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SENATE BILL 19

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2003

INTRODUCED BY

Don Kidd

AN ACT

RELATING TO TAXATION; ENACTING THE SOFT DRINK TAX ACT;  
PROVIDING FOR DISTRIBUTIONS TO SUPPORT DIABETES PREVENTION AND  
PUBLIC EDUCATION; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1  
through 8 of this act may be cited as the "Soft Drink Tax Act".

Section 2. [NEW MATERIAL] DEFINITIONS. -- As used in the  
Soft Drink Tax Act:

A. "bottled soft drink" means a complete,  
ready-to-consume soft drink contained in a closed or sealed  
glass, metal, paper, plastic or other type of container  
regardless of size or shape;

B. "department" means the taxation and revenue  
department, the secretary of taxation and revenue or an

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1 employee of the department exercising authority lawfully  
2 delegated to that employee by the secretary;

3 C. "soft drink" means a nonalcoholic flavored  
4 beverage containing a sweetener additive, such as corn fructose  
5 or sugar, and includes:

6 (1) ginger ale, cola or any drink commonly  
7 referred to as a soft drink; and

8 (2) a fruit or vegetable drink containing ten  
9 percent or less natural fruit or vegetable juice;

10 D. "soft drink syrup or powder" means a package or  
11 container of powder, syrup or other base product intended for  
12 mixing to produce a liquid soft drink for dispensing at a  
13 retail business; and

14 E. "wholesaler" means a person who receives,  
15 stores, manufactures, bottles or sells bottled soft drinks,  
16 soft drink syrups, simple syrups or powders or base products  
17 for mixing, compounding or making soft drinks for sale to  
18 retail dealers, other manufacturers, wholesale dealers or  
19 distributors for resale purposes.

20 Section 3. [NEW MATERIAL] IMPOSITION AND RATE OF SOFT  
21 DRINK TAX. --An excise tax to be known as the "soft drink tax"  
22 is imposed on any wholesaler that sells soft drinks as follows:

23 A. two dollars (\$2.00) per gallon of soft drink or  
24 soft drink syrup or powder sold or offered for sale in New  
25 Mexico;

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1           B. twenty-one cents (\$0.21) per gallon of bottled  
2 soft drink sold or offered for sale in New Mexico; and

3           C. on the sale of a package or container of soft  
4 drink syrup or powder or other base product, twenty-one cents  
5 (\$0.21) per gallon of soft drink that may be produced from each  
6 package or container according to the manufacturer's  
7 directions.

8           Section 4. [NEW MATERIAL] DEDUCTIONS. -- A wholesaler may  
9 deduct the value of soft drinks sold and shipped to a person in  
10 another state from the units of soft drinks subject to the tax  
11 imposed by the Soft Drink Tax Act; provided that the department  
12 may require the wholesaler to submit evidence satisfactory to  
13 the department that the units have been sold and shipped to a  
14 person in another state.

15           Section 5. [NEW MATERIAL] EXEMPTIONS. -- Exempt from the  
16 tax imposed by the Soft Drink Tax Act are soft drinks sold to  
17 or by an instrumentality of the armed forces of the United  
18 States engaged in resale activities.

19           Section 6. [NEW MATERIAL] DATE PAYMENT DUE. -- The tax  
20 imposed by the Soft Drink Tax Act shall be paid on or before  
21 the twenty-fifth day of the month following the month in which  
22 the taxable event occurs.

23           Section 7. [NEW MATERIAL] REFUND OR CREDIT OF TAX. -- The  
24 department shall allow a claim for refund or credit as provided  
25 in Sections 7-1-26 and 7-1-29 NMSA 1978 for the tax imposed by

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1 the Soft Drink Tax Act and paid on soft drinks or soft drink  
2 syrup or powder destroyed in shipment, spoiled or otherwise  
3 damaged so as to be unfit for sale or consumption upon  
4 submission of proof satisfactory to the department of such  
5 destruction, spoilage or damage.

6 Section 8. [NEW MATERIAL] INTERPRETATION OF ACT--  
7 ADMINISTRATION AND ENFORCEMENT OF TAX. --

8 A. The department shall interpret the provisions of  
9 the Soft Drink Tax Act.

10 B. The department shall administer and enforce the  
11 collection of the soft drink tax, and the Tax Administration  
12 Act applies to the administration and enforcement of the tax.

13 Section 9. A new section of the Tax Administration Act is  
14 enacted to read:

15 "[NEW MATERIAL] DISTRIBUTION--SOFT DRINK TAX. --Pursuant to  
16 the provisions of Section 7-1-6.1 NMSA 1978, the net receipts  
17 attributable to the tax imposed pursuant to the Soft Drink Tax  
18 Act shall be distributed as follows:

19 A. fifty percent of the net receipts to the  
20 department of health for diabetes prevention and public  
21 education programs; and

22 B. fifty percent of the net receipts to the general  
23 fund. "