

JAN 17 2025

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# A BILL FOR AN ACT

RELATING TO THE SUGAR-SWEETENED BEVERAGES FEE PROGRAM.

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

1       SECTION 1. The legislature finds that the consumption of  
2 fresh fruits and vegetables is integral to a healthy diet and  
3 central to the prevention of obesity and chronic disease. The  
4 legislature also finds that while every community should have  
5 access to fresh and healthy dietary options, the increasing cost  
6 of fresh produce in the State has made it difficult for  
7 residents to obtain high quality fresh produce. This challenge  
8 is felt acutely by participants in the federal supplemental  
9 nutrition assistance program, which serves a low-income  
10 population that struggles to afford healthy food.

11       Presently, the State faces an estimated \$83,000,000 in  
12 annual costs related to food insecurity and hunger. Due to the  
13 coronavirus disease 2019 pandemic and rising inflation,  
14 households in the State are facing increasing food costs, and  
15 spending the highest percentage of their annual budgets on food  
16 in the nation.



1       The legislature further finds that Hawaii could expand  
2   access to healthy foods for low-income residents who are  
3   eligible for supplemental nutrition assistance program benefits  
4   through further utilization of the national Double Up Food Bucks  
5   Program. Currently implemented in more than twenty-five states,  
6   the Double Up Food Bucks Program provides matching federal grant  
7   funds to state programs that incentivize the use of supplemental  
8   nutrition assistance program benefits for the purchase of fresh  
9   produce. Provided by both the United States Department of  
10   Agriculture National Institute of Food and Agriculture and the  
11   United States Department of Agriculture food insecurity  
12   nutrition incentive grants program, these federal matching funds  
13   increase access to healthy dietary options while also  
14   invigorating local economies and addressing food insecurity.

15       Act 153, Session Laws of Hawaii 2019, created the Hawaii  
16   healthy food incentive program, now commonly known as the DA BUX  
17   double up food bucks program. The DA BUX double up food bucks  
18   program began with a pilot program in 2012 by Kokua Kalihi  
19   Valley Comprehensive Family Services on the island of Oahu and  
20   The Kohala Center on the island of Hawaii. The program provides  
21   a dollar-for-dollar match to supplemental nutrition assistance



1 program beneficiaries who purchase locally grown fruits,  
2 vegetables, and proteins at participating farmers' markets,  
3 grocery stores, and community-supported agriculture projects.  
4 By the end of 2021, the pilot program was available at fifty-  
5 seven food retailers across ninety-eight market sites and pick-  
6 up locations, including grocery stores, farmers' markets,  
7 community-supported agriculture programs, and other farm direct  
8 retailers.

9 DA BUX is referred to as a triple win for the State, as it  
10 provides support for local families, local farmers, and the  
11 local economy. From 2020 to 2021, DA BUX supported four hundred  
12 seventy farm producers and eight distributors. Each dollar  
13 reimbursed to participating DA BUX food retailers for their  
14 issued discounts on local produce has an economic multiplier of  
15 2.1, meaning that each program dollar issued for local produce  
16 incentives contributes \$2.10 to the State's economy. Additional  
17 funding will allow the statewide program coordinator, led by The  
18 Food Basket on the island of Hawaii, to obtain matching federal  
19 funds for continued support of the program. For example, a  
20 \$3,000,000 investment by the State in this program would allow



1 for a federal funding match that will contribute over  
2 \$12,000,000 to the local economy annually.

3 The legislature further finds that sugar-sweetened  
4 beverages are the largest source of excess sugar in the American  
5 diet, contributing excess calories with little or no nutritional  
6 value. Sugar-sweetened beverage consumption is associated with  
7 negative health effects including weight gain, obesity,  
8 prediabetes, diabetes, tooth decay and heart disease, costing  
9 the State an estimated \$470,000,000 in obesity-related health  
10 care costs annually.

11 The legislature finds that establishing a fee on the  
12 distribution and sale of sugar-sweetened beverages in the State  
13 and investing the proceeds into DA BUX would be a viable means  
14 to discourage excess consumption of sugar-sweetened beverages  
15 and increase access to affordable fresh produce, thereby  
16 contributing to the health of the people of Hawaii.

17 Accordingly, the purpose of this Act is to establish a  
18 sugar-sweetened beverages fee program to be administered by the  
19 department of agriculture that:

20 (1) Imposes a fee on the distribution and sale of sugar-  
21 sweetened beverages in the State;



(2) Establishes the sugar-sweetened beverages fee special fund, into which all sugar-sweetened beverages fees received by the department of agriculture shall be deposited; and

(3) Requires moneys in the sugar-sweetened beverages fee special fund to be expended for the Hawaii healthy food incentive program.

SECTION 2. Chapter 141, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**"PART . SUGAR-SWEETENED BEVERAGES FEE PROGRAM**

**§141-A Definitions.** As used in this part:

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

"Bottled sugar-sweetened beverage" means any sugar-sweetened beverage contained in a bottle that is ready for consumption without further processing, including dilution or carbonation.

"Caloric sweetener" means any substance that:



(1) Is suitable for human consumption and perceived by humans as sweet;

(2) Adds five or more calories per serving to the diet of a person who consumes that substance;

(3) Includes, without limitation, sucrose, fructose, glucose, other sugars, and fruit juice concentrates; and

(4) Does not include non-caloric sweeteners.

"Chairperson" means the chairperson of the board of agriculture.

"Concentrate" means a syrup, powder, or base product that is used for mixing, compounding, or making sweetened beverages in a beverage dispensing machine. "Concentrate" does not include any of the following:

(1) Any product that is solely used in preparing coffee or tea;

(2) Any product for consumption by infants that is commonly referred to as "infant formula";

(3) Any product for use for weight reduction;

(4) Milk or milk products;



(5) Any frozen concentrate or freeze-dried concentrate to which only water is added to produce a sweetened beverage containing more than fifty per cent natural fruit juice or more than fifty per cent natural vegetable juice or more than fifty per cent combined natural fruit juice and natural vegetable juice;

(6) Any product that is sold and is intended to be used for the purpose of an individual consumer mixing a sweetened beverage;

(7) Medical food; and

(8) Any product to which no caloric sweeteners have been added.

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

"Department" means the department of agriculture.

"Distribution" means the:

(1) Sale of bottled sugar-sweetened beverages or concentrate to a retailer;

(2) Receipt of untaxed, bottled sugar-sweetened beverages or concentrate in the State from an unregistered out-of-state distributor by a retailer;



(3) Retail sale of untaxed, bottled sugar-sweetened beverages, sugar-sweetened beverages, or concentrate in the State; or

(4) Use or consumption of untaxed, bottled sugar-sweetened beverages or concentrate in the State by a distributor or retailer. For the purposes of this paragraph, "use or consumption" includes the exercise of any right or power over bottled sugar-sweetened beverages or concentrate incident to the beverages' ownership, except that it does not include the sale of that property or the keeping or retention of the property by a distributor or retailer for the purpose of sale.

"Distributor" means any person, including any manufacturer or wholesale dealer, who receives, stores, manufactures, bottles, or distributes bottled sugar-sweetened beverages or concentrate for sale to retailers doing business in the State regardless of whether that person also sells the products to consumers.

"Fund" means the sugar-sweetened beverages fee special fund established pursuant to section 141-F.





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

3 "Non-caloric sweetener" means any substance that:

4 (1) Is suitable for human consumption and perceived by  
5 humans as sweet;

6 (2) Contains fewer than five calories per serving;

7 (3) Includes aspartame, saccharin, stevia, and sucralose;  
8 and

9 (4) Does not include caloric sweeteners.

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

11 (1) Contains a caloric sweetener; and

12 (2) Is used in making, mixing, or compounding sugar-  
13 sweetened beverages by combining the powder with any  
14 one or more other ingredients, including:

15 (A) Water;

16 (B) Ice;

17 (C) Syrup;

18 (D) Simple syrup;

19 (E) Fruits;

20 (F) Vegetables;

21 (G) Fruit juice;



1           (H) Vegetable juice; or

2           (I) Carbonation or other gas.

3           "Retailer" means any person who sells or otherwise  
4 dispenses in the State a sugar-sweetened beverage to a consumer  
5 regardless of whether that person is also a distributor as  
6 defined in this section.

7           "Sale" or "sell" means the transfer of title or possession  
8 for valuable consideration regardless of the manner the transfer  
9 is completed.

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

13          "Sugar-sweetened beverage" shall not include:

14           (1) Beverages consisting of one hundred per cent natural  
15 fruit juice or natural vegetable juice with no added  
16 caloric sweetener. For the purposes of this  
17 paragraph, "natural fruit juice" or "natural vegetable  
18 juice" means the original liquid resulting from the  
19 pressing of fruits or vegetables, respectively, or the  
20 liquid resulting from the dilution of dehydrated



1 natural fruit juice or natural vegetable juice,  
2 respectively;

3 (2) Milk without any added caloric sweetener. For  
4 purposes of this paragraph, "milk" means natural  
5 liquid milk regardless of animal source or butterfat  
6 content; natural milk concentrate, whether or not  
7 reconstituted, regardless of animal source or  
8 butterfat content; dehydrated natural milk, whether or  
9 not reconstituted and regardless of animal source or  
10 butterfat content; soy milk; or rice milk;

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

14 (A) An oral nutritional therapy for persons who  
15 cannot absorb or metabolize dietary nutrients  
16 from food or beverages;

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

19 (C) An oral electrolyte solution for infants and  
20 children formulated to prevent dehydration due to  
21 illness;



(4) Infant formula; and

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

"Syrup" means a liquid mixture of ingredients that:

(1) Contains a caloric sweetener; and

(2) Is used in making, mixing, or compounding sugar-sweetened beverages by combining the syrup with any one or more other ingredients, including:

(A) Water;

(B) Ice;

(C) Powder;

(D) Simple syrup;

(E) Fruits;

(F) Vegetables;

(G) Fruit juice;

(H) Vegetable juice; or

(I) Carbonation or other gas.

**§141-B Registration.** Beginning January 1, 2026, every distributor, and any person intending to become a distributor, shall register with the department on forms to be prescribed, prepared, and furnished by the department.



1       **§141-C Sugar-sweetened beverages fee imposed.**   (a)

2   Beginning January 1, 2026, every distributor selling sugar-  
3   sweetened beverages in the State shall pay a fee that is imposed  
4   at the following rates:

5       (1) One cent per fluid ounce of bottled sugar-sweetened  
6           beverages sold or offered for sale to a retailer for  
7           sale in the State to a consumer; and

8       (2) One cent per fluid ounce of sugar-sweetened beverage  
9           produced from concentrate sold or offered for sale to  
10          a retailer for sale in the State to a consumer, either  
11          as a concentrate or as a sugar-sweetened beverage  
12          derived from that concentrate; provided that the  
13          volume of sugar-sweetened beverage produced from  
14          concentrate shall be the largest volume resulting from  
15          use of the concentrate according to the manufacturer's  
16          instructions.

17       (b) A distributor shall add the amount of a fee levied by  
18   this section to the price of sugar-sweetened beverages sold to a  
19   retailer, and the retailer shall pass the amount of the fee  
20   through to a consumer as a component of the final retail  
21   purchase price. The amount of the fee shall be stated



1 separately on all invoices, signs, sales or delivery slips,  
2 bills, and statements that advertise or indicate the price of  
3 the beverages.

4 (c) Any retailer that sells bottled sugar-sweetened  
5 beverages or concentrate in the State to a consumer shall become  
6 liable for the fee imposed in subsection (a) at the time of sale  
7 to the consumer if the fee imposed by this section has not  
8 already been paid by a distributor.

9 **§141-D Exemptions.** The following shall be exempt from the  
10 fee imposed by this part:

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

14 (2) Bottled sugar-sweetened beverages or concentrate sold  
15 by a distributor to another distributor, if the sales  
16 invoice clearly indicates that the sale is exempt;  
17 provided that if the sale is to a person who is both a  
18 distributor and a retailer, the sale shall also be  
19 exempt from the fee and the fee shall be paid when the  
20 purchasing distributor who is also a retailer resells  
21 the product to a retailer or a consumer; provided



1 further that this exemption shall not apply to any  
2 other sale to a retailer.

3 **§141-E Payment.** Beginning January 1, 2026, no later than  
4 the fifteenth day of each month, every distributor shall file  
5 with the department a form identifying all sales of sugar-  
6 sweetened beverages made during the preceding month and pay to  
7 the department the fees imposed on the sales made during the  
8 preceding month pursuant to section 141-C. The form shall be  
9 prescribed by the department and shall contain any information  
10 as the department deems necessary for the proper administration  
11 of the sugar-sweetened beverages fee.

12 **§141-F Sugar-sweetened beverages fee special fund;**  
13 **established.** (a) There is established in the state treasury  
14 the sugar-sweetened beverages fee special fund into which shall  
15 be deposited:

- 16 (1) Appropriations by the legislature to the fund;  
17 (2) All fees, administrative charges, interest and  
18 penalties collected pursuant to this part; and  
19 (3) All interest and earnings accruing from the investment  
20 of moneys in the fund;



1 provided that of all sugar-sweetened beverage fees received by  
2 the State each fiscal year, the sum representing the first  
3 \$ of those fees shall first be deposited in the state  
4 treasury in each fiscal year to the credit of the fund. The  
5 fund shall be administered by the department.

6 (b) Moneys in the fund shall be expended for:

7 (1) The Hawaii health food incentive program established  
8 pursuant to section 141-13, including:

9 (A) For the continued administration of the program;

10 and

11 (B) To obtain federal matching funds for  
12 beneficiaries who participate in the supplemental  
13 nutrition assistance program; and

14 (2) The administration and enforcement of this part,  
15 including reimbursement of the costs incurred by the  
16 auditor pursuant to section 141-J.

17 **§141-G Records to be kept.** (a) Beginning January 1,  
18 2026, every distributor and retailer shall keep a record of all  
19 sales of sugar-sweetened beverages made by the distributor or  
20 retailer in a form as the department may prescribe.





1           (b) The records required in subsection (a) shall be made  
2 available, upon request, for inspection by the department;  
3 provided that any proprietary information obtained by the  
4 department shall be kept confidential and shall not be disclosed  
5 to any other person, except:

6           (1) As may be reasonably required in an administrative or  
7               judicial proceeding to enforce any provision of this  
8               part or any rule adopted to implement this part; or

9           (2) Pursuant to an order issued by a court or  
10           administrative agency hearings officer.

11       **§141-H Examination authority.** The chairperson, or the  
12 duly authorized agent of the chairperson, may examine all  
13 records required to be kept under this part and books, papers,  
14 and records of any person engaged in the sale of sugar-sweetened  
15 beverages to verify the accuracy of the payment of the fees  
16 imposed by this part and other compliance with this part and  
17 rules adopted pursuant thereto. A person in possession of  
18 books, papers, and records subject to this section and the  
19 person's agents and employees shall give the chairperson, or the  
20 duly authorized agent of the chairperson, the means, facilities,  
21 and opportunities for the examination.



1       **§141-I Contract for administrative services.** The  
2 department may contract the services of a third party to  
3 administer the sugar-sweetened beverages fee program under this  
4 part.

5       **§141-J Management and financial audit.** The auditor shall  
6 conduct a management and financial audit of the sugar-sweetened  
7 beverages fee program for the first two fiscal years the program  
8 is in effect and for each fiscal year thereafter ending in an  
9 even-numbered year. The auditor shall submit the audit report  
10 to the legislature and the department no later than twenty days  
11 prior to the convening of the subsequent regular session. The  
12 costs incurred by the auditor for the audit shall be reimbursed  
13 from the fund.

14       **§141-K Administration; rules.** The administration and  
15 enforcement of this part are vested in the chairperson. No  
16 later than December 31, 2025, the chairperson shall adopt rules  
17 in accordance with chapter 91 for the enforcement and  
18 administration of this part.

19       **§141-L Criminal penalties.** Any person subject to this  
20 part who:



1           (1) Fails to pay the entire fee imposed by this part by  
2           the date that payment is due;  
3           (2) Fails to register as a distributor;  
4           (3) Fails to submit a form;  
5           (4) Fails to maintain records as required by this part; or  
6           (5) Violates any other provision of this part,  
7 shall be guilty of a misdemeanor.

8           **§141-M Civil penalties.** (a) Any person subject to this  
9 part who:

10          (1) Fails to pay the entire fee imposed by this part by  
11          the date that payment is due;  
12          (2) Fails to register as a distributor;  
13          (3) Fails to submit a form;  
14          (4) Fails to maintain records required by this part; or  
15          (5) Violates any other provision of this part,  
16 shall be liable for the amount of the fee that is due and a  
17 penalty equal to fifty per cent of the fee due.

18          (b) The chairperson, or the chairperson's duly authorized  
19 representative, may determine the amount of the fee and the  
20 penalty due under subsection (a) in the event of any nonpayment  
21 or underpayment and demand payment of all sugar-sweetened



1 beverage fees and penalties. Interest shall accrue on  
2 nonpayment or underpayment of the fee at a rate of eight per  
3 cent per year from the date the fee was due, until paid.

4 **§141-N Unpaid fees and debt.** All fees and penalties  
5 imposed under this part remaining due and unpaid shall  
6 constitute a debt to the State and may be collected from the  
7 person owing same by suit or otherwise.

8 **§141-O Enforcement; contested case hearing; civil action.**

9 (a) If the chairperson determines that the sugar-sweetened  
10 beverages fee, penalties, or interest are due and owing, the  
11 chairperson shall notify the person of the amount due and owing  
12 by certified mail.

13 (b) Any notice issued under subsection (a) shall become  
14 final, unless not later than thirty days after the notice is  
15 mailed, the person named in the notice requests in writing a  
16 hearing before the chairperson. Whenever a hearing is  
17 requested, the amount owed shall become due and payable only  
18 upon completion of all review proceedings and the issuance of a  
19 final order confirming the fee, interest, and penalty in whole  
20 or in part. Upon request for a hearing, the chairperson shall  
21 require the requestor to appear before the chairperson for a



1 hearing at the time and place specified in the notice of the  
2 hearing.

3 (c) Any hearing conducted under this section shall be  
4 conducted as a contested case pursuant to chapter 91. If, after  
5 a hearing held pursuant to this section, the chairperson finds  
6 that all or a portion of the fee, interest, or penalty is due,  
7 the chairperson shall take action to collect the amount due as  
8 provided by subsection (d).

9 (d) If the amount of any fee, interest, or penalty is not  
10 paid to the department within thirty days after it becomes due  
11 and payable, the chairperson may institute a civil action in the  
12 name of the State to collect the fee, interest, and penalty. In  
13 any proceeding to collect the fee, interest, or penalty imposed,  
14 the chairperson need show only that:

- 15 (1) Notice was given;
- 16 (2) A hearing was held or the time granted for requesting  
17 a hearing expired without a request for a hearing;
- 18 (3) The fee, interest, or penalty was imposed; and
- 19 (4) The fee, interest, or penalty remains unpaid.

20 (e) In connection with any hearing held pursuant to this  
21 section, the chairperson shall have the power to subpoena the



1 attendance of witnesses and the production of evidence on behalf  
2 of all parties.

3       **§141-P Appeal.** As set forth in section 91-14, any person  
4 aggrieved may appeal the determination of the chairperson to the  
5 appropriate court having jurisdiction over the matter.

6       **§141-Q Distribution of revenues.** One hundred per cent of  
7 revenues collected from the sugar-sweetened beverages fee,  
8 interest payments, and penalty payments imposed pursuant to this  
9 part shall be deposited into the fund.

10       **§321-S Annual reports.** The department shall provide  
11 annual reports on the sugar-sweetened beverages fee program to  
12 the legislature and the governor no later than twenty days prior  
13 to the convening of each regular session beginning with the  
14 regular session of 2027.

15 The reports shall contain:

- 16       (1) An accounting of the receipts of and expenditures from  
17             the fund in the previous fiscal year;
- 18       (2) Performance indicators;
- 19       (3) Measures of effectiveness;
- 20       (4) Organizational charts;



- 1           (5)   Position descriptions of every type of position  
2                   established and salaries paid to each employee; and  
3           (6)   Recommended legislation.

4   If the administration of the program is contracted to a third  
5   party pursuant to section 141-I, a copy of the contract shall be  
6   appended to the next applicable report, and the contractor shall  
7   abide by these reporting requirements as well. The contractor's  
8   pay scales shall be comparable to equivalent civil service  
9   positions."

10          SECTION 3. There is appropriated out of the general  
11   revenues of the State of Hawaii the sum of \$                or so  
12   much thereof as may be necessary for fiscal year 2025-2026 and  
13   the same sum or so much thereof as may be necessary for fiscal  
14   year 2026-2027 for to be deposited into the sugar-sweetened  
15   beverages fee special fund.

16          SECTION 4. There is appropriated out of the sugar-  
17   sweetened beverages fee special fund the sum of \$                or  
18   so much thereof as may be necessary for fiscal year 2025-2026  
19   and the same sum or so much thereof as may be necessary for  
20   fiscal year 2026-2027 for the continued administration and  
21   support of the Hawaii healthy food initiative program.



1       The sums appropriated shall be expended by the department  
2 of agriculture for the purposes of this Act.

3       SECTION 5. There is appropriated out of the general  
4 revenues of the State of Hawaii the sum of \$                   or so  
5 much thereof as may be necessary for fiscal year 2025-2026 and  
6 the same sum or so much thereof as may be necessary for fiscal  
7 year 2026-2027 for the implementation of the sugar-sweetened  
8 beverages fee program, including establishment and hiring  
9 of       full-time equivalent (       FTE) positions and  
10 associated office expenses.

11       The sums appropriated shall be expended by the department  
12 of agriculture for the purposes of this Act.

13       SECTION 6. In codifying the new sections added by section  
14 6 of this Act, the revisor of statutes shall substitute  
15 appropriate section numbers for the letters used in designating  
16 the new sections in this Act.

17       SECTION 7. This Act shall take effect on July 1, 2025.

18  
INTRODUCED BY:

40





**Report Title:**

DOA; Auditor; Sugar-Sweetened Beverages Fee Program; Exemptions; Sugar-Sweetened Beverages Fee Special Fund; Hawaii Healthy Food Initiative Program (DA BUX); Enforcement; Penalties; Rules; Audit; Reports; Appropriations

**Description:**

Establishes a Sugar-Sweetened Beverages Fee Program to be administered by the Department of Agriculture that, beginning 1/1/2026, imposes a fee on the distribution and sale of sugar-sweetened beverages in the State. Establishes the Sugar-Sweetened Beverages Fee Special Fund. Requires moneys in the Sugar-Sweetened Beverages Fee Special Fund to be expended for the Hawaii Healthy Food Incentive Program and administration of the Sugar-Sweetened Beverages Fee Program. Allows the Department to contract with a third-party to administer the program. Requires the Auditor to conduct a management and financial audit of the program. Requires the Chairperson of the Board of Agriculture to adopt rules by 12/31/2025. Establishes criminal and civil penalties. Requires reports to the Legislature and the Governor. Appropriates funds.

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

