OLR Bill Analysis

B 5461

AN ACT IMPOSING A TAX ON SUGARY SOFT DRINKS.

SUMMARY:

This bill imposes a one cent per ounce tax on retail purchases of soft drinks (i.e., carbonated nonalcoholic beverages intended for human consumption that contain added caloric sweetener) and directs the revenue from the tax to DPH to fund obesity education and outreach programs. The bill requires the Department of Revenue Services (DRS) commissioner to administer the tax, which applies in addition to other taxes on retail sales of soft drinks (i.e., sales and use taxes).

Under the bill, retailers must collect the tax from customers at the point of sale and remit it to DRS. The bill requires the DRS commissioner to deposit the revenue into the soft drink tax account, which the bill creates. With the Office of Policy and Management (OPM) secretary's approval, the DRS commissioner may deduct and retain administrative costs from the revenue.

Retailers who fail to remit the tax to DRS with a tax return on a monthly basis are subject to a penalty for each full or partial month that the tax remains unpaid.

EFFECTIVE DATE: October 1, 2015

TAX COLLECTION AND ADMINISTRATION

The bill requires (1) consumers to pay the tax to retailers and (2) retailers to collect it from consumers. Retailers must remit tax payments and file signed tax returns monthly, on a DRS-prescribed form. The returns must include the amount of tax due for the preceding month.

The commissioner may allow or require returns and tax payments more or less frequently if necessary to ensure payment or facilitate tax collection.

The commissioner may also extend the time for filing a return and paying the tax for good cause if the retailer applies for an extension, files a tentative return, and pays an estimated amount by the original due date. In addition to the tax, a retailer who receives an extension must pay 1% interest for each month or partial month on any amount that would have been due without the extension.

The commissioner must administer the tax and prescribe and furnish any forms necessary and proper for its enforcement. The bill allows the commissioner to prescribe regulations in accordance with the Uniform Administrative Procedures Act to administer the tax. The regulations and subsequent administrative rulings, when reasonably designed to carry out the bill's intent and purpose, are prima facie evidence of the bill's proper interpretation. The commissioner must publish annually, or more often at his discretion, all such regulations and any related ruling that...
appear to him to be of general interest.

**TAX ENFORCEMENT**

Under the bill, unpaid taxes are subject to a penalty of 15% of the unpaid amount or $50, whichever is greater, plus 1% interest for each full or partial month that the tax remains unpaid. The commissioner may waive all or part of the penalty if he is satisfied that the failure to pay was due to reasonable cause and was not intentional or due to neglect. The Penalty Review Commission must review and approve all penalty waivers over $1,000 in the same way it already approves waivers by the commissioner.

In addition, the bill applies the same enforcement, liability, and appeal process requirements established in statute for the admissions and dues taxes to the soft drink tax and requires them to be adapted accordingly. Under these provisions, the DRS commissioner can (1) assess tax deficiencies where necessary; (2) require the retailers to keep certain records and examine all of their records; and (3) administer oaths, subpoena witnesses, and receive testimony. The retailers can file for a refund for tax overpayments, request a hearing on the amount of taxes they are required to pay, and appeal the hearing decision if aggrieved. Lastly, an additional penalty may be imposed on retailers for willful violations or filing fraudulent returns.

**SOFT DRINK TAX ACCOUNT**

Under the bill, the soft drink tax account is a separate, nonlapsing account within the General Fund. The bill requires DPH to use the funds for obesity education and outreach, including children, obesity, heart disease, and diabetes.

Quarterly, beginning by December 31, 2015, the DRS commissioner must deposit the tax proceeds into the soft drink tax account. The commissioner may deduct or retain administrative costs from the revenue before depositing it in the account, if he first notifies, and receives approval from, OPM.

**COMMITTEE ACTION**

Committee on Children

Joint Favorable Substitute

Yea 7  Nay 6  (03/05/2015)
Works Cited