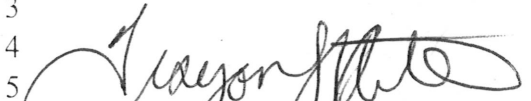



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Councilmember Brianne K. Nadeau

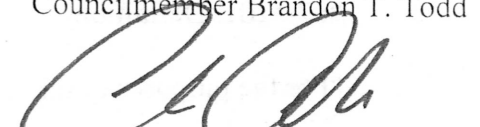
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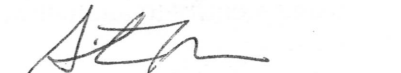
  
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Councilmember Charles Allen

  
Councilmember Anita Bonds

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25 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA  
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29

30 To amend Title 47 of the District of Columbia Official Code by adding a new Chapter 52 to  
31 implement a tax of 1.5 cents per ounce tax on the distribution of sugary drinks in the  
32 District; to establish a procedure for administration and collection of said tax; to establish  
33 a Healthy Beverage Choices Fund to be administered by the Food Policy Council; to  
34 establish a priority of funding allocations for revenue generated from the tax; to give the  
35 Food Policy Council grantmaking authority; to repeal the currently existing tax on soft  
36 drinks; and to establish the Healthy People, Healthy Places Open Space Grant Program.  
37

38 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this  
39 act may be cited as the "Healthy Beverage Choices Amendment Act of 2019".  
40

41 TITLE I. HEALTHY BEVERAGE CHOICES TAX

42 Sec. 101. Title 47 of the D.C. Official Code is amended as follows:

(a) The table of contents is amended by adding a new chapter designation to read as follows:

“52. Healthy Beverage Choices Tax”.

(b) A new Chapter 52 is added to read as follows:

“Chapter 52. Healthy Beverage Choices Tax.”

“47-5201. Definitions.

“For the purposes of this chapter, the term:

“(1) “Distribution” or “Distribute” means the transfer of possession from one business entity to another business entity for consideration, or within a single business entity, such as by a wholesale or warehousing unit to a retail outlet or between two or more employees or contractors. “Distribution” or “Distribute” shall not mean the retail sale to a consumer.

“(2) “Distributor” means any person who distributes sugary drink.

“(3) “Natural common sweetener” includes granulated white sugar, brown sugar, sucrose, fructose, glucose, and other sugars, including honey, molasses, xylem sap of maple trees, or agave nectar.

“(4) “Retailer” means any person who sells sugary drink to a consumer.

“(5) “Sugary drink” means any beverage intended for human consumption that lists as an ingredient any form of natural common sweetener. “Sugary drink” does not include any:

“(A) Beverage where milk is the primary ingredient;

“(B) Beverage for medical use;

“(C) Product used to feed infants, including infant formula or baby formula;

66                   “(D) 100% natural fruit or vegetable juice;  
67                   “(E) Alcoholic beverage; or  
68                   “(F) Unsweetened drinks to which a purchaser can add, or can request that  
69 a seller add, sugar or natural common sweetener at the point of sale.

70           “47-5202. Excise tax.

71           “(a) In addition to all other taxes imposed by the District, a tax of \$0.015 per fluid ounce  
72 shall be imposed on the distribution of sugary drinks in the District. Taxable transactions  
73 include:

74                   “(1) The supply of a sugary drink to a retailer;

75                   “(2) The acquisition of a sugary drink beverage by a retailer;

76                   “(3) The delivery to a retailer in the District of any sugary drink; and

77                   “(4) The transport of any sugary drink into the District by a retailer.

78           “(b)(1) The volume, in fluid ounces, of a sugary drink shall be calculated as follows:

79                   “(A) For beverages, the volume in fluid ounces of sugary drinks  
80 distributed to any person in the course of business; and

81                   “(B) For syrups and concentrates, the largest volume in fluid ounces that  
82 would typically be produced from the syrup or concentrate shall be determined based on the  
83 manufacturer’s instructions, or if the distributor uses that concentrate or syrup to produce a  
84 sugary drink, the regular practice of the distributor.

85           “(2) The tax shall be paid upon the first nonexempt distribution, except for any  
86 exemptions under subsection (c) of this section, of a sugary drink in the District. Where there is a  
87 chain of distribution within the District involving more than one distributor, the tax shall be  
88 imposed on the first distributor subject to the jurisdiction of the District. If the tax is not paid as

set forth above for any reason, it shall be paid by subsequent distributors; provided, that the distribution of sugary drink may not be taxed more than once in the chain of commerce.

“(c) The tax shall not apply to any:

“(1) Distributor that is not subject to taxation by the District; or

“(2) Distribution of natural common sweeteners.

“47-5203. Administration of tax.

“(a) The Office of Tax and Revenue may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this chapter. Such rules and regulations shall include:

“(1) The reexamination and correction of returns and payments;

“(2) The reporting of returns and payments;

“(3) Prescribing the methods, frequency, and schedules for the calculation, collection, and payments of the tax;

“(4) The manner and form in which a distributor must register with the District, and report and remit the tax;

“(5) The manner in which a distributor or retailer who receives a sugary drink from a distributor shall report to the District the name of that distributor and the volume of sugary drink;

“(6) The documentation that a distributor or a retailer is required to maintain; and

“(7) The administrative process and procedures for any person against whom a determination is made by the Office of Tax and Revenue under this chapter or any person directly interested in such determination shall follow a dispute or otherwise challenge a

111 determination, and the form, manner, and time within which a determination may be disputed or  
112 challenged.

113 “(b) The Office of Tax and Revenue shall annually verify that the taxes owed under this  
114 chapter have been properly applied, exempted, collected, and remitted.

115 “47-5204. Collection.

116 “(a) Every person engaged in or about to engage in business as a distributor in the District  
117 shall register with the District in the manner and form determined by the Office of Tax and  
118 Revenue no later than 30 days after the date that the tax imposed by this chapter becomes  
119 effective. Registration after the date the tax becomes effective, does not relieve any person from  
120 the obligation of the tax on and after the date of imposition.

121 “(b) Any person who fails to pay the tax to the District or any amount of tax required to  
122 be collected and paid to the District within the time required by the rules and regulation  
123 established by the Office and Tax and Revenue shall pay a penalty of 25% of the tax or amount  
124 of the tax, in addition to the tax or amount of delinquent tax, plus interest, computed on the  
125 amount of delinquent tax, inclusive of penalties at the rate of 1% per month, or fraction thereof,  
126 from the date on which the tax or the amount of tax required to be collected became due and  
127 payable to the District and until the date of payment.

128 “(c) The amount of any tax, penalty, and interest imposed by this chapter shall be deemed  
129 a debt to the District. Any distributor owing money under the provisions of this chapter shall be  
130 liable in an action brought in the name of the District for the recovery of such amount.

131 “(d) In order to aid the collection of taxes due to the District under this chapter, any  
132 distributor or retailer that distributes, receives, or sells sugary drinks shall provide information to

the District regarding the distribution of these products in accordance with rules and regulation adopted by the Office of Tax and Revenue.

“47-5205. Refunds.

“(a) Any tax under this Chapter that has been paid more than once or has been erroneously or illegally collected or received by the District shall be refunded as determined by the Office of Tax and Revenue.

“(b) Any tax under this Chapter that has been returned to the distributor within 6 months of the initial distribution and for which the entire purchase price has been refunded in cash or credit shall be refunded as determined by the Office of Tax and Revenue.

“(c) Claims must be filed with the Office of Tax and Revenue and determined in accordance with the rules and regulations to be established by the Office of Tax and Revenue within one year from the date of payment of the tax to the District. No refund shall be paid under this section unless a claimant provides written documentation.

“47-5206. Not a sales and use tax.

The tax imposed by this chapter shall be a tax upon the privilege of conducting business, specifically, distributing sugary drink products within the District and it shall not be construed as a sales, use, or other excise tax on the sale, consumption, or use of sugary drinks.

“47-5207. Healthy Beverage Choices Tax Fund administration and allocation.

“(a) There is established, as a special fund, the Healthy Beverage Choices Fund (“Fund”), which shall be administered by the Food Policy Council, as established by section 3 of the Food Policy Council and Director Establishment Act of 2014, effective March 10, 2015 (D.C. Law 20-191; D.C. Official Code § 48-312), in accordance with subsections (c) and (d) of this section.

155 “(b) All revenue collected by the tax and penalties imposed in this chapter shall be  
156 deposited in the Fund.

157 “(c) Revenue collected in the Fund shall be allocated annually, subject to the availability  
158 of funding, in the following priority:

159 “(1) To cover the fiscal impact of the repeal of the sales tax on “soft drinks” in  
160 Title III of the Healthy Beverage Choices Amendment Act of 2019, as introduced on October 8,  
161 2019 (B23-XXX);

162 “(2) \$5,000,000 to the Office of the State Superintendent of Education to fund the  
163 new section 11b created by Title II, Section 201(d) of the Birth-to-Three for All DC Amendment  
164 Act of 2018 effective October 30, 2018 (D.C. Law 22-179; 65 DCR 9569);

165 “(3) \$5,000,000 to the Department of Health for policies and programs that  
166 integrate healthy food access as a core component of health care (also known as “Food as  
167 Medicine” interventions);

168 “(4) \$200,000 to the Department of Small and Local Business Development for  
169 the Healthy Food Retail Program established by D.C. Official Code § 2-1212.31;

170 “(5) \$2,500,000 to fund the Healthy People, Healthy Places Open Space Grant  
171 Program, established in title IV of the Healthy Beverage Choices Amendment Act of 2019, as  
172 introduced on October 8, 2019 (B23-XXX); and

173 “(6)(A) Any remaining money in the Fund shall be used to fund and issue grants  
174 to programs or projects that promote healthy eating and active living and prevent or reduce the  
175 health consequence of the consumption of sugary drinks in the District.

176 “(B) Programs receiving funds or grants shall have a focus on:

177 “(i) Food access and equity;

178 “(ii) Improving community nutrition and increasing physical  
179 activity; or

180 “(iii) Reducing and preventing nutrition related chronic illnesses  
181 such as diabetes, hypertension, heart disease, childhood obesity and tooth decay.

182 “(C) Special consideration shall be given to programs that target  
183 communities most affected by health disparities.

184 “(D) Recommendations on how to allocate remaining money in the Fund  
185 shall be included in the Food Policy Council’s annual report, pursuant to section 3(c) of the Food  
186 Policy Council and Director Establishment Act of 2014, effective March 10, 2015 (D.C. Law 20-  
187 191; D.C. Official Code § 48-312(c)).

188 “(d) The money deposited into the Fund shall not revert to the General Fund of the  
189 District of Columbia at the end of a fiscal year or at any other time.

190 “(e) The money deposited into the Fund may not be used for any purpose except for those  
191 explicitly outlined in this section, and may not be reprogrammed by the Mayor.

## 192 TITLE II. FOOD POLICY COUNCIL GRANTMAKING AUTHORITY

193 Sec. 201. Section 5 of the Food Policy Council and Director Establishment Act of 2014,  
194 effective March 10, 2015 (D.C. Law 20-191; D.C. Official Code § 48-314), is amended as  
195 follows:

196 (a) Subsection (b) is amended as follows:

197 (1) Paragraph (5) is amended by striking the phrase “2013; and” and inserting the  
198 phrase “2013;”.

199 (2) Paragraph (6) is amended by striking the phrase “economy.” and inserting the  
200 phrase “economy; and”.



201 (3) A new paragraph (7) is added to read as follows:

202 “(7) Issue grants to community organizations and small businesses to increase  
203 food access and equity and support the local food economy.”.

204 (b) A new subsection (c) is added to read as follows:

205 “(c) The Director shall have the authority to issue grants, in accordance with D.C.  
206 Official Code § 47-5207(c), to community organizations and small businesses to increase food  
207 access and equity and support the local food economy.”.

### 208 TITLE III. REPEAL OF SALES TAX

209 Sec. 301. Chapter 20 of Title 47 of the District of Columbia Official Code is amended as  
210 follows:

211 (a) Section 47-2001 is amended as follows:

212 (1) Subsection (n) is amended as follows:

213 (A) Paragraph (1)(A)(iv) is repealed.

214 (B) Paragraph (2)(E) is amended by striking the phrase “consumption and  
215 soft drinks;” and inserting the phrase “consumption;” in its place.

216 (2) Subsection (r-1) is repealed.

217 (b) Section 47-2002(a)(8) is repealed.

### 218 TITLE IV. HEALTHY PEOPLE, HEALTHY PLACES OPEN SPACE GRANT PROGRAM

219 Sec. 401. Healthy People, Healthy Places Open Space Grant Program.

220 (a) (1) The Mayor shall establish the “Healthy People, Healthy Places Open Space Grant  
221 Program” (“Program”) to promote better health, social, and economic outcomes for District  
222 residents and a more enjoyable experience for workers and visitors who contribute to a positive  
223 fiscal impact on the local District economy.

(2) The Program shall accomplish these goals by providing financial assistance in the form of annual or multi-year competitive grants to eligible applicants for the operation, management, maintenance, capital improvement, and programming of parks and open spaces in the District.

(b) The Program shall be administered by the Mayor pursuant to the Grant Administration Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C. Office Code § 1-328.11 *et seq.*).

(c) An eligible applicant receiving a grant under the Program shall use grant amounts to support enhanced operation, management, maintenance, infrastructure, capital improvements, recreational and educational programming, workforce development, technical assistance and any other service or activity consistent with the purposes of this act at a park or open space in the District that is under the jurisdictional control of the District government or National Park Service. Any such services or activities must be designed to enhance the park or open space for the benefit of District residents, workers, and visitors.

(d)(1) The Mayor shall provide an annual report to Council at the beginning of each fiscal year.

(2) The annual report shall detail the process by which grant recipients were selected, the amount each grant recipient received, what contributions to the District's open spaces are expected from the grant recipient, and an update on the use of grant funding by grant recipients from the previous fiscal year.

#### Sec. 402. Eligible applicants and application requirements.

(a) (1) Eligible applicants ("organizations") to receive funds are Business Improvement Districts, defined in section 3(6) of the Business Improvement Districts Act of 1996, effective

May 29, 1996 (D.C. Law 11-134; D.C. Official Code § 2-1215.02(6)), and non-profit entities, as defined by § 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. § 501(c)(3)), that are in good standing and demonstrate the financial and management capacity and track record to responsibly manage public parks and public space in the District.

(2) Organizations may elect to apply in their individual capacity, or two or more organizations may elect to file an application together.

(b) The application shall include the following:

(1) A requested amount of funds and description of the park or open space for which the funds will be utilized;

(2) An annual, or multi-year, work plan describing how the funds will be used to support enhanced operation, management, infrastructure, capital improvements, and recreational and educational programming in the designated park or open space;

(3) A plan for equitable and inclusive open space access, including a description of how the funds will be used to improve health outcomes, social interaction, and workforce development; and

(4) A description of how use of the funds can be replicated across the District to achieve the stated benefits of the program.

(c) Funding priority will be given to applications that incorporate the following:

(1) Targeted employment for maintenance activities of District residents that face employment challenges;

(2) Plans for workforce development and career pathways for District residents that face employment challenges; and

269 (3) Applications that include a component to enhance the capacity and  
270 performance capability of organizations located in underserved non-Business Improvement  
271 District areas.

272 (d) The application process shall include clearly defined evaluation benchmarks and  
273 performance requirements to enable the measurement of the impact of the grant spending and  
274 investments in parks or open spaces.

275 (e) Recipient organizations shall be allowed to use and carry over funds across multiple  
276 fiscal years as detailed in its District-approved work plan. Any unspent grant funding shall be  
277 returned to the grant making agency.

278 (f) No single organization may receive 15% of the total funds available under this title for  
279 a single fiscal year.

## 280 TITLE V. GENERAL PROVISIONS

281 Sec. 501. Fiscal impact statement.

282 The Council adopts the fiscal impact statement in the committee report as the fiscal  
283 impact statement required by section 4a of the General Legislative Procedures Act of 1975,  
284 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

285 Sec. 502. Effective date.

286 This act shall take effect after approval by the Mayor (or in the event of veto by the  
287 Mayor, action by the Council to override the veto), a 30-day period of congressional review as  
288 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
289 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
290 Columbia Register.