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SENATE

S.B. No. 1588

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Introduced by SEN. SHERWIN GATCHALIAN

AN ACT
AMENDING REPUBLIC ACT NO. 8424, OTHERWISE KNOWN AS
THE "TAX REFORM ACT OF 1997", AS AMENDED, BY INSERTING
NEW SECTIONS 150-A AND 150-B UNDER CHAPTER VI, TITLE VI,
PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Sugar per se is not bad. It is the excessive intake of sugar that is.

In the Philippines, cases of dental caries involving not only children but also adults, as well as non-communicable diseases like hypertension and diabetes, have increased over the years. A recent study has in fact reported that our country is one of the unhealthiest in Asia.¹ Correlative researches have also shown that these medical conditions are due to an increased ingestion of beverage products that contain sugar.²

The purpose of this Act is not to ban sugar altogether, but rather curb its excessive consumption, which eventually will have the deleterious effect on one's health and on the family's finances. While other food groups may be sources of sugar, consumer demand is mostly on sweetened beverages found in the market. The choice of taxing one group over another is not

¹ Torres, Ted. Philippines: One of Asia's Most Unhealthy Countries – Study, Philippine Star, 29 June 2016, <http://www.philstar.com/headlines/2016/06/29/1597762/philippines-one-asias-most-unhealthy-countries-study>, Last visited: 6 September 2017, 4:31pm PST.

² Capanzana, Mario V., Fruits and Vegetable for Health: The Health & Nutrition Situation in the Philippines, Food and Nutrition Research Institute, Department of Science and Technology.

proscribed under the equal protection clause of the Constitution, there being a rational basis for the classification and a legitimate State interest in both public health and revenue generation.

Taxing sweetened beverages based on their sugar content is aimed at influencing consumers to choose healthier options and lifestyles. The World Health Organization itself recommends that adults and children reduce their daily intake of free sugars to less than 10% of their total energy intake, and a further reduction to below 5% or roughly 25 grams (6 teaspoons) per day provides additional health benefits.³ This Act intends to tax more those beverages with a higher sugar content, which is more equitable than taxing outright all sweet beverages based solely on their volume. Manufacturers of relatively cheaper beverages with relatively lower levels of sugar content are not punished indiscriminately, and will not impede their market competitiveness.

Thus, this Act not only promotes good health, but also provides a revenue boost for the national treasury. It is neither discriminatory nor punitive. The taxes to be generated from this Act will be used to fund programs that promote healthy eating and lifestyles, particularly for children and families living in poverty.



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³ WHO Calls on Countries to Reduce Sugars Intake Among Adults and Children, 4 March 2015, p. 4, <http://www.who.int/mediacentre/news/releases/2015/sugar-guideline/en/>, Last visited 7 September 2017, 9:13am PST.

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AN ACT
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NEW SECTIONS 150-A AND 150-B UNDER CHAPTER VI, TITLE VI,
PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

1 **SECTION 1.** New sections designated as Sections 150-A and
2 150-B under Chapter VI, Title VI of Republic Act No. 8424, otherwise
3 known as the "Tax Reform Act of 1997", as amended, are hereby
4 inserted to read as follows:

5

6 "SEC. 150-A. SWEETENER TAX. –

7

8 A. RATE AND BASE OF TAX. – ON SWEETENED BEVERAGES,
9 THERE SHALL BE LEVIED, ASSESSED, AND COLLECTED
10 EFFECTIVE JANUARY 1, 2018 AN EXCISE TAX OF TEN
11 CENTAVOS (P 0.10) PER GRAM OF SUGAR. THE RATE OF TAX
12 IMPOSED UNDER THIS SECTION SHALL BE ADJUSTED ONCE
13 EVERY THREE (3) YEARS THROUGH RULES AND
14 REGULATIONS ISSUED BY THE SECRETARY OF FINANCE
15 AFTER CONSIDERING THE EFFECT ON THE SAME OF THE
16 THREE-YEAR CUMULATIVE CONSUMER PRICE INDEX (CPI)
17 INFLATION RATE.

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B. EXCLUSIONS. – EXCLUDED FROM THE SCOPE OF THIS ACT ARE PRODUCTS THAT ARE NOT SWEETENED BEVERAGES, CALORIC SWEETENER, OR ARTIFICIAL SWEETENER AS DEFINED IN THIS ACT, SUCH AS, BUT NOT LIMITED TO:

1. MILK PRODUCTS, INFANT FORMULA, AND MILK ALTERNATIVES, SUCH AS SOY MILK OR ALMOND MILK, INCLUDING FLAVORED MILK, SUCH AS CHOCOLATE MILK;
2. ONE HUNDRED PERCENT (100%) NATURAL FRUIT JUICES. – ORIGINAL LIQUID RESULTING FROM THE PRESSING OF FRUIT, OR 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 THAT DO NOT HAVE ADDED SUGAR OR CALORIC SWEETENER;
3. ONE HUNDRED PERCENT (100%) NATURAL VEGETABLE JUICES. – ORIGINAL LIQUID RESULTING FROM THE PRESSING OF VEGETABLES, OR 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 THAT DO NOT HAVE ADDED SUGAR OR CALORIC SWEETENER;
4. MEAL REPLACEMENT AND MEDICALLY INDICATED BEVERAGES – ANY LIQUID OR POWDER DRINK OR PRODUCT FOR ORAL NUTRITUTIONAL THERAPY FOR PERSONS WHO CANNOT ABSORB OR METABOLIZE DIETARY NUTRIENTS FROM FOOD OR BEVERAGES, OR AS A SOURCE OF NECESSARY NUTRITION USED DUE TO A MEDICAL CONDITION AND AN ORAL ELECTROLYTE

1 SOLUTION FOR INFANTS AND CHILDREN FORMULATED
2 TO PREVENT DEHYDRATION DUE TO ILLNESS;

3 5. GROUND COFFEE; AND

4 6. UNSWEETENED TEA.

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6 C. DEFINITION OF TERMS. –

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8 AS USED IN THIS ACT:

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10 1. *SWEETENED BEVERAGES* (SBs) REFER TO NON-
11 ALCOHOLIC BEVERAGES OF ANY CONSTITUTION (LIQUID,
12 POWDER, OR CONCENTRATE) THAT ARE PRE-PACKAGED
13 AND SEALED IN ACCORDANCE WITH THE FOOD AND
14 DRUG ADMINISTRATION (FDA) STANDARDS, THAT
15 CONTAIN SUGAR ADDED BY THE MANUFACTURERS, AND
16 SHALL INCLUDE THE FOLLOWING:

17 A) SWEETENED JUICE DRINKS;

18 B) SWEETENED TEA AND COFFEE;

19 C) OTHER BEVERAGES:

- 20 i. ALL CARBONATED BEVERAGES WITH ADDED
21 SUGAR, INCLUDING THOSE WITH CALORIC
22 SWEETENERS;
- 23 ii. FLAVORED WATER;
- 24 iii. ENERGY DRINKS;
- 25 iv. SPORTS DRINKS;
- 26 v. POWDERED DRINKS NOT CLASSIFIED AS
27 MILK, JUICE, TEA, AND COFFEE;
- 28 vi. CEREAL AND GRAIN BEVERAGES; AND
- 29 vii. OTHER NON-ALCOHOLIC BEVERAGES THAT
30 CONTAIN ADDED SUGAR, INCLUDING THOSE
31 WITH CALORIC SWEETENERS.
- 32

1 2. *CALORIC SWEETENER* REFERS TO ANY SUBSTANCE THAT
2 MAY INCLUDE SUCROSE, FRUCTOSE, INCLUDING HIGH
3 FRUCTOSE CORN SWEETENER, GLUCOSE, OR ANY
4 ARTIFICIAL SUGAR SUBSTITUTE.

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6 3. *ARTIFICIAL SWEETENER* REFERS TO ANY CHEMICALLY
7 PROCESSED OR ALTERED SUBSTANCE THAT IS USED IN
8 PLACE OF SWEETENERS CONTAINING SUGAR OR SUGAR
9 ALCOHOLS, AND IS ALTERNATIVELY CALLED SUGAR
10 SUBSTITUTE, NON-NUTRITIVE SWEETENER, OR NON-
11 CALORIC SWEETENER. IT PROVIDES SWEETNESS TO
12 FOODS AND DRINKS BUT ARE NON-CALORIC, INCLUDING
13 BUT NOT LIMITED TO ASPARTAME, SUCRALOSE,
14 SACCHARIN, STEVIA, ACESULFAME K, NEOTAME, MONK
15 FRUIT, AND CYCLAMATES.

16
17 “SEC. 150-B. ADMINISTRATIVE PROVISIONS ON THE
18 SWEETENER TAX. –

19
20 A. FILING OF RETURN AND PAYMENT OF EXCISE TAX AND
21 PENALTY. –

22
23 1. FILING OF RETURN AND PAYMENT OF EXCISE TAX ON
24 DOMESTIC AND IMPORTED SWEETENED BEVERAGES. –
25 THE PROVISION OF SECTIONS 130 AND 131 OF THE TAX
26 REFORM ACT OF 1997, AS APPROPRIATE, SHALL APPLY TO
27 SWEETENED BEVERAGES.

28
29 2. PENALTY. – UPON FINAL FINDINGS BY THE
30 COMMISSIONERS OF THE BUREAU OF INTERNAL
31 REVENUE AND/OR BUREAU OF CUSTOMS THAT A
32 MANUFACTURER OR IMPORTER IS IN VIOLATION OF THIS
33 SECTION, OR HAS MISDECLARED OR MISREPRESENTED

1 IN ITS SWORN STATEMENT ANY PERTINENT DATA OR
2 INFORMATION REQUIRED UPON IT TO BE SUBMITTED,
3 THE PENALTY OF SUMMARY CANCELLATION OR
4 WITHDRAWAL OF THE PERMIT TO ENGAGE IN THE
5 BUSINESS AS A MANUFACTURER OR IMPORTER OF
6 SWEETENED BEVERAGES, SHALL BE IMPOSED.

7
8 ANY CORPORATION, ASSOCIATION, PARTNERSHIP, OR
9 SOLE PROPRIETORSHIP FOUND TO HAVE COMMITTED
10 ANY ACT OR OMISSION IN VIOLATION OF THIS SECTION
11 SHALL BE LIABLE TO PAY THE FINE OF TREBLE THE
12 AMOUNT OF ITS DEFICIENCY TAXES, SURCHARGES, AND
13 INTEREST WHICH MAY BE ASSESSED PURSUANT TO THIS
14 SECTION.

15
16 ANY PERSON FOUND TO HAVE COMMITTED ANY OF THE
17 ACTS OR OMISSIONS PROHIBITED UNDER THIS SECTION
18 SHALL BE LIABLE AND PENALIZED UNDER SECTION 254
19 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997,
20 AS AMENDED. ANY PERSON WHO WILFULLY AIDS OR
21 ABETS IN THE COMMISSION OF ANY SUCH ACT OR
22 OMISSION SHALL BE LIABLE IN THE SAME MANNER AS
23 THE PRINCIPAL.

24
25 IF NOT A CITIZEN OF THE PHILIPPINES, THE OFFENDER
26 SHALL BE DEPORTED IMMEDIATELY AFTER SERVICE OF
27 SENTENCE WITHOUT FURTHER PROCEEDINGS FOR
28 DEPORTATION.

29
30 B. SPECIFIC RESPONSIBILITY OF THE FOOD AND DRUG
31 ADMINISTRATION (FDA). -
32

1 1. THE FDA SHALL REQUIRE ALL MANUFACTURERS AND
2 IMPORTERS TO STATE ON THE LABEL THAT CALORIC OR
3 NON-CALORIC SWEETENER IS ADDED TO THE
4 SWEETENED BEVERAGE. THE FDA SHALL EXAMINE THE
5 SWEETENED BEVERAGE TO DETERMINE THE CALORIC
6 AND NON-CALORIC SWEETENER CONTENT OF THE
7 SWEETENED BEVERAGE AS SPECIFIED ON THE LABEL
8 BEFORE THE PRODUCT IS SOLD IN THE MARKET. IT
9 SHALL ALSO REQUIRE ALL MANUFACTURERS AND
10 IMPORTERS OF SWEETENED BEVERAGE IN POWDER
11 FORM TO INDICATE ON THE LABEL THE EQUIVALENT OF
12 EACH SERVING (NUMBER OF SCOOPS, TEASPOONS, OR
13 TABLESPOONS) PER GRAM OF VOLUME CAPACITY.
14

15 2. THE FDA SHALL ALSO CONDUCT RANDOM INSPECTION
16 OF THE SWEETENED BEVERAGE ON DISPLAY IN
17 SUPERMARKETS, GROCERIES, RETAIL STORES, OR
18 SIMILAR ESTABLISHMENTS TO DETERMINE COMPLIANCE
19 WITH THE REQUIREMENTS OF THIS SECTION.
20

21 C. THE ANNUAL INCREMENTAL REVENUES TO BE GENERATED
22 FROM THE SWEETENER TAX IN THIS ACT SHALL BE
23 EARMARKED TO FUND A SOCIAL BENEFIT PROGRAM THAT
24 PROMOTES HEALTHY EATING AND LIFESTYLE. FOR THIS
25 PURPOSE, AN INTER-AGENCY COMMITTEE LED BY THE
26 DEPARTMENT OF FINANCE, AND COMPOSED OF THE
27 DEPARTMENT OF HEALTH, DEPARTMENT OF SOCIAL
28 WELFARE AND DEVELOPMENT, DEPARTMENT OF
29 EDUCATION, DEPARTMENT OF BUDGET AND MANAGEMENT,
30 AND THE NATIONAL ECONOMIC DEVELOPMENT AUTHORITY
31 SHALL OVERSEE THE IMPLEMENTATION OF THIS PROGRAM.
32

1 **SEC. 2. Implementing Rules and Regulations.** – Within
2 ninety (90) days from the effectiveness of this Act, the Secretary of
3 Finance shall promulgate the rules and regulations, as well as the
4 issuances, necessary to ensure the proper implementation of the
5 provisions of this Act. These implementing rules and regulations shall
6 take effect fifteen (15) days after the completion of their publication in
7 the Official Gazette or in at least two (2) newspapers of general
8 circulation.

9
10 **SEC. 3. Appropriation Clause.** – To carry out the initial
11 implementation of this Act, the amount of P128 million is hereby
12 appropriated for the FDA. Any income that may be further generated
13 by the FDA may be utilized to augment the objective of this Act.
14 Thereafter, such sums as may be necessary for its continued
15 implementation shall be included in the annual General
16 Appropriations Act next following its approval into law.

17
18 **SEC. 4. Separability Clause.** – If any provision or portion
19 of this Act is declared unconstitutional, the remainder of this Act or
20 any provision not thereby affected shall remain in full force and effect.

21
22 **SEC. 5. Repealing Clause.** – All laws, decrees, executive
23 orders, ordinances, rules, regulations, and other issuances, or parts
24 thereof, which are inconsistent with the any provision of this Act, are
25 hereby repealed, amended, and/or modified accordingly.

26
27 **SEC. 6. Effectiveness.** – This Act shall take effect fifteen
28 (15) days after completion of its publication in the Official Gazette or
29 in at least two (2) newspapers of general circulation.

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31 Approved,