

CITY OF SANTA CRUZ

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE Z

SUGAR-SWEETENED BEVERAGE TAX ORDINANCE

If approved by the voters, Measure Z would add Chapter 3.38 "Sugar-Sweetened Beverage Tax Ordinance" (the "Ordinance") to the Santa Cruz Municipal Code, imposing a general excise tax (the "Sugar-Sweetened Beverage Tax" or "tax") in the amount of two cents (\$0.02) per fluid ounce on the distribution of sugar-sweetened beverage products ("SSBs") in the City. The stated purpose of the Ordinance is "to raise funds for unrestricted general revenue purposes, including, but not limited to, promoting community health & wellness, and sustaining vital City services." Under the Ordinance, a seven-member "Community Oversight Panel" would be established to make recommendations on the uses of future revenues "to promote community health & wellness and for general revenue purposes." At least five members of the panel would, to the extent feasible, represent various categories including healthcare, dental, wellness, education, and youth organizations.

For sugar-sweetened beverages, the tax would be based on the volume, in fluid ounces, of a sugar-sweetened beverage and, for concentrates, on the volume of beverage, in fluid ounces, that is produced from concentrate, in accordance with the manufacturer's instructions.

Certain beverages would be exempt from payment of the tax, such as:

- Beverages containing less than 40 calories per 12 fluid ounces of beverage;
- Baby formula;
- Beverages for medical use;
- Beverages designed as meal replacements (e.g., Ensure);
- Milk products;
- Concentrates directly purchased by consumers (e.g., Kool-Aid powder);
- Sweetened medications;
- Natural or common sweeteners (e.g., honey or molasses); or
- Alcoholic beverages.

The tax would be paid on the first nonexempt distribution of SSBs in the City. Thus, if there is a chain of distribution within the City involving more than one distributor, the tax would only be levied on the first distributor subject to the jurisdiction of the City.

The tax would be administrated by the City's "Tax Administrator", and would require each distributor of SSBs to register with the City, and thereafter to collect the tax and file a return and pay the tax in accordance with rules and regulations established by the Tax Administrator, or pay a 10% penalty, plus interest, from the due date until the date of payment.

The Tax Administrator would be authorized to:

- Determine the amount of any tax paid erroneously or collected illegally, and make appropriate refunds;
- Examine and audit all books and records of persons responsible for payment of the tax
- For any person who fails to collect the tax or refuses to provide records for audit, to make an estimate of and determine the amount of tax due and owing, subject to the right of appeal.

A violation of the Ordinance by a distributor would constitute a misdemeanor, punishable by a fine of up to one thousand dollars or imprisonment in the County jail for up to six months, or both.

A simple majority is required to pass the measure.

The above statement is an impartial analysis of Measure Z.

Date: August 13, 2024

ss/Tony Condotti, City Attorney