



SEATTLE CITY COUNCIL

Legislative Summary

CB 118965

Record No.: CB 118965

Type: Ordinance (Ord)

Status: Passed

Version: 3

Ord. no: Ord 125324

In Control: City Clerk

File Created: 04/21/2017

Final Action: 06/06/2017

Title: AN ORDINANCE imposing a tax on engaging in the business of distributing sweetened beverages; adding a new Chapter 5.53 to the Seattle Municipal Code; and amending Seattle Municipal Code Sections 5.30.010, 5.30.025.K, 5.30.060.C, 5.55.010, 5.55.040.A, 5.55.060.A, 5.55.150.E, 5.55.165, 5.55.220, and 5.55.230.A.

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: Burgess

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments: Divided Report

Drafter: adam.schaefer@seattle.gov

Filing Requirements/Dept Action:

History of Legislative File

Legal Notice Published:

Yes

No

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Mayor	04/25/2017	Mayor's leg transmitted to Council	City Clerk			
1	City Clerk	04/25/2017	sent for review	Council President's Office			
	Action Text: The Council Bill (CB) was sent for review. to the Council President's Office						
	Notes:						
1	Council President's Office	04/27/2017	sent for review	Affordable Housing, Neighborhoods, and Finance Committee			
	Action Text: The Council Bill (CB) was sent for review. to the Affordable Housing, Neighborhoods, and Finance Committee						
	Notes:						

- 1 Full Council 05/01/2017 referred Affordable Housing, Neighborhoods, and Finance Committee
- 1 Affordable Housing, Neighborhoods, and Finance Committee 05/03/2017 discussed
Action Text: The Council Bill (CB) was discussed.
- 1 Affordable Housing, Neighborhoods, and Finance Committee 05/26/2017 discussed
Action Text: The Council Bill (CB) was discussed.
- 1 Affordable Housing, Neighborhoods, and Finance Committee 05/31/2017 pass as amended Pass
Action Text: The Committee recommends that Full Council pass the Council Bill (CB) as amended with a Divided Report.
In Favor: 5 Chair Burgess, Member Johnson, Alternate O'Brien, Bagshaw, González
Opposed: 2 Vice Chair Herbold, Sawant
- 2 Full Council 06/05/2017 passed as amended Pass
Action Text: The Motion carried, the Council Bill (CB) passed as amended by the following vote, and the President signed the Bill
Notes: ACTION 1:

Motion was made by Councilmember Herbold and duly seconded, to amend Council Bill 118965, Seattle Municipal Code Sections 5.53.020 and 5.53.030.B.2, as shown in the underlined and strike through language below:

Seattle Municipal Code Section 5.53.020

"Sweetened beverage" includes all drinks and beverages commonly referred to as soda, pop, cola, soft drinks, sports drinks, energy drinks, sweetened ice teas and coffees, and other products with added caloric sweeteners including but not limited to juice with added caloric sweetener, flavored water with added caloric sweetener, and non-alcoholic mix beverages that may or may not be mixed with alcohol or any other common names that are derivations thereof. "Sweetened beverage" does not include any of the following:

- ~~((1. Any beverage in which natural milk is the primary ingredient, in other words, the ingredient listed first in the product ingredient list; or in which water and grains, nuts, legumes, or seeds constitute the first two ingredients in the product ingredient list;))~~
- ~~((2.))~~1. Any beverage for medical use;
- ~~((3.))~~2. Any liquid sold for use as a meal replacement for weight reduction or other purposes;
- ~~((4.))~~3. Any product commonly referred to as infant formula or baby formula;
- ~~((5.))~~4. Any alcoholic beverage;
- ~~((6.))~~5. Any beverage consisting of 100 percent natural fruit or vegetable juice with no added sweetener. For the purposes of this definition

of "sweetened beverage", natural fruit juice and natural vegetable juice mean the original liquid resulting from the pressing of fruits or vegetables;

~~((7-))~~6. Any concentrate that the consumer combines with other ingredients to create a beverage;

~~((8-))~~7. Any beverage that contains fewer than 40 calories per 12-ounce serving; or

~~((9-))~~8. Sweetened medication such as cough syrup, liquid pain relievers, fever reducers, and similar products.

Seattle Municipal Code Section 5.53.030.B.2

B.

1. For sweetened beverages that the Director has certified to have been manufactured by a manufacturer with worldwide gross income of more than \$2,000,000 but less than \$5,000,000 in the prior calendar year, the tax rate shall be \$0.01 per fluid ounce of sweetened beverage the distributor distributes. In order for a sweetened beverage to be eligible for the rate under this subsection 5.53.030.B.1, the manufacturer must apply to the City for certification according to rules established by the Director.

2. For all other sweetened beverages, the tax rate shall be ~~((0.0175))~~ \$0.0125 per fluid ounce of sweetened beverages the distributor distributes.

The Motion failed by the following vote:

In favor: 2 - Herbold, Johnson

Opposed: 6 - Bagshaw, Burgess, González, Harrell, Juarez, O'Brien

ACTION 2:

Motion was made by Councilmember Harrell and duly seconded, to amend Council Bill 118965, Seattle Municipal Code Sections 5.53.020 and 5.53.080, as shown in the underlined and strike through language below:

Seattle Municipal Code 5.53.020

"Beverage dispensing machine" means a fountain drink machine, a device that combines concentrate and carbon dioxide with chilled water or other liquid, or other refrigerated beverage machine used to serve sweetened beverages.

"Hand-crafted beverage" means any non-alcoholic beverage made by hand by the retailer using a concentrate, and not dispensed by a beverage

dispensing machine.

"Sweetened beverage" includes all drinks and beverages commonly referred to as soda, pop, cola, soft drinks, sports drinks, energy drinks, sweetened ice teas and coffees, and other products with added caloric sweeteners including but not limited to juice with added caloric sweetener, flavored water with added caloric sweetener, and non-alcoholic mix beverages that may or may not be mixed with alcohol or any other common names that are derivations thereof. "Sweetened beverage" does not include any of the following:

1. Any beverage in which natural milk is the primary ingredient, in other words, the ingredient listed first in the product ingredient list; or in which water and grains, nuts, legumes, or seeds constitute the first two ingredients in the product ingredient list;
2. Any beverage for medical use;
3. Any liquid sold for use as a meal replacement for weight reduction or other purposes;
4. Any product commonly referred to as infant formula or baby formula;
5. Any alcoholic beverage;
6. Any beverage consisting of 100 percent natural fruit or vegetable juice with no added sweetener. For the purposes of this definition of "sweetened beverage", natural fruit juice and natural vegetable juice mean the original liquid resulting from the pressing of fruits or vegetables;
7. Any concentrate that the consumer combines with other ingredients to create a beverage;
8. Any hand-crafted beverage;
- ~~((8-))~~9. Any beverage that contains fewer than 40 calories per 12-ounce serving; or
- ~~((9-))~~10. Sweetened medication such as cough syrup, liquid pain relievers, fever reducers, and similar products."

Seattle Municipal Code Section 5.53.080

The Director shall adopt, publish, and enforce rules and regulations not inconsistent with this Chapter 5.53 for the purpose of carrying out the provisions of this chapter, including but not limited to rules to clarify the inclusion or exclusion of particular products, the calculation of tax for concentrates based on manufacturer's instructions or industry practice, rules to clarify the definition and exemption from the sweetened beverage tax of hand crafted beverages, rules to implement the exemption for the products of certain manufacturers under subsection 5.53.050.A, and the designation of caloric sweeteners.

The Motion failed by the following vote:
In favor: 2 - Burgess, Harrell

Opposed: 6 - Bagshaw, González, Herbold, Johnson, Juarez, O'Brien

ACTION 3:

Motion was made by Councilmember Juarez, duly seconded and carried, to amend Council Bill 118965, Section 3.B.1.a, as shown in the underlined language below:

B. The remainder of net proceeds from the beverage tax shall be used to support, in order of priority:

1. Public health, nutrition education, addressing the food security gap, and access to healthy and affordable food through programs including, but not limited to:

a. Community-based investments to expand food access, such as food banks and meal programs;

ACTION 4:

Motion was made by Councilmember O'Brien, duly seconded and carried, to amend Council Bill 118965, Section 3.B.1, as shown in the underlined language below:

B. The remainder of net proceeds from the beverage tax shall be used to support, in order of priority:

1. Expanding access to healthy and affordable food, closing the food security gap, and promoting healthy food choices, through programs ((Public health, nutrition education, addressing the food security gap, and access to healthy and affordable food through programs)) including, but not limited to:

a. Community-based investments to expand food access;

b. Fresh Bucks and Fresh Bucks to Go;

c. Implementation of the Seattle Food Action Plan;

d. Public health and nutrition programs targeted to assist persons experiencing diabetes and obesity;

e. Public awareness campaigns to highlight the impact of sugar-sweetened beverages on health outcomes and increase education about healthy food and beverages; and

f. Capital investments to promote healthy choices, such as water bottle filling stations in schools and community centers.

ACTION 5:

Motion was made by Councilmember O'Brien, duly seconded and carried, to amend Council Bill 118965, Section 5.B, as shown in the underlined

language below:

B. The City Auditor shall contract with academic researchers to complete an annual evaluation of the effects of the tax. In contracting with academic researchers, the City Auditor should consider researchers with a proven track record of rigorous policy evaluation for impacts on behavior, health, and economic outcomes. A minimum of \$500,000 per year for at least the first five years, beginning with the date of adoption of this ordinance, shall be dedicated to this evaluation. The evaluation shall assess, but not be limited to, the impact of the tax on 1) economic outcomes (such as household food expenditures, beverage prices and sales, jobs, and store revenues) and 2) health behaviors (such as dietary purchases and consumption), 3) intermediate health outcomes, and 4) identification and assessment of food deserts in the city, and 5) the effectiveness and efficiency of the foodbank network in the city. The evaluation shall also assess, but not be limited to, the process of implementing the tax, including perceptions of city residents and specifically low income households, food retailers, tax administrators, and city officials. The evaluator will collaborate with the Sweetened Beverage Tax Community Advisory Board to develop the evaluation. The evaluation will rely on data collected specifically for the purposes of the evaluation from populations in Seattle as well as outside Seattle to enable a rigorous comparison of trends in behavior, health, and economic outcomes as a result of this ordinance.

ACTION 6:

Motion was made by Councilmember Burgess, duly seconded and carried, to amend Council Bill 118965, Seattle Municipal Code Section 5.53.030.A.2, as shown in the underlined language below:

Seattle Municipal Code 5.53.030.A.2

A. There is imposed a privilege tax on every person engaging within the City in business as a distributor of sweetened beverages.

1. The amount of tax due shall be equal to the volume of sweetened beverages the distributor distributes in the City, multiplied by the applicable tax rate prescribed in subsection 5.53.030.B.

2. For sweetened beverages that are concentrates, the tax shall be calculated using the largest volume of beverage that would typically be produced by the amount of concentrate distributed based on the manufacturer's instructions or industry practice. Where a product is produced from more than one concentrate, the rate on each component shall be calculated proportionately, so that the combined tax on the total yields \$0.0175 per fluid ounce on resulting beverage.

ACTION 7:

Motion was made and duly seconded to pass Council Bill 118965 as

amended.

In Favor: 7 Councilmember Bagshaw, Councilmember Burgess, Councilmember
González, Council President Harrell, Councilmember Johnson,
Councilmember Juarez, Councilmember O'Brien
Opposed: 1 Councilmember Herbold

- 3 City Clerk 06/06/2017 submitted for Mayor
Mayor's signature
Action Text: The Council Bill (CB) was submitted for Mayor's signature. to the Mayor
Notes:
- 3 Mayor 06/06/2017 Signed
Action Text: The Council Bill (CB) was Signed.
Notes:
- 3 Mayor 06/06/2017 returned City Clerk
Action Text: The Council Bill (CB) was returned. to the City Clerk
Notes:
- 3 City Clerk 06/06/2017 attested by City
Clerk
Action Text: The Ordinance (Ord) was attested by City Clerk.
Notes:
-

Text of Legislative File CB 118965

CITY OF SEATTLE

ORDINANCE 125324

COUNCIL BILL 118965

AN ORDINANCE imposing a tax on engaging in the business of distributing sweetened beverages; adding a new Chapter 5.53 to the Seattle Municipal Code; and amending Seattle Municipal Code Sections 5.30.010, 5.30.025.K, 5.30.060.C, 5.55.010, 5.55.040.A, 5.55.060.A, 5.55.150.E, 5.55.165, 5.55.220, and 5.55.230.A.

WHEREAS, in King County, an estimated 271,380 people, or ten percent of households, cannot afford enough healthy food for their families, and nearly half of these households are not eligible for Supplemental Nutrition Assistance Program (SNAP) benefits, commonly referred to as “food stamps”; and

WHEREAS, the “food security gap” affects many people who are not eligible for SNAP benefits but struggle to afford healthy food, particularly as the cost of living in Seattle continues to increase; and

WHEREAS, The City of Seattle’s *Equity and Environment Agenda* identifies addressing the lack of access to healthy, affordable food as a major priority for communities in Seattle; and

WHEREAS, the Fresh Bucks program created by The City of Seattle has a mission to support consumption of more fruits and vegetables by low-income recipients of SNAP benefits, a program currently supported by expiring federal grants; and

WHEREAS, Seattle has the opportunity to build on successful programs to expand access to healthy foods to low-income residents ineligible for SNAP; and

WHEREAS, according to a 2017 working paper from the Hutchins Center on Fiscal & Monetary Policy at the Brookings Institution, children from birth to age five whose mothers received subsidies for nutritious food had better health and economic outcomes as adults, including lower incidence of metabolic syndromes; and

1 WHEREAS, according to “Early Childhood Experiences Shape Health and Well-Being
2 Throughout Life,” a 2014 issue brief from the Robert Wood Johnson Foundation,
3 participants receiving early childhood interventions not only have increased social,
4 emotional, and cognitive development, but also lower risks for heart disease and diabetes
5 in adulthood; and

6 WHEREAS, diabetes, obesity, and tooth decay have been on the rise for decades, and children,
7 low income communities, and communities of color continue to be disproportionately
8 affected; and

9 WHEREAS, sweetened beverages such as soft drinks, energy drinks, sweetened teas, and sports
10 drinks offer little or no nutritional value; and

11 WHEREAS, according to a 2013 report in the American Journal of Public Health, in the past
12 decade alone, per capita intake of calories derived from sweetened beverages has
13 increased by approximately 30 percent; and

14 WHEREAS, high levels of sweetened beverage consumption have had tragic impacts on
15 community health, including the rise of type 2 diabetes and the doubling of obesity rates
16 among children in the past 30 years; and

17 WHEREAS, despite significant efforts to provide an equitable education system, there persists
18 an opportunity gap between white students and students of color, with Seattle Public
19 Schools students of color meeting third grade reading standards at a rate 31 percent lower
20 than white students; and

21 WHEREAS, the City desires to impose a tax on the business of distributing sweetened beverages
22 to raise revenue to fund services that will promote healthy food choices, expand access to
23 healthy and affordable food, reduce disparities in social, developmental, and education

1 readiness and learning for children, assist high school graduates to enter college, and
2 expand services for the birth-to-five population and their families; NOW, THEREFORE,

3 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

4 Section 1. The City finds and declares that the expansion of access to healthy and
5 affordable food, closing the food security gap, promoting healthy nutrition choices, reducing
6 disparities in social, developmental, and educational readiness and learning for children, assisting
7 high school graduates to enter college, and expanding services for the birth-to-five population
8 and their families are of the utmost importance to creating a thriving and livable city for all of the
9 people of Seattle. Therefore, through this ordinance, the City intends to exercise its taxing
10 authority, as granted by the Washington State Constitution and as authorized by the Washington
11 State Legislature, to raise general revenue for the City and to use that revenue to provide broad-
12 based public benefits for residents by funding programs that achieve these purposes.

13 Section 2. A new Chapter 5.53 is added to the Seattle Municipal Code as follows:

14 **Chapter 5.53 SWEETENED BEVERAGE TAX**

15 **5.53.010 Administrative provisions**

16 The provisions contained in Chapter 5.55 shall have full force and application with respect to
17 taxes imposed under the provisions of this Chapter 5.53 except as may be expressly stated to the
18 contrary herein.

19 **5.53.020 Definitions**

20 The definitions contained in Chapter 5.30 shall be fully applicable to this Chapter 5.53 except as
21 may be expressly stated to the contrary herein. The following additional definitions shall apply
22 throughout this Chapter 5.53:

1 “Beverage for medical use” means a beverage suitable for human consumption and
2 manufactured for uses as a:

3 1. Oral nutritional therapy for persons who cannot absorb or metabolize caloric or
4 dietary nutrients from usual food or beverages; or

5 2. Oral rehydration electrolyte solution formulated to prevent or treat dehydration
6 due to illness; or

7 3. Any beverage that meets the statutory definition of “medical food” under the
8 Orphan Drug Act of 1983, 21 U.S.C. 360ee(b)(3), as amended.

9 “Beverage for medical use” shall not include drinks commonly referred to as “sports
10 drinks” or any other common names that are derivations thereof.

11 “Bottled sweetened beverage” means any sweetened beverage contained in a bottle or
12 any other closed container that is ready for consumption without further processing such as,
13 without limitation, dilution, or carbonation.

14 “Caloric sweetener” means any substance or combination of substances that contains
15 calories, is suitable for human consumption, and that humans perceive as sweet. Caloric
16 sweeteners include, but are not limited to, sugar, sucrose, dextrose, fructose, glucose, and other
17 monosaccharides and disaccharides; corn syrup or high fructose corn syrup; honey; and any
18 other such substance designated by the Director.

19 “Concentrate” means a syrup, powder, frozen or gel mixture, or other product containing
20 one or more sweeteners as an ingredient, intended to be used in making, mixing, or compounding
21 a sweetened beverage by combining the concentrate with one or more other ingredients.

22 “Consumer” means a natural person who purchases a sweetened beverage product in the
23 City for a purpose other than resale in the ordinary course of business and for sale to another.

1 “Distribute” and “distribution” mean the transfer of ownership of, title to, or possession
2 of products, where the recipient of the transfer offers the products for retail sale and the transfer
3 is (1) from one person to another for consideration or (2) within a single non-natural person, such
4 as from a wholesale or warehousing unit of a business to a retail outlet of the same business or
5 between two or more employees or contractors of the same business. “Distribute” and
6 “distribution” shall not mean the retail sale to a consumer. A distribution takes place where
7 delivery to the recipient occurs.

8 “Distributor” means any person that distributes sweetened beverages in the City,
9 regardless of whether the person also offers sweetened beverages for retail sale.

10 “Milk” means natural fluid milk, regardless of animal sources or butterfat content; natural
11 milk concentrate, whether or not reconstituted, regardless of animal source or butterfat content;
12 or dehydrated natural milk, whether or not reconstituted and regardless of animal source or
13 butterfat content; and plant-based milk substitutes that are marketed as milk, such as but not
14 limited to, soy milk, coconut milk, rice milk, and almond milk.

15 “Natural or common sweetener” means: granulated white sugar, brown sugar, honey,
16 molasses, xylem sap of maple trees, or agave nectar.

17 “Nonalcoholic beverage” means a beverage suitable for human consumption and that is
18 not liquor as defined in RCW 66.04.010.

19 “Sweetened beverage” means any beverage intended for human consumption which
20 contains one or more caloric sweeteners, whether in bottles, prepared from concentrates, served
21 as a fountain beverage, or in any other form.

22 “Sweetened beverage” includes all drinks and beverages commonly referred to as soda, pop,
23 cola, soft drinks, sports drinks, energy drinks, sweetened ice teas and coffees, and other products
24 with added caloric sweeteners including but not limited to juice with added caloric sweetener,

1 flavored water with added caloric sweetener, and non-alcoholic mix beverages that may or may not
2 be mixed with alcohol or any other common names that are derivations thereof. “Sweetened
3 beverage” does not include any of the following:

4 1. Any beverage in which natural milk is the primary ingredient, in other words,
5 the ingredient listed first in the product ingredient list; or in which water and grains, nuts,
6 legumes, or seeds constitute the first two ingredients in the product ingredient list;

7 2. Any beverage for medical use;

8 3. Any liquid sold for use as a meal replacement for weight reduction or other
9 purposes;

10 4. Any product commonly referred to as infant formula or baby formula;

11 5. Any alcoholic beverage;

12 6. Any beverage consisting of 100 percent natural fruit or vegetable juice with no
13 added sweetener. For the purposes of this definition of “sweetened beverage”, natural fruit juice
14 and natural vegetable juice mean the original liquid resulting from the pressing of fruits or
15 vegetables;

16 7. Any concentrate that the consumer combines with other ingredients to create a
17 beverage;

18 8. Any beverage that contains fewer than 40 calories per 12-ounce serving; or

19 9. Sweetened medication such as cough syrup, liquid pain relievers, fever
20 reducers, and similar products.

21 **5.53.030 Tax imposed; rates**

22 A. There is imposed a privilege tax on every person engaging within the City in business
23 as a distributor of sweetened beverages.

1 1. The amount of tax due shall be equal to the volume of sweetened beverages the
2 distributor distributes in the City, multiplied by the applicable tax rate prescribed in subsection
3 5.53.030.B.

4 2. For sweetened beverages that are concentrates, the tax shall be calculated using
5 the largest volume of beverage that would typically be produced by the amount of concentrate
6 distributed based on the manufacturer's instructions or industry practice. Where a product is
7 produced from more than one concentrate, the rate on each component shall be calculated
8 proportionately, so that the combined tax on the total yields \$0.0175 per fluid ounce of resulting
9 beverage.

10 B. 1. For sweetened beverages that the Director has certified to have been
11 manufactured by a manufacturer with worldwide gross income of more than \$2,000,000 but less
12 than \$5,000,000 in the prior calendar year, the tax rate shall be \$0.01 per fluid ounce of
13 sweetened beverage the distributor distributes. In order for a sweetened beverage to be eligible
14 for the rate under this subsection 5.53.030.B.1, the manufacturer must apply to the City for
15 certification according to rules established by the Director.

16 2. For all other sweetened beverages, the tax rate shall be \$0.0175 per fluid ounce
17 of sweetened beverages the distributor distributes.

18 **5.53.040 Sweetened beverage tax—When due**

19 The tax imposed by this Chapter 5.53 shall be due and payable in accordance with Section
20 5.55.040. Taxpayers filing their Chapter 5.45 business license tax on a quarterly basis shall file
21 the sweetened beverage tax on a quarterly basis, and taxpayers filing their business license tax on
22 an annual basis shall file the sweetened beverage tax on an annual basis, on forms prescribed by

1 the Director. Persons discontinuing their business activities in Seattle shall report and pay the
2 sweetened beverage tax at the same time as they file their final business license tax return.

3 **5.53.050 Sweetened beverage tax—Exemptions**

4 A. A distributor may deduct from the amount of sweetened beverages used to calculate
5 the tax owed under Section 5.53.030 all sweetened beverages that the Director has certified have
6 been manufactured by a manufacturer with worldwide gross income of \$2,000,000 per year or
7 less. In order for a sweetened beverage to be eligible for the deduction under this subsection
8 5.53.050.A, the manufacturer must apply to the City for certification according to rules
9 established by the Director.

10 B. The direct retail sale of sweetened beverages by a manufacturer to a consumer without
11 the involvement of a third party to transport or distribute the beverages shall not constitute
12 “distribution” and the tax under Section 5.53.030 shall not apply to sweetened beverages
13 transferred in this manner.

14 C. If a person who is a member of a consolidated group, as defined by the Internal
15 Revenue Code, pays the tax imposed by Section 5.53.030 on a distribution of sweetened
16 beverages, then subsequent transfers of those sweetened beverages from that person to members
17 of the consolidated group are not subject to the tax imposed by Section 5.53.030.

18 D. Persons that are exempt from taxation by Washington cities pursuant to federal or
19 state statutes or regulations are exempt from the tax imposed by this Chapter 5.53.

20 **5.53.060 General excise tax in addition to other license fees and taxes**

21 A. The tax imposed by Section 5.53.030 is a general excise tax on the privilege of
22 conducting certain business within the City. It is not a sales tax or use tax or other excise tax on
23 the sale, consumption, use, or gross receipts of sweetened beverages.

1 B. The tax imposed by Section 5.53.030 shall be in addition to any license fee or tax
2 imposed or levied under any other law, statute, or ordinance whether imposed or levied by the
3 City, state, or other governmental entity or political subdivision.

4 **5.53.070 Sweetened beverage tax—Constitutional limitation**

5 Notwithstanding anything to the contrary in this Chapter 5.53, if imposition of the City’s tax
6 would place an undue burden upon interstate commerce or violate constitutional requirements, a
7 taxpayer shall be allowed a credit to the extent necessary to preserve the validity of the City’s
8 tax, and still apply the City tax to as much of the taxpayer’s activities as may be subject to the
9 City’s taxing authority.

10 **5.53.080 Rules and regulations**

11 The Director shall adopt, publish, and enforce rules and regulations not inconsistent with this
12 Chapter 5.53 for the purpose of carrying out the provisions of this Chapter 5.53, including but
13 not limited to rules to clarify the inclusion or exclusion of particular products, the calculation of
14 tax for concentrates based on manufacturer’s instructions or industry practice, rules to implement
15 the exemption for the products of certain manufacturers under subsection 5.53.050.A, rules to
16 implement the tax rates provided under subsection 5.53.030.B, and the designation of caloric
17 sweeteners.

18 Section 3. Services funded by the proceeds of the beverage tax are intended to expand
19 access to healthy and affordable food, close the food security gap, promote healthy nutrition
20 choices, reduce disparities in social, developmental, and education readiness and learning for
21 children, assist high school graduates enter college, and expand services for the birth-to-five
22 population and their families.

1 A. For the first five years that the tax is collected, 20 percent of the net proceeds shall be
2 used to fund one-time expenditures to administer the tax, in support of education, and for
3 training programs. Eligible expenditures include, in order of priority:

- 4 1. One-time costs necessary to enable the administration of the tax;
- 5 2. Up to \$5,000,000 in total as a contribution to an endowment for the Seattle
6 Colleges 13th Year Promise Scholarship program;
- 7 3. Up to \$1,500,000 in total as funding for job retraining and placement programs
8 for workers adversely impacted by the tax; and
- 9 4. Funding for capital projects to construct or enhance classroom facilities for use
10 by the Seattle Preschool Program.

11 Beginning in the sixth year of collections, the 20 percent set aside under this subsection A
12 shall cease and all net proceeds from the tax collected shall be for programs defined in
13 subsection B of this section.

14 B. The remainder of net proceeds from the beverage tax shall be used to support, in order
15 of priority:

- 16 1. Expanding access to healthy and affordable food, closing the food security gap,
17 and promoting health food choices through programs including, but not limited to:
 - 18 a. Community-based investments to expand food access, such as food
19 banks and meal programs;
 - 20 b. Fresh Bucks and Fresh Bucks to Go;
 - 21 c. Implementation of the Seattle Food Action Plan;
 - 22 d. Public health and nutrition programs targeted to assist persons
23 experiencing diabetes and obesity;

1 e. Public awareness campaigns to highlight the impact of sugar-sweetened
2 beverages on health outcomes and increase education about healthy food and beverages; and

3 f. Capital investments to promote healthy choices, such as water bottle
4 filling stations in schools and community centers.

5 2. Evidence-based programs that improve the social, emotional, educational,
6 physical health, and mental health for children, especially those services that seek to reduce the
7 disparities in outcomes for children and families based on race, gender, or other socioeconomic
8 factors and to prepare children for a strong and fair start in kindergarten.

9 3. Administration of assessing and collecting the tax.

10 4. Ensuring resources for the Office of Sustainability and the Environment and the
11 Sweetened Beverage Tax Community Advisory Board.

12 5. The cost of program evaluations conducted by the Office of the City Auditor
13 under subsection 5.B of this ordinance, including costs borne by other City departments in
14 facilitating such evaluations.

15 In the annual City budget or by separate ordinance, the City's legislative authority shall
16 from year to year determine the services and funding allocations that will most effectively
17 achieve the goals and outcomes in accordance with chapter 35.32A RCW.

18 Section 4. Sweetened Beverage Tax Community Advisory Board. There is hereby
19 established a Sweetened Beverage Tax Community Advisory Board that shall advise and make
20 recommendations to the Mayor and City Council. The Board shall make recommendations on
21 how and to what extent the Mayor and City Council should establish and/or fund programs and
22 activities consistent with the intent of this ordinance that benefit Seattle's populations who
23 experience the greatest education and health inequities. The Board shall make recommendations

1 to the Mayor and City Council on elements of an evaluation of the effectiveness of the Tax,
2 including impacts on sweetened beverage sales and consumption, public attitudes towards
3 sweetened beverage consumption, and job and economic indicators and of the process of
4 implementing the tax. The Office of Sustainability and the Environment shall provide
5 administrative support for the Board.

6 A. The Board shall consist of no less than 11 members who are residents of the City of
7 Seattle or work within the boundaries of the City of Seattle. Six members of the Board shall be
8 appointed by the Mayor and confirmed by the City Council and five members shall be appointed
9 by the City Council. The 11 members shall meet the following criteria:

10 1. Three members shall have experience implementing community-based
11 programs dedicated to expanding healthy food access and food security;

12 2. Two members shall be individuals representative of the populations who are
13 disproportionately impacted by diseases related to the consumption of sugary drinks, with
14 preference given to a parent of a student in the Seattle School District or a child in a Seattle-
15 based early learning program, or a youth representative aged 16-24;

16 3. Four members shall be individuals with expertise in public health and nutrition
17 with experience managing, researching, or evaluating programs related to the health effects from
18 consuming sugary beverages, particularly among children and their families;

19 4. Two members shall be individuals with expertise in education and early
20 learning, with an emphasis on learning from birth to age five; and

21 5. Employees of the City shall be ineligible to be members of the Board.

1 B. Members of the Board shall be appointed to four year terms, except that two members
2 under subsection A.1 of this section, two members under subsection A.2 of this section, and one
3 member under subsection A.3 of this section shall be initially appointed for terms of two years.

4 C. No member of the Board shall be appointed to more than two four-year terms. For
5 purposes of calculating whether a term has been served, serving more than two years of a four-
6 year term shall count as serving a term.

7 D. Any vacancy in an unexpired term shall be filled in the same manner as the original
8 appointment. A member whose term is ending may continue on an interim basis as a member
9 with voting rights until such time as a successor for that position has been confirmed by the City
10 Council.

11 E. Members of the Board shall serve without pay.

12 F. The Board shall meet at least four times per year.

13 G. The Board shall publish an annual report to the Seattle City Council, the Mayor, and
14 the Director with the assistance of appropriate City departments, which includes the following:

15 1. Recommendations on how best to allocate the revenues raised by the sweetened
16 beverage tax;

17 2. A summary of the programs funded to date and their progress to date;

18 3. A summary of tax implementation efforts and any completed studies evaluating
19 the implementation of the tax;

20 4. A summary of any completed studies on the impact of the tax on beverage
21 prices, consumer purchasing behavior, sweetened beverage sales, related health outcomes, and
22 economic impacts, including impacts on employment and retail revenues; and

23 5. Any additional information that the Board deems appropriate for inclusion.

1 H. Within 15 days of receipt of the publication of the Board's annual report, the Director
2 shall cause the report to be published on the City's website and be transmitted to the City
3 Council.

4 Section 5. Reporting

5 A. The Directors of the Human Services Department, the Office of Sustainability and
6 Environment, the Department of Education and Early Learning, and Public Health - Seattle and
7 King County, or successor departments, will prepare and submit to the Community Advisory
8 Board, City Council, Mayor, and residents of Seattle annual progress reports on the
9 implementation of the services funded by the beverage tax.

10 B. The City Auditor shall contract with academic researchers to complete an annual
11 evaluation of the effects of the tax. In contracting with academic researchers, the City Auditor
12 should consider researchers with a proven track record of rigorous policy evaluation for impacts
13 on behavior, health, and economic outcomes. A minimum of \$500,000 per year for at least the
14 first five years, beginning with the date of adoption of this ordinance, shall be dedicated to this
15 evaluation. The evaluation shall assess, but not be limited to, the impact of the tax on 1)
16 economic outcomes (such as household food expenditures, beverage prices and sales, jobs, and
17 store revenues) and 2) health behaviors (such as dietary purchases and consumption), 3)
18 intermediate health outcomes, and 4) identification and assessment of food deserts in the city,
19 and 5) the effectiveness and efficiency of the foodbank network in the city. The evaluation shall
20 also assess, but not be limited to, the process of implementing the tax, including perceptions of
21 city residents and specifically low income households, food retailers, tax administrators, and city
22 officials. The evaluator will collaborate with the Sweetened Beverage Tax Community Advisory
23 Board to develop the evaluation. The evaluation will rely on data collected specifically for the

1 purposes of the evaluation from populations in Seattle as well as outside Seattle to enable a
2 rigorous comparison of trends in behavior, health, and economic outcomes as a result of this
3 ordinance.

4 Section 6. Section 5.30.010 of the Seattle Municipal Code, last amended by Ordinance
5 124833, is amended as follows:

6 **5.30.010 Definition provisions**

7 The definitions contained in this Chapter 5.30 shall apply to the following chapters of the Seattle
8 Municipal Code: Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Tax), 5.40
9 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage Tax), 5.48 (Business
10 Tax—Utilities), 5.50 (Firearms and Ammunition Tax), 5.52 (Gambling Tax), 5.53 (Sweetened
11 Beverage Tax), and 5.55 (General Administrative Provisions) unless expressly provided for
12 otherwise therein, and shall also apply to other chapters and sections of the Seattle Municipal
13 Code in the manner and to the extent expressly indicated in each chapter or section. Words in the
14 singular number shall include the plural and the plural shall include the singular. Words in one
15 gender shall include the other genders.

16 Section 7. Subsection 5.30.025.K of the Seattle Municipal Code, which section was last
17 amended by Ordinance 125211, is amended as follows:

18 **5.30.025 Definitions, C—D**

19 * * *

20 K. “Delivery” means the transfer of possession of tangible personal property between the
21 seller and the buyer or the buyer’s representative. Delivery to an employee of a buyer is
22 considered delivery to the buyer. Transfer of possession of tangible personal property occurs
23 when the buyer or the buyer’s representative first takes physical control of the property or

1 exercises dominion and control over the property. Dominion and control means the buyer has the
2 ability to put the property to the buyer's own purposes. It means the buyer or the buyer's
3 representative has made the final decision to accept or reject the property, and the seller has no
4 further right to possession of the property and the buyer has no right to return the property to the
5 seller, other than under a warranty contract. A buyer does not exercise dominion and control over
6 tangible personal property merely by arranging for shipment of the property from the seller to
7 itself. A buyer's representative is a person, other than an employee of the buyer, who is
8 authorized in writing by the buyer to receive tangible personal property and take dominion and
9 control by making the final decision to accept or reject the property. Neither a shipping company
10 nor a seller can serve as a buyer's representative. It is immaterial where the contract of sale is
11 negotiated or where the buyer obtains title to the property. Delivery terms and other provisions of
12 the Uniform Commercial Code (Title 62A RCW) do not determine when or where delivery of
13 tangible personal property occurs for purposes of Seattle's business license tax or Seattle's
14 sweetened beverage tax. For purposes of Chapter 5.53, the term "seller" as used in this
15 subsection 5.30.025.K shall include any distributor and the term "buyer" as used in this
16 subsection 5.30.025.K shall include any recipient who offers the delivered products for retail
17 sale.

18 * * *

19 Section 8. Subsection 5.30.060.C of the Seattle Municipal Code, which section was last
20 amended by Ordinance 125083, is amended as follows:

21 **5.30.060 Definitions, T—Z**

22 * * *

1 C. "Taxpayer" means any "person," as herein defined, required by Chapter 5.55 to have a
2 business license tax certificate, or liable for any license, tax, or fee, or for the collection of any
3 tax or fee, under Chapters 5.32 (Revenue Code), 5.35 (Commercial Parking Tax), 5.40
4 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage Tax), 5.48 (Business
5 Tax—Utilities), 5.50 (Firearms and Ammunition Tax), (~~and~~) 5.52 (Gambling Tax), and 5.53
6 (Sweetened Beverage Tax), or who engages in any business or who performs any act for which a
7 tax or fee is imposed under those chapters.

8 * * *

9 Section 9. Section 5.55.010 of the Seattle Municipal Code, last amended by Ordinance
10 124833, is amended as follows:

11 **5.55.010 Application of chapter stated**

12 Unless expressly stated to the contrary in each chapter, the provisions of this Chapter 5.55 shall
13 apply with respect to the licenses and taxes imposed under this Chapter 5.55 and Chapters 5.32
14 (Amusement Devices), 5.35 (Commercial Parking Tax), 5.37 (Employee Hours Taxes), 5.40
15 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage Tax), 5.48 (Business
16 Tax—Utilities), 5.50 (Firearms and Ammunition Tax), (~~and~~) 5.52 (Gambling Tax), 5.53
17 (Sweetened Beverage Tax), and under other titles, chapters and sections in such manner and to
18 such extent as indicated in each such title, chapter, or section.

19 Section 10. Subsection 5.55.040.A of the Seattle Municipal Code, which section was last
20 amended by Ordinance 124833, is amended as follows:

1 **5.55.040 When due and payable—Reporting periods—Monthly, quarterly, and annual**
2 **returns—Threshold provisions—Computing time periods—Failure to file returns**

3 A. Other than any annual license fee or registration fee assessed under this Chapter 5.55,
4 the tax imposed by Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Tax), 5.40
5 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage Tax), 5.48 (Business
6 Tax—Utilities), 5.50 (Firearms and Ammunition Tax), ~~((and))~~ 5.52 (Gambling Tax), and 5.53
7 (Sweetened Beverage Tax) shall be due and payable in quarterly installments. The Director may
8 use discretion to assign businesses to a monthly or annual reporting period depending on the tax
9 amount owing or type of tax. Taxes imposed by subsections 5.52.030.A.2 and 5.52.030.B.2 for
10 punchboards and pulltabs shall be due and payable in monthly installments. Tax returns and
11 payments are due on or before the last day of the next month following the end of the assigned
12 reporting period covered by the return.

13 * * *

14 Section 11. Subsection 5.55.060.A of the Seattle Municipal Code, which section was last
15 amended by Ordinance 124833, is amended as follows:

16 **5.55.060 Records to be preserved—Examination—Inspection—Search warrants—Estoppel**
17 **to question assessment**

18 A. Every person liable for any fee or tax imposed by this Chapter 5.55 and Chapters 5.32,
19 5.35, 5.40, 5.45, 5.46, 5.48, 5.50, ~~((and))~~ 5.52, and 5.53 shall keep and preserve, for a period of
20 five years after filing a tax return, such records as may be necessary to determine the amount of
21 any fee or tax for which the person may be liable; which records shall include copies of all
22 federal income tax and state tax returns and reports made by the person. All books, records,
23 papers, invoices, ticket stubs, vendor lists, gambling games, and payout information, inventories,

1 stocks of merchandise, and other data, including federal income tax and state tax returns, and
2 reports needed to determine the accuracy of any taxes due, shall be open for inspection or
3 examination at any time by the Director or a duly authorized agent. Every person's business
4 premises shall be open for inspection or examination by the Director or a duly authorized agent.
5 For the purposes of this Section 5.55.060, for the tax imposed by Chapter 5.53, "business
6 premises" means wherever the person's business records and tax documents are maintained and
7 does not mean every site owned or operated by the person.

8 * * *

9 Section 12. Subsection 5.55.150.E of the Seattle Municipal Code, which section was last
10 amended by Ordinance 124833, is amended as follows:

11 **5.55.150 Appeal to the Hearing Examiner**

12 * * *

13 E. The Hearing Examiner shall ascertain the correct amount of the tax, fee, interest, or
14 penalty due either by affirming, reversing, or modifying an action of the Director. Reversal or
15 modification is proper if the Director's assessment or refund denial violates the terms of this
16 Chapter 5.55, or Chapters 5.30, 5.32, 5.35, 5.37, 5.40, 5.45, 5.46, 5.48, 5.50, ~~((or))~~ 5.52, or 5.53.

17 Section 13. Section 5.55.165 of the Seattle Municipal Code, last amended by Ordinance
18 124833, is amended as follows:

19 **5.55.165 Director of Finance and Administrative Services to make rules**

20 The Director of Finance and Administrative Services shall have the power and it shall be the
21 Director's duty, from time to time, to adopt, publish, and enforce rules and regulations not
22 inconsistent with this Chapter 5.55, Chapters 5.30, 5.32, 5.35, 5.40, 5.45, 5.46, 5.48, 5.50, ~~((or))~~

1 5.52, or 5.53, or with law for the purpose of carrying out the provisions of such chapters, and it
2 shall be unlawful to violate or fail to comply with ((5)) any such rule or regulation.

3 Section 14. Subsections 5.55.220.A and 5.55.220.B of the Seattle Municipal Code, which
4 section was last amended by Ordinance 124833, are amended as follows:

5 **5.55.220 Unlawful actions—Violation—Penalties**

6 A. It shall be unlawful for any person subject to the provisions of this Chapter 5.55 or
7 Chapters 5.32, 5.35, 5.40, 5.45, 5.46, ((5.45,)) 5.48, 5.50, ((and)) 5.52, and 5.53:

8 1. To violate or fail to comply with any of the provisions of this Chapter 5.55, or
9 Chapters 5.32, 5.35, 5.40, 5.45, 5.46, 5.48, 5.50, ((and)) 5.52, and 5.53, or any lawful rule or
10 regulation adopted by the Director;

11 2. To make or manufacture any license required by this Chapter 5.55 except upon
12 authority of the Director;

13 3. To make any false statement on any license, application, or tax return;

14 4. To aid or abet any person in any attempt to evade payment of a license fee or
15 tax;

16 5. To refuse admission to the Director to inspect the premises and/or records as
17 required by this Chapter 5.55, or to otherwise interfere with the Director in the performance of
18 duties imposed by Chapters 5.32, 5.35, 5.40, 5.45, 5.46, 5.48, 5.50, ((and)) 5.52, and 5.53;

19 6. To fail to appear or testify in response to a subpoena issued pursuant to Section
20 3.02.120 in any proceeding to determine compliance with this Chapter 5.55 and Chapters 5.32,
21 5.35, 5.40, 5.45, 5.46, 5.48, 5.50, ((and)) 5.52, and 5.53;

22 7. To testify falsely in any investigation, audit, or proceeding conducted pursuant
23 to this Chapter 5.55;

1 The Director may deny, revoke, or refuse to renew any business license tax certificate or other
2 license issued under this (~~chapter~~) Chapter 5.55 on one or more of the following grounds:

3 1. The license was procured by fraud or false representation of fact.

4 2. The licensee has failed to comply with any provisions of this Chapter 5.55.

5 3. The licensee has failed to comply with any provisions of Chapters 5.32, 5.35,
6 5.40, 5.45, 5.46, 5.48, 5.50, (~~or~~) 5.52, or 5.53.

7 4. The licensee is in default in any payment of any license fee or tax under Title 5
8 or Title 6.

9 * * *

10 Section 16. If any part, provision, or section of this ordinance is held to be void or
11 unconstitutional, all other parts, provisions, and sections of this ordinance not expressly so held
12 to be void or unconstitutional shall continue in full force and effect.


13 Section 17. The tax imposed by Chapter 5.53 of the Seattle Municipal Code shall be
14 assessed on every person engaging within the City in the business of distributing sweetened
15 beverages beginning:

16 A. January 1, 2018, if there is no election on a referendum on this ordinance pursuant to
17 Seattle City Charter Article IV; or


18 B. April 1, 2018, if, pursuant to Seattle City Charter Article IV, there is an election on a
19 referendum on this ordinance.
20

1 Section 18. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

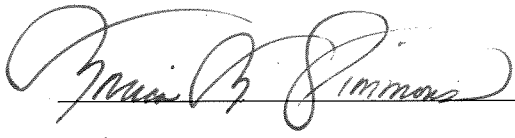
4 Passed by the City Council the 5th day of June, 2017,
5 and signed by me in open session in authentication of its passage this 5th day of
6 June, 2017.

7 
8 President _____ of the City Council

9 Approved by me this 6th day of June, 2017.

10 
11 Edward B. Murray, Mayor

12 Filed by me this 6th day of June, 2017.

13 
14 Monica Martinez Simmons, City Clerk

15 (Seal)