specified sugary drink product which is manufac-
9 tured or produced by including one or more other specified
10 sugary beverage products, no tax shall be imposed under
11 this section on any caloric sweetener contained in the re-
12 sulting specified sugary drink product if tax was pre-
13 viously imposed under this section on such caloric sweet-
14 ener when contained in the specified sugary drink product
15 so included.

16 “(b) INFLATION ADJUSTMENT.—The tax amounts
17 set forth in this section shall be adjusted annually by the
18 Secretary in proportion with the Consumer Price Index:
19 All Urban Consumers for All Items for the Statistical Area
20 as reported by the United States Bureau of Labor Statis-
21 tics or any successor to that index. Any increase deter-
22 mined under this subsection shall be rounded to the near-
23 est multiple of one-tenth of a cent.”.

24 (b) CONFORMING AMENDMENTS.—

1 (1) Section 4221(a) is amended by adding at
 2 the end the following: “Paragraphs (1), (4), (5), and
 3 (6) shall not apply to the tax imposed under section
 4 4171.”.

5 (2) The table of parts for subchapter D of
 6 chapter 32 of such Code is amended by inserting
 7 after the item relating to part I the following new
 8 item:

“PART II. SUGARY DRINKS”.

9 (c) REVENUES USED TO IMPROVE NUTRITION
 10 QUALITY OF THE SCHOOL BREAKFAST PROGRAM.—

11 (1) TRANSFER TO THE SCHOOL BREAKFAST
 12 PROGRAM.—There are hereby appropriated to the
 13 School Breakfast Program created under section
 14 4(b) of the Richard B. Russell National School
 15 Lunch Act (42 U.S.C. 1753(b)) (in addition to any
 16 other amounts appropriated to such Program)
 17 amounts equivalent to the taxes received in the
 18 Treasury under part II of subchapter D of chapter
 19 32. Rules similar to the rules of section 9601 of the
 20 Internal Revenue Code of 1986 shall apply with re-
 21 spect to the amounts appropriated under this para-
 22 graph.

23 (2) PERFORMANCE-BASED USE OF FUNDS.—

24 (A) The U.S. Department of Agriculture
 25 will promulgate proposed regulations no later

1 than six months upon enactment to update the
2 meal patterns and nutrition standards for the
3 School Breakfast Program established by sec-
4 tion 4 of the Child Nutrition Act of 1966 (42
5 U.S.C. 1773) to be in compliance with the
6 quantitative recommendations of the most re-
7 cent Dietary Guidelines for Americans, includ-
8 ing, but not exclusive of, a first ever standard
9 for added sugars.

10 (B) Beginning on the promulgation of the
11 implementing regulations described in sub-
12 section (c)(2)(A), the Secretary shall provide an
13 additional 10-cent reimbursement for each
14 breakfast served by a school food authority cer-
15 tified by the State to be in compliance with the
16 interim or final regulations described in sub-
17 section (c)(2)(A).

18 (3) FAILURE TO COMPLY.—Beginning on the
19 date described in subsection (c)(2)(A), school food
20 authorities found to be out of compliance with the
21 meal patterns or nutrition standards established by
22 the implementing regulations shall not receive the
23 additional reimbursement for each breakfast served
24 described in this paragraph.

25 (d) EFFECTIVE DATE.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), the amendments made by this section
3 shall take effect on the date of the enactment of this
4 Act.

5 (2) EXCISE TAX.—The amendments made by
6 subsections (a) and (b) shall apply to sales after the
7 date of the enactment of this Act.

○