

JAN 22 2021

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# A BILL FOR AN ACT

RELATING TO SUGAR-SWEETENED BEVERAGES.

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

1           SECTION 1. The legislature finds that there is a need to  
2 continue to invest in the health of Hawaii's keiki and ohana.  
3 Sugar-sweetened beverages are the largest source of excess sugar  
4 in the American diet, contributing excess calories with little  
5 or no nutritional value. Sugar-sweetened beverage consumption  
6 is associated with negative health effects such as obesity,  
7 costing the State an estimated \$470,000,000 in obesity-related  
8 healthcare costs annually.

9           The legislature finds that a fee on sugar-sweetened  
10 beverages is a viable means to reduce sugar-sweetened beverage  
11 consumption, improve health and generate revenue for the state  
12 to support health, prevent chronic disease, and address root  
13 causes of disparities in Hawaii. A 2017 study conducted by the  
14 Harvard T.H. Chan School of Public Health and the Hawaii  
15 Department of Health found that a sugary drink fee has major  
16 cost-savings. Passage of a two-cent-per-ounce sugar-sweetened  
17 beverage fee is projected to result in lower levels of sugar-



1 sweetened beverage consumption, fewer cases of obesity, fewer  
2 deaths and health care savings greater than fifty-nine million  
3 dollars over a ten-year period. A two-cent-per-ounce fee would  
4 have raised as much as \$65,800,000 in 2020 according to the Rudd  
5 Center Revenue Calculator for Sugary Drink Taxes.

6 The consumption of sugar-sweetened beverages is linked to  
7 serious health problems, including weight gain, obesity,  
8 prediabetes, diabetes, tooth decay, heart disease, and other  
9 health problems. In Hawaii, one out of four middle and high  
10 school students and more than half of all adults are overweight  
11 or obese. Sixty-one per cent of Hawaii adults are living with  
12 at least one chronic disease such as diabetes, heart disease, or  
13 cancer. A 2016 report found that seventy-one per cent of third  
14 graders in Hawaii were affected by tooth decay, making Hawaii  
15 the state with the highest prevalence of tooth decay among third  
16 graders in the nation. The State also received a failing grade  
17 in a series of oral health report cards released by the Pew  
18 Center on the States.

19 The legislature also finds that sugar-sweetened beverage  
20 consumption is a health equity issue, as rates of consumption  
21 are greatest among those with lower incomes and people of color,



1 due in part to issues surrounding a lack of access to healthy  
2 foods and the targeted marketing of these groups by the sugary  
3 beverage industry. Lower income populations and people of color  
4 also have higher rates of chronic disease due to other social  
5 determinants of health, including food and housing insecurity,  
6 access to health care issues, and lack of spaces for safe  
7 physical activity. The COVID-19 pandemic has drawn attention to  
8 these health and social inequities in Hawaii. COVID-19 has most  
9 severely impacted the Pacific Islander, Filipino, and Native  
10 Hawaiian populations, who have the highest rates of chronic  
11 disease and sugary drink consumption. Additionally, regulations  
12 to mitigate the spread of the virus have created economic  
13 hardships for the people of Hawaii, especially for these  
14 vulnerable populations. As the State braces for extreme budget  
15 shortfalls, an opportunity exists to implement a sugar-sweetened  
16 beverage fee to reduce sugary drink consumption and chronic  
17 disease risks, significantly save on healthcare costs, and  
18 generate revenue that can be used to reduce health disparities  
19 and support health promotion programs during austere post-COVID-  
20 19 times. Over the last several years, sugar-sweetened beverage  
21 tax policies have been enacted in several cities throughout the



1 United States and dozens of countries globally. Sugar-sweetened  
2 beverage tax policies involve the collection of a tax or fee  
3 from sugar-sweetened beverage distributors that is passed on to  
4 consumers in the form of price increases that influence  
5 purchasing behavior. Jurisdictions with sugar-sweetened  
6 beverage taxes such as Berkeley, California and Philadelphia,  
7 Pennsylvania have seen a reduction in sugary drink consumption,  
8 while sales of bottled water and other healthier options  
9 increased. Further evaluation results from these jurisdictions  
10 show that overall sales and revenue were not harmed by a fee at  
11 the distributor level. A sugar-sweetened beverage fee has  
12 instead provided a source of revenue that has generated millions  
13 of dollars to aid in reducing health and socioeconomic  
14 disparities. Recently, some of these locations reallocated  
15 their funding to specifically address critical needs resulting  
16 from COVID-19, such as assisting low-income families facing food  
17 insecurity.

18 Accordingly, the purpose of this Act is to enact a fee on  
19 sugar-sweetened beverages in Hawaii to improve health and  
20 generate revenue for the State to support health, prevent  
21 chronic disease, and address root causes of health disparities



1 in Hawaii. This Act shall be known and cited as the Healthy  
2 Ohana Act of 2021.

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

6 "PART . SUGAR-SWEETENED BEVERAGE FEE PROGRAM

7 §321-A Definitions. As used in this part, unless the  
8 context otherwise requires:

9 "Auditor" means the office of the auditor established  
10 pursuant to chapter 23.

11 "Bottle" means any closed or sealed container regardless of  
12 size or shape, including those made of glass, metal, paper,  
13 plastic, or any other material or combination of materials.

14 "Bottled sugar-sweetened beverage" means any sugar-  
15 sweetened beverage contained in a bottle that is ready for  
16 consumption without further processing, such as dilution or  
17 carbonation.

18 "Caloric sweetener" means any substance containing calories  
19 suitable for human consumption, that humans perceive as sweet,  
20 and includes, without limitation, sucrose, fructose, glucose,



1 other sugars, or fruit juice concentrates. "Caloric sweetener"  
2 shall not include non-caloric sweeteners.

3 "Consumer" means a person who purchases a sugar-sweetened  
4 beverage for consumption and not for sale to another.

5 "Department" means the department of health.

6 "Dietary aid" means:

- 7 (1) A liquid products manufactured for use as an oral  
8 nutritional therapy for persons who cannot absorb or  
9 metabolize dietary nutrients from food or beverages;
- 10 (2) A source of necessary nutrition used due to a medical  
11 condition; or
- 12 (3) An oral electrolyte solution for infants and children  
13 that is formulated to prevent dehydration due to  
14 illness.

15 "Director" means the director of health.

16 "Distributor" means any person, including a manufacturer or  
17 a wholesale dealer, who receives, stores, manufactures, bottles,  
18 or distributes bottled sugar-sweetened beverages, syrup, or  
19 powder for sale to a retailer doing business in the State  
20 whether or not that person is also a retailer as defined in this  
21 section.



1 "Infant formula" means a food that purports to be or is  
2 represented for special dietary use solely as a food for infants  
3 by reason of its simulation of human milk or its suitability as  
4 a complete or partial substitute for human milk.

5 "Milk substitute without caloric sweetener" means a plant-  
6 based beverage in which the principal ingredients by weight are  
7 water and grains, nuts, legumes, or seeds. "Milk substitute"  
8 includes soy milk, almond milk, rice milk, coconut milk, oat  
9 milk, hazelnut milk, and flax milk.

10 "Milk without added caloric sweetener" means any beverage  
11 of which the principal ingredient by weight is natural liquid  
12 milk as secreted by an animal, regardless of animal source or  
13 butterfat content, or natural milk concentrate and dehydrated  
14 natural milk, whether or not reconstituted.

15 "Non-alcoholic beverage" means any beverage that contains  
16 less than one-half of one per cent alcohol per volume.

17 "Non-caloric sweetener" means any substance that contains  
18 fewer than five calories per serving, suitable for human  
19 consumption, that humans perceive as sweet, and includes,  
20 without limitation, aspartame, saccharin, stevia, and sucralose.



1 "One hundred per cent fruit juice or vegetable juice" means  
2 any liquid consisting of one hundred per cent fruit juice or  
3 vegetable juice having no added sugar, corn syrup, or caloric  
4 sweetener.

5 "Person" means any natural person, partnership, cooperative  
6 association, limited liability company, corporation, personal  
7 representative, receiver, trustee, assignee, or any other legal  
8 entity.

9 "Powder" means any solid mixture of ingredients that  
10 contains caloric sweetener, which is intended to be used in  
11 making, mixing, or compounding a sugar-sweetened beverage by  
12 combining the powder with one or more other ingredients.

13 "Retailer" means any person who sells or otherwise  
14 dispenses in the State a sugar-sweetened beverage to a consumer  
15 whether or not that person is also a distributor as defined in  
16 this section.

17 "Sale" or "sell" means the transfer of title or possession  
18 for valuable consideration regardless of the manner the transfer  
19 is completed.

20 "Sugar-sweetened beverage" means any non-alcoholic  
21 beverage, carbonated or noncarbonated, that is intended for



1 human consumption and contains any added caloric sweetener.

2 Sugar-sweetened beverages does not include:

- 3 (1) Beverages consisting of one hundred per cent fruit  
4 juice or vegetable juice with no added caloric  
5 sweetener;
- 6 (2) Milk without added caloric sweetener;
- 7 (3) Milk substitute without added caloric sweetener;
- 8 (4) Dietary aids;
- 9 (5) Infant formula;
- 10 (6) Sweetened medication such as cough syrup, liquid pain  
11 relievers, fever reducers and similar products; or
- 12 (7) Any product commonly used exclusively to mix with  
13 alcohol that may exceed five grams or more per serving  
14 of caloric sweetener per twelve ounces of fluid that  
15 is not a sugar sweetened beverage, including without  
16 limitation margarita mix, bloody mary mix, daiquiri  
17 mix, or similar products.

18 "Syrup" means a liquid mixture of ingredients that contains  
19 caloric sweetener, which is intended to be used in making,  
20 mixing, or compounding a sugar-sweetened beverage by combining  
21 the syrup with any one or more other ingredients.



1           **§321-B Registration required.** (a) Every distributor  
2 shall register with the department on forms to be prescribed,  
3 prepared, and furnished by the department.

4           (b) No retailer may sell at retail, or hold out or display  
5 for sale at retail, any sugar-sweetened beverage acquired by the  
6 retailer on or after June 30, 2022, unless the sugar-sweetened  
7 beverage was acquired by the retailer from a registered  
8 distributor in the State.

9           **§321-C Sugar-sweetened beverage fee.** (a) Every  
10 distributor selling sugar-sweetened beverages in the State shall  
11 pay the department a sugar-sweetened beverage fee that is  
12 imposed at the following rates:

13           (1) Two cents per fluid ounce of bottled sugar-sweetened  
14 beverages sold or offered for sale to a retailer for  
15 sale in the State to a consumer; and

16           (2) Two cents per fluid ounce of sugar-sweetened beverage  
17 that can be produced from syrup or powder, calculated  
18 according to the manufacturer's specifications for the  
19 use of the syrup or powder sold to a retailer for sale  
20 in the State to a consumer.



1 (b) A distributor shall add the amount of the fee imposed  
2 by this section to the price of sugar-sweetened beverages,  
3 syrups, and powders sold to a retailer, and the retailer shall  
4 pass the amount of the fee through to a consumer as a component  
5 of the final retail purchase price. The amount of the fee shall  
6 be stated separately on all invoices, signs, sales or delivery  
7 slips, bills, and statements that advertise or indicate the  
8 price of the beverages, syrups, and powders.

9 §321-D Exemptions. The following shall be exempt from the  
10 fee imposed by this part:

11 (1) Bottled sugar-sweetened beverages, syrups, and powder  
12 sold by a distributor or retailer expressly for resale  
13 or consumption outside the State; and

14 (2) Bottled sugar-sweetened beverages, syrups, and powder  
15 sold by a distributor to another distributor who is  
16 registered pursuant to section 321-B, if the sales  
17 invoice clearly indicates that the sale is exempt. If  
18 the sale is to a person who is both a distributor and  
19 a retailer, the sale shall also be exempt from the fee  
20 and the fee shall be paid when the purchasing  
21 distributor who is also a retailer resells the product



1 to a retailer or a consumer. This exemption shall not  
2 apply to any other sale to a retailer.

3 **§321-E Payment.** (a) Every distributor or retailer liable  
4 for the fee imposed by this chapter shall file a form  
5 identifying all sales of sugar-sweetened beverages made on a  
6 periodic basis as determined by the department and submit  
7 payment of the fee to the department. The form shall be  
8 prescribed by the department and contain any information that  
9 the department deems necessary for the proper administration of  
10 the sugar-sweetened beverage fee program.

11 (b) The revenues from the fee shall be deposited into the  
12 healthy ohana special fund.

13 **§321-F Healthy ohana special fund; established.** (a)  
14 There is established in the state treasury the healthy ohana  
15 special fund into which shall be deposited:

- 16 (1) All revenues generated from sugar-sweetened beverage  
17 fees established under section 321-C;
- 18 (2) All revenues collected from penalties pursuant to  
19 321-M;
- 20 (3) All interest and earnings accruing from the investment  
21 of moneys in the healthy ohana special fund; and



1 (4) Appropriations made by the legislature into the fund.

2 (b) The healthy ohana special fund shall be administered  
3 by the department. On a periodic basis as determined by the  
4 director of finance, the moneys in the healthy ohana special  
5 fund shall be expended or deposited as follows:

6 (1) per cent shall be expended by the department of  
7 health for implementation and evaluation of the sugar-  
8 sweetened beverage fee program to address state  
9 obesity prevention and oral health promotion services  
10 for Hawaii's ohana;

11 (2) per cent shall be expended by the department of  
12 health for the purposes of supporting primary  
13 prevention and chronic disease prevention programs and  
14 supports; and

15 (3) per cent shall be deposited into the healthy  
16 ohana trust fund established pursuant to section 321-  
17 G.

18 **§321-G Healthy ohana trust fund; established.** (a) There  
19 is established the healthy ohana trust fund as a separate fund  
20 of a nonprofit entity having a board of directors and qualifying  
21 under section 501(c)(3) of the Internal Revenue Code of 1986, as



1 amended, into which shall be deposited moneys received as  
2 provided under section 321-F(b)(3). The director, with the  
3 concurrence of the governor, shall select, pursuant to chapter  
4 103D, the entity based upon its proven record of accomplishment  
5 in administering a similar trust fund. The director, with the  
6 concurrence of the governor and in their sole discretion, may  
7 rescind the selection of the entity that administers the trust  
8 fund. If the selection of the entity is rescinded, moneys in  
9 the healthy ohana trust fund shall revert back to the State and  
10 shall be deemed to be trust moneys.

11 (b) The department of budget and finance shall have  
12 oversight authority over the healthy ohana trust fund and may  
13 make periodic financial audits of the healthy ohana trust fund;  
14 provided that the director of finance may contract with a  
15 certified public accountancy firm to conduct the financial  
16 audits.

17 (c) The entity selected under subsection (a), for each  
18 fiscal year, may expend up to ten per cent of the total market  
19 value of the healthy ohana trust fund on the preceding June 30,  
20 for the prevention and control of obesity and chronic disease on  
21 behalf of families in Hawaii. These activities may include



1 comprehensive programs and methods to support access to healthy  
2 food, active living and healthy eating, school and work based  
3 health, nutrition and physical education, oral health, programs  
4 supporting farm-to-school, locally grown, and sustainable  
5 agriculture practices, school gardens, and obesity and chronic  
6 disease prevention.

7 (d) The healthy ohana trust fund may receive  
8 appropriations, contributions, grants, endowments, or gifts in  
9 cash or otherwise from any source, including the State,  
10 corporations or other businesses, foundations, government,  
11 individuals, and other interested parties; provided that any  
12 appropriations made by the legislature to the healthy ohana  
13 trust fund shall not supplant or diminish the funding of  
14 existing chronic disease prevention programs or any health-  
15 related programs funded in whole or in part by the State.

16 (e) The assets of the healthy ohana trust fund shall  
17 consist of:

- 18 (1) Moneys deposited pursuant to section 321-F(b)(3);  
19 (2) Moneys appropriated to the healthy ohana trust fund by  
20 the state, county, or federal government;  
21 (3) Private contributions of cash or property; and



1           (4) Income and capital gains earned by the healthy ohana  
2           trust fund.

3           (f) The aggregate principal sum deposited in the healthy  
4 ohana trust fund shall be invested by the entity selected under  
5 subsection (a) in a manner intended to maximize the rate of  
6 return on investment of the healthy ohana trust fund consistent  
7 with the objective of preserving the healthy ohana trust fund's  
8 principal.

9           (g) If the entity selected under subsection (a) is  
10 dissolved, the director, with the concurrence of the governor,  
11 shall select a successor entity pursuant to chapter 103D. If  
12 the healthy ohana trust fund is terminated, the moneys remaining  
13 in the healthy ohana trust fund shall revert back to the State  
14 and shall be deemed to be trust moneys.

15           (h) The healthy ohana advisory committee established  
16 pursuant to section 321-S shall provide advice to the department  
17 regarding the administration of the healthy ohana trust fund.

18           **§321-H Records to be kept.** Every distributor and  
19 retailer, in addition to any requirements under chapter 321-I,  
20 shall prepare or maintain documents involving sugar-sweetened  
21 beverages, syrups, and powders, as required by the department.



1           **§321-I Audit authority.** The records of the distributor  
2 and retailer shall be made available, upon request, for  
3 inspection by the department, a duly authorized agent of the  
4 department, or the auditor. Any proprietary information  
5 obtained by them shall be kept confidential and shall not be  
6 disclosed to any other person, except:

- 7           (1) As may be reasonably required in an administrative or  
8           judicial proceeding to enforce any provision of this  
9           chapter or any rule adopted pursuant to this chapter;  
10          or  
11          (2) Under an order issued by a court or administrative  
12          agency hearings officer.

13           **§321-J Contract for administrative services.** The  
14 department may contract the services of a third party to  
15 administer the sugar-sweetened beverage fee program.

16           **§321-K Management and financial audit.** The auditor shall  
17 conduct a management and financial audit of the sugar-sweetened  
18 beverage fee program on fiscal year 2022 to 2023 and fiscal year  
19 2023 to 2024, and for each fiscal year thereafter ending in an  
20 odd-numbered year. The auditor shall submit the audit report to  
21 the legislature and the department no later than twenty days



1 prior to the convening of the next regular session. The auditor  
2 may contract the audit services of a third party to conduct the  
3 audit.

4 §321-L Administration by director; rules. The department  
5 shall adopt rules pursuant to chapter 91 to effectuate this  
6 part.

7 §321-M Civil penalties. (a) Any person subject to this  
8 part who:

- 9 (1) Fails to pay the entire fee imposed by this part by  
10 the date that payment is due;
- 11 (2) Fails to register as a distributor as required by  
12 section 321-B;
- 13 (3) Fails to file a form that identifies all sales of  
14 sugar-sweetened beverages during the time specified by  
15 the department as required by section 321-E;
- 16 (4) Fails to make payment to the department at the time  
17 specified by the department as required by section  
18 321-E;
- 19 (5) Fails to prepare or maintain records required by this  
20 part; or
- 21 (6) Violates any other provision of this part,



1 shall be liable for the amount of the fee that is due, a penalty  
2 equal to fifty percent of the fee due, and administrative fees  
3 and costs incurred by the department in enforcing its claims.

4 (b) The director may determine the amount of the fee and  
5 the penalty due under subsection (a) in the event of any  
6 nonpayment or underpayment and demand payment of all sugar-  
7 sweetened beverage fees and penalties. Interest shall accrue on  
8 nonpayment or underpayment of the fee at a rate of eight per  
9 cent per year from the date the fee was due, until paid. The  
10 director shall have the authority to revoke the distributor  
11 registration as a penalty under subsection (a).

12 (c) Any criminal penalties for a violation of this part  
13 shall not be deemed to preclude the State from recovering  
14 additional civil penalties.

15 **§321-N Enforcement.** (a) If the director determines that  
16 the sugar-sweetened beverage fee, penalties, or interest are  
17 due, the director shall notify the person of the amount by  
18 certified mail.

19 (b) Any notice issued under subsection (a) shall become  
20 final, unless not later than thirty days after the notice is  
21 mailed, the person named therein requests in writing a hearing



1 before the director. Whenever a hearing is requested, the  
2 amount owed shall become payable only upon completion of all  
3 review proceedings and the issuance of a final order confirming  
4 the fee, interest, and penalty in whole or in part. Upon  
5 request for a hearing, the director shall require the requestor  
6 to appear before the director for a hearing at the time and  
7 place specified in a notice.

8 (c) Any hearing conducted under this section shall be  
9 conducted as a contested case under chapter 91. If, after a  
10 hearing held pursuant to this section, the director finds that  
11 all or a portion of the fee, interest, or penalty is due, the  
12 director shall take action to collect the amount due as provided  
13 by subsection (d).

14 (d) If the amount of any fee, interest, or penalty is not  
15 paid to the department within thirty days after it becomes due  
16 and payable, the director may institute a civil action in the  
17 name of the State to collect the fee, interest, and penalty. In  
18 any proceeding to collect the fee, interest, or penalty imposed,  
19 the director need only show that:

20 (1) Notice was given;



1           (2) A hearing was held, or the time granted for requesting  
2           a hearing expired without a request for a hearing;

3           (3) The fee, interest, or penalty was imposed; and

4           (4) The fee, interest, or penalty remains unpaid.

5           (e) In connection with any hearing held pursuant to this  
6 section, the director shall have the power to subpoena the  
7 attendance of witnesses and the production of evidence on behalf  
8 of all parties.

9           **§321-O Distribution of revenues.** One hundred per cent of  
10 revenues collected from the sugar-sweetened beverage fee,  
11 interest payments, and penalty payments imposed pursuant to this  
12 part shall be paid to the healthy ohana special fund,  
13 established in section 321-F.

14           **§321-P Evaluation.** The department shall develop criteria  
15 and components for an independent evaluation to assess the  
16 impact of the sugar-sweetened beverage fee on consumption of  
17 products subject to the fee. The evaluation shall seek to  
18 determine the impact of the fee on sugar-sweetened beverage  
19 prices, consumer purchasing behavior, and health outcomes. The  
20 reasonable costs of evaluation shall be paid from the healthy



1 ohana special fund and be considered an implementation cost of  
2 this part.

3 §321-Q Costs. The costs to implement this part may  
4 include:

- 5 (1) Administrative, contractual, audit, independent  
6 evaluation, and compliance activities associated with  
7 collection and payment of the sugar-sweetened beverage  
8 fee program;
- 9 (2) Personnel to implement the sugar-sweetened beverage  
10 fee program;
- 11 (3) Communication and education activities to inform the  
12 public and distributors about the sugar-sweetened  
13 beverage fee; and
- 14 (4) Associated office expenses.

15 §321-R Annual reports. The department shall provide  
16 annual reports on the sugar-sweetened beverage fee program to  
17 the legislature and the governor no later than twenty days prior  
18 to the convening of each regular session for the period  
19 beginning when the program is in effect following the adoption  
20 of rules pursuant to section 321-L. The reports shall address:

- 21 (1) Measures of effectiveness;



1 (2) Amounts of revenues collected in the prior fiscal  
2 year;

3 (3) Distributions and expenditures from the healthy ohana  
4 special fund in the prior fiscal year; and

5 (4) The status of program activities.

6 If administration of the program is contracted to a third party  
7 pursuant to section 321-J, a copy of the contract shall be  
8 appended to the next applicable report and the contractor shall  
9 comply with the reporting requirements.

10 §321-S Healthy ohana advisory committee. (a) There is  
11 established a healthy ohana trust fund advisory committee within  
12 the department for administrative purposes.

13 (b) Members of the committee shall:

14 (1) Be appointed by the director, and shall serve at the  
15 director's pleasure;

16 (2) Have background and expertise in chronic disease  
17 prevention; and

18 (3) Serve at the director's pleasure.

19 (c) The healthy ohana advisory committee shall advise the  
20 department on the administration of the healthy ohana trust  
21 fund.



1 (d) The healthy ohana advisory committee, in collaboration  
2 with the department, shall develop a strategic plan for chronic  
3 disease prevention, including:

4 (1) Developing and implementing effective and cost-  
5 efficient policies and programs, including health  
6 promotion and disease prevention;

7 (2) Developing adequate standards and benchmarks by which  
8 measures of chronic disease prevention policies and  
9 programs may be appropriately evaluated; and

10 (3) Assessing the effectiveness of policies and programs  
11 engaged in chronic disease prevention.

12 (e) A simple majority of the committee members shall  
13 constitute quorum."

14 SECTION 3. No later than June 30, 2022, the department  
15 shall adopt interim rules without regard to chapters 91 and  
16 201M, Hawaii Revised Statutes, to implement the sugar-sweetened  
17 beverage fee program. The interim rules shall remain in effect  
18 until January 1, 2024, or rules are adopted pursuant to section  
19 321-L, Hawaii Revised Statutes, whichever occurs sooner.

20 SECTION 4. There is appropriated out of the general  
21 revenues of the State of Hawaii the sum of \$250,000 or so much



1 thereof necessary for fiscal year 2021-2022, and the same sum or  
2 so much thereof as may be necessary for fiscal year 2022-2023,  
3 to be deposited into the healthy ohana special fund established  
4 pursuant to section 321-F, Hawaii Revised Statutes.

5 SECTION 5. There is appropriated out of the healthy ohana  
6 special fund the sum of \$250,000 or so much thereof as may be  
7 necessary for fiscal year 2021-2022 and the same sum or so much  
8 thereof as may be necessary for fiscal year 2022-2023 to carry  
9 out the purposes of this Act, including the establishment,  
10 hiring, and filling of positions and contractors to carry out  
11 the purposes set forth in section 321-F, Hawaii Revised  
12 Statutes.

13 The sums appropriated shall be expended by the department  
14 of health for the purpose of this Act.

15 SECTION 6. Not later than July 1, 2023, the department of  
16 health shall establish a repayment plan and schedule to repay  
17 the general fund for the sums deposited into the healthy ohana  
18 special fund established pursuant to section 321-F, Hawaii  
19 Revised Statutes. The department of health shall use only  
20 moneys from the healthy ohana special fund to repay the general  
21 fund.



1           SECTION 7. Not later than March 15, 2022, the director of  
2 health, or the director's designee, shall submit a report and  
3 provide an informational briefing to the legislature concerning  
4 the progress of implementing the provisions in this Act,  
5 including the status of rulemaking by the department of health  
6 pertaining to the sugar-sweetened beverage fee program.

7           SECTION 8. For the purposes of effectuating this Act, the  
8 personnel hired and the contracts entered into by the department  
9 of health, pursuant to this Act, shall be exempt from chapter  
10 76, Hawaii Revised Statutes, for a period beginning on July 1,  
11 2021, and ending on June 30, 2023; provided that:

12           (1) All personnel actions taken pursuant to this Act by  
13               the department of health after June 30, 2023, shall be  
14               subject to chapter 76, Hawaii Revised Statutes, as  
15               appropriate; and

16           (2) Any employee hired by the department of health to  
17               effectuate this Act, who occupies a position exempt  
18               from civil service on July 1, 2023, shall:

19               (A) Be appointed to a civil service position; and



1 (B) Not suffer any loss of prior service credit,  
2 vacation or sick leave credits previously earned  
3 or other employee benefits or privileges;  
4 provided that the employee possesses the minimum  
5 qualifications and public employment requirements for  
6 the class or position to which appointed; provided  
7 further that subsequent changes in status shall be  
8 made pursuant to applicable civil service and  
9 compensation laws.

10 SECTION 9. If any provision of this Act, or the  
11 application thereof to any person or circumstance, is held  
12 invalid, the invalidity does not affect other provisions or  
13 applications of the Act that can be given effect without the  
14 invalid provision or application, and to this end the provisions  
15 of this Act are severable.

16 SECTION 10. In codifying the new sections added by section  
17 2 of this Act, the revisor of statutes shall substitute  
18 appropriate section numbers for the letters used in designating  
19 and referring to the new sections in this Act.



1 SECTION 11. This Act shall take effect on July 1, 2021.

2

INTRODUCED BY: Kal Rhoads



# S.B. NO. 541

**Report Title:**

Healthy Ohana; Sugar-Sweetened Beverage Fee Program; DOH;  
Appropriations

**Description:**

Imposes a fee for selling sugar-sweetened beverages at the distributor level to be collected by the Department of Health. Establishes a special fund into which revenues are deposited. Establishes a trust fund in the private sector to receive revenues from the special fund. Establishes a healthy ohana committee to advise the department on the administration of the trust fund. Makes appropriations.

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

