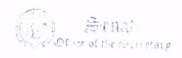
# SEVENTEENTH CONGRESS OF THE ) REPUBLIC OF THE PHILIPPINES ) Second Regular Session



17 SEP 14 P1:41

**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. 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

<sup>&</sup>lt;sup>1</sup> 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.

<sup>&</sup>lt;sup>2</sup> 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.

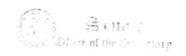
Taxing sweetened beverages based on their sugar content is aimed at influencing consumers to choose healthier options and lifestyles. The World Health Organization itself recommends that adults and children reduce their daily intake of free sugars to less than 10% of their total energy intake, and a further reduction to below 5% or roughly 25 grams (6 teaspoons) per day provides additional health benefits.<sup>3</sup> 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.

SHERWIN GATCHALIAN

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

# SEVENTEENTH CONGRESS OF THE ) REPUBLIC OF THE PHILIPPINES ) Second Regular Session )



17 SEP 14 P1:41

SENATE

s.в. No. <u>158</u>8



## 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

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

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

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"SEC. 150-A. SWEETENER TAX. -

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

2 B. EXCLUSIONS. - EXCLUDED FROM THE SCOPE OF THIS ACT 3 ARE PRODUCTS THAT ARE NOT SWEETENED BEVERAGES, CALORIC SWEETENER, OR ARTIFICIAL SWEETENER AS 4 DEFINED IN THIS ACT, SUCH AS, BUT NOT LIMITED TO:

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- 1. MILK PRODUCTS, INFANT FORMULA, AND 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 RECONSTITUTION OF NATURAL FRUIT 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.

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.
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17	"SEC. 150-B. ADMINISTRATIVE PROVISIONS ON THE
18	SWEETENER TAX
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20	A. FILING OF RETURN AND PAYMENT OF EXCISE TAX AND
21	PENALTY. –
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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.
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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

SECTION, OR HAS MISDECLARED OR MISREPRESENTED

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

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

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

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

B. SPECIFIC RESPONSIBILITY OF THE FOOD AND DRUG ADMINISTRATION (FDA). –

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

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

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

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

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

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

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

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

31 Approved,