

JAN 20 2017

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# A BILL FOR AN ACT

RELATING TO HEALTH.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that consumption of  
2 sugar-sweetened beverages is linked to serious health problems,  
3 including but not limited to: weight gain, obesity,  
4 prediabetes, diabetes, tooth decay, heart disease, and other  
5 health problems. Studies have found that adults who consumed  
6 about one can of soda per day had a forty-six per cent higher  
7 risk of developing prediabetes. Another study found that people  
8 who consume one to two cans of sugary drinks per day have a  
9 twenty-six per cent greater risk of developing type two diabetes  
10 than people who rarely have such drinks.

11           The legislature further finds that drinking sugar-sweetened  
12 beverages can also significantly contribute to tooth decay. A  
13 2016 department of health report found that seventy-one per cent  
14 of third graders in Hawaii are affected by tooth decay, making  
15 Hawaii the state with the highest prevalence of tooth decay  
16 among third graders in the nation. Hawaii recently received a



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1 failing grade in a series of oral health report cards released  
2 by The Pew Center on the States.

3 The purpose of this Act is to require a warning label on  
4 sugar-sweetened beverage containers and packaging to alert  
5 consumers and the public of the health effects of sugary drinks.  
6 Adding warning labels to sugar-sweetened beverages will  
7 complement other program and policy efforts to reduce obesity  
8 and chronic disease in the State by allowing consumers to make  
9 informed choices.

10 SECTION 2. Chapter 321, Hawaii Revised Statutes, is  
11 amended by adding a new part to be appropriately designated and  
12 to read as follows:

13 **"PART . SUGAR-SWEETENED BEVERAGES WARNING LABEL**

14 **§321-A Definitions.** As used in this part, unless the  
15 context clearly requires otherwise:

16 "Caloric sweetener" means any substance:

- 17 (1) Suitable for human consumption and perceived by humans  
18 as sweet, and includes, without limitation, sucrose,  
19 fructose, glucose, other sugars, and fruit juice  
20 concentrates; and



1           (2) That adds calories to the diet of a person who  
2           consumes that substance;  
3 provided that "caloric sweetener" does not include non-caloric  
4 sweeteners.

5           "Container" means any receptacle, including a bottle, box,  
6 can, cup, glass, or pouch, that is intended or used to hold a  
7 sugar-sweetened beverage for individual sale to a consumer.

8           "Department" means the department of health.

9           "Distribution" means the:

- 10           (1) Sale of bottled sugar-sweetened beverages, syrup, or  
11           powder to a retailer;
- 12           (2) Receipt of untaxed bottled sugar-sweetened beverages,  
13           syrup, or powder in this State from an unregistered  
14           out-of-state distributor by a retailer;
- 15           (3) Retail sale of untaxed bottled sugar-sweetened  
16           beverages, sugar-sweetened beverages, syrup, or powder  
17           in this State; or
- 18           (4) Use or consumption of untaxed bottled sugar-sweetened  
19           beverages, syrup, or powder in this State by a  
20           distributor or retailer. For the purposes of this  
21           paragraph, "use or consumption" includes the exercise



1 of any right or power over bottled sugar-sweetened  
2 beverages or concentrate incident to the ownership  
3 thereof, except that it does not include the sale of  
4 that property or the keeping or retention thereof by a  
5 distributor or retailer for the purpose of sale.

6 "Distributor" means any person, including a manufacturer or  
7 wholesale dealer, who receives, stores, manufactures, bottles,  
8 or distributes bottled sugar-sweetened beverages, syrup, or  
9 powder for sale to retailers doing business in the State whether  
10 or not that person also sells such products to consumers.

11 "Nonalcoholic beverage" means any beverage that contains  
12 less than one-half of one per cent alcohol per volume.

13 "Powder" means any solid mixture of ingredients that:

- 14 (1) Contains a caloric sweetener; and
- 15 (2) Is used in making, mixing, or compounding sugar-  
16 sweetened beverages by combining the powder with any  
17 one or more other ingredients, including:
  - 18 (A) Water;
  - 19 (B) Ice;
  - 20 (C) Syrup;
  - 21 (D) Simple syrup;



- 1 (E) Fruits;
- 2 (F) Vegetables;
- 3 (G) Fruit juice;
- 4 (H) Vegetable juice;
- 5 (I) Carbonation; or
- 6 (J) Other gas.

7 "Retailer" means any person who sells sugar-sweetened  
8 beverages, syrup, or powder to the ultimate consumer (retail  
9 sales), including, without limitation, a person who operates a  
10 facility where sugar-sweetened beverages may be purchased from  
11 vending machines.

12 "Sale" or "sell" means any distribution or transfer for a  
13 business purpose, regardless of whether consideration is  
14 received.

15 "Sealed container" means a container that holds a beverage  
16 and is closed or sealed before a retailer obtains the container  
17 for resale.

18 "Soda fountain" means any device that dispenses a sugar-  
19 sweetened beverage into an unsealed container as a ready-to-  
20 drink beverage.



1 "Sugar-sweetened beverage" means any non-alcoholic  
2 beverage, carbonated or noncarbonated, that is intended for  
3 human consumption and contains any added caloric sweetener.

4 "Sugar-sweetened beverage" shall not include:

5 (1) Beverages consisting of one hundred per cent natural  
6 fruit juice or natural vegetable juice with no added  
7 caloric sweetener. For the purposes of this  
8 paragraph, "natural fruit juice" or "natural vegetable  
9 juice" means the original liquid resulting from the  
10 pressing of fruits or vegetables, respectively, or the  
11 liquid resulting from the dilution of dehydrated  
12 natural fruit juice or natural vegetable juice,  
13 respectively;

14 (2) Milk without any added caloric sweetener. For  
15 purposes of this paragraph, "milk" means natural  
16 liquid milk regardless of animal source or butterfat  
17 content; natural milk concentrate, whether or not  
18 reconstituted, regardless of animal source or  
19 butterfat content; dehydrated natural milk, whether or  
20 not reconstituted and regardless of animal source or  
21 butterfat content; soy milk; or rice milk;



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1           (3) Dietary aids. For the purposes of this paragraph,  
2           "dietary aids" means liquid products manufactured for  
3           use as:

4           (A) An oral nutritional therapy for persons who  
5           cannot absorb or metabolize dietary nutrients  
6           from food or beverages;

7           (B) A source of necessary nutrition used due to a  
8           medical condition; or

9           (C) An oral electrolyte solution for infants and  
10          children formulated to prevent dehydration due to  
11          illness;

12          (4) Infant formula; and

13          (5) Beverages containing less than 4.2 grams of added  
14          caloric sweetener per eight ounces of beverage.

15          "Syrup" means any liquid mixture of ingredients that  
16          contains caloric sweetener intended for making, mixing, or  
17          compounding a sugar-sweetened beverage by combining the syrup  
18          with any one or more other ingredients.

19          "Unsealed container" means a container, including a glass,  
20          cup, or any container for fountain drinks, into which a beverage



1 is dispensed or poured at the business premises where the  
2 beverage is purchased.

3       **§321-B Warning label required for sealed containers.** (a)

4 No person may distribute, sell, or offer for sale a sugar-  
5 sweetened beverage in a sealed container unless the sealed  
6 container bears the following warning label in bold typeface and  
7 meets all of the requirements of this section: "WARNING:  
8 Drinking beverages with added sugar(s) contributes to obesity,  
9 diabetes, and tooth decay."

10       (b) The warning label required by this section shall be  
11 prominently displayed, readily legible under normal conditions,  
12 separate and apart from all other information, and on a  
13 contrasting background; provided that:

14       (1) All the letters in the warning label shall appear in  
15 conspicuous and legible type in contrast by  
16 typography, layout, or color with all other printed  
17 material on the sealed container;

18       (2) The word "WARNING" shall appear in capital letters;  
19 and

20       (3) The warning label shall be enclosed in a rectangular  
21 border.



1 (c) The warning label required by this section shall  
2 appear in a font size and using a maximum number of characters  
3 per inch, as follows:

4 (1) For sealed containers eight fluid ounces or less, the  
5 warning label shall be in a font not smaller than one  
6 millimeter and no more than forty characters per inch;

7 (2) For sealed containers of more than eight fluid ounces  
8 and less than two liters, the warning label shall be  
9 in a font not smaller than two millimeters and not  
10 more than twenty-five characters per inch; and

11 (3) For sealed containers of two liters or more, the  
12 warning label shall be in a font not smaller than  
13 three millimeters and not more than twelve characters  
14 per inch.

15 (d) If the warning label required by this section is not  
16 printed directly on the sealed container, it shall be affixed to  
17 the sealed container so that it cannot be removed without  
18 thorough application of water or other solvents.

19 (e) No person may distribute, sell, or offer for sale a  
20 multipack of sugar-sweetened beverages in sealed containers  
21 unless the multipack bears the warning label required by



1 subsection (a). The warning label shall be posted conspicuously  
2 on at least two sides of the multipack, in addition to being  
3 posted on each individual sealed container.

4 (f) No person may distribute, sell, or offer for sale a  
5 syrup or powder in packaging that is intended for retail sale  
6 unless the packaging of the syrup or powder bears the warning  
7 label required by subsection (a).

8 (g) The department shall establish rules pursuant to  
9 chapter 91 to implement the purposes of this part. The  
10 department, by rule adopted pursuant to chapter 91, may  
11 authorize alternatives to the warning label language required by  
12 subsection (a) for purposes of conformity with similar warnings  
13 required by other states.

14 **§321-C Vending machines; soda fountains; point of sale;**  
15 **warning label requirements.** (a) Every person who owns, leases,  
16 or legally controls the premises where a vending machine or soda  
17 fountain is located, or where a sugar-sweetened beverage is sold  
18 in an unsealed container, shall cause to be placed a warning  
19 label in each of the following locations:

20 (1) On the exterior of any vending machine that includes a  
21 sugar-sweetened beverage for sale;



1 (2) On the exterior of any soda fountain used by a  
2 consumer to dispense a sugar-sweetened beverage  
3 through self-service; and

4 (3) At the point on the premises where any consumer would  
5 normally order or request a sugar-sweetened beverage  
6 in an unsealed container, when the unsealed container  
7 is filled by an employee or agent rather than the  
8 consumer.

9 (b) The warning label required by this section shall use  
10 the same language as required in section 321-B(a).

11 (c) The warning label required by this section shall be  
12 prominently displayed, readily legible, separate and apart from  
13 all other information, and on a contrasting background.

14 **§321-D Outreach and education.** The department shall  
15 develop and conduct a retailer outreach and education program  
16 designed to inform retailers about the requirements of this  
17 part.

18 **§321-E Enforcement and penalties.** (a) Each sealed  
19 container, multipack, and package of syrup or powder  
20 distributed, sold, or offered for sale in violation of this part



1 shall constitute a separate violation. Each day of a continuing  
2 violation of this part shall constitute a separate violation.

3 (b) Any person who has violated any of the requirements of  
4 this part shall be liable for a civil penalty of not less than  
5 \$500 nor more than \$1,000 for each day of violation."

6 SECTION 3. In codifying the new sections added by section  
7 2 of this Act, the revisor of statutes shall substitute  
8 appropriate section numbers for the letters used in designating  
9 the new sections in this Act.

10 SECTION 4. This Act shall take effect on January 1, 2018.

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INTRODUCED BY:

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# S.B. NO. 307

**Report Title:**

Sugar-sweetened Beverages; Warning Label; Requirements

**Description:**

Beginning January 1, 2018, requires all sugar-sweetened beverages to contain a warning label.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

