

AMENDED IN ASSEMBLY APRIL 29, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1357**

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**Introduced by Assembly Member Bloom**  
*(Coauthors: Assembly Members Chiu and Rendon)*

February 27, 2015

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An act to add Chapter 5 (commencing with Section ~~104895.5~~) 104895.50) to Part 3 of Division 103 of the Health and Safety Code, relating to public ~~health~~ health, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1357, as amended, Bloom. Children and Family Health Promotion Program.

*Existing law provides various programs that prevent disease and promote health.*

*This bill, subject to specified exemptions, would impose a fee on every distributor, as defined, for the privilege of distributing in this state bottled sweetened beverages, at a rate of \$0.02 per fluid ounce and for the privilege of distributing concentrate in this state, either as concentrate or as sweetened beverages derived from that concentrate, at the rate of \$0.02 per fluid ounce of sweetened beverage to be produced from concentrate. The Board of Equalization would be responsible for administering and collecting the fee and registering the distributors upon whom the fee is imposed. These amounts would be deposited into the Children and Family Health Promotion Trust Fund, created by the bill. The bill would require moneys in the fund, upon*

*appropriation by the Legislature, to be allocated to the State Department of Public Health, the State Department of Health Care Services, the Department of Education, and the Department of Food and Agriculture, as specified, for various purposes of statewide diabetes and childhood obesity treatment and prevention activities and programs, including awarding competitive grants to local governments, nonprofit organizations, school districts, and other entities for activities in support of the bill's objectives. This bill would also authorize the State Public Health Officer, the Director of Health Care Services, the Superintendent of Public Instruction, and the Secretary of Food and Agriculture to establish regulations and provide procedural measures, to bring into effect those purposes.*

*This bill would require the State Department of Public Health, in consultation with the other participating departments, to prepare and adopt an annual program budget, as specified. The bill would establish the Children and Family Health Promotion Administration Account within the fund, to be used, upon appropriation by the Legislature, to reimburse expenditures by the State Department of Public Health in administering and implementing the activities required by the bill, and to repay specified loans from other funds.*

*This bill would make legislative findings and declarations relating to the consumption of sweetened beverages, diabetes, childhood obesity, and dental disease.*

*This bill would declare that it is to take effect immediately as an urgency statute.*

~~Existing law provides various programs that prevent disease and promote health.~~

~~This bill would establish the Children and Family Health Promotion Program in the Department of Public Health. This bill would require the program to consist of a competitive grant process in which grants are awarded by the department to counties, cities, nonprofit organizations, community-based organizations, and licensed clinics that seek to invest in childhood obesity and diabetes prevention activities and oral health programs. The bill would authorize the department to award a grant to any entity that will use the grant to support programs that use educational, environmental, policy, and other public health approaches to achieve specified goals.~~

~~This bill would require the department to develop an application and application process for the program, and would provide that the program~~

~~will be funded by moneys appropriated by the Legislature to the department for this purpose.~~

~~This bill would make legislative findings and declarations relating to the consumption of sweetened beverages, childhood obesity, and dental disease.~~

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. *The Legislature finds and declares all of the*  
2 *following:*
- 3     (a) *Over 2.3 million California adults report having been*  
4 *diagnosed with diabetes, representing one out of every 12 adult*  
5 *Californians. The vast majority of diabetes cases in California are*  
6 *type 2, representing 1.9 million adults.*
- 7     (b) *According to the State Department of Public Health, diabetes*  
8 *is the seventh leading cause of death in California, and has been*  
9 *determined to be the underlying cause of death for almost 8,000*  
10 *people each year.*
- 11     (c) *Adults with type 2 diabetes more often have other health*  
12 *problems. One-half of adults with Type 2 diabetes also have*  
13 *hypertension. This rate of occurrence is twice as high as for those*  
14 *without diabetes. Adults with diabetes are also twice as likely to*  
15 *have cardiovascular disease than adults without diabetes.*
- 16     (d) *Adults with diabetes are 50 percent more likely to have*  
17 *arthritis than adults without diabetes. Over 40 percent of new*  
18 *cases of kidney failure are attributed to diabetes. New cases of*  
19 *kidney failure declined slightly from 2001 to 2007, but began to*  
20 *increase again after 2007.*
- 21     (e) *Hispanics, African Americans, Native Americans, and*  
22 *Asian/Pacific Islanders have higher prevalence of type 2 diabetes*  
23 *than non-Hispanic whites. Hispanics and African Americans have*  
24 *two times higher prevalence: 7 percent of non-Hispanic Whites*  
25 *have type 2 diabetes, compared with 12 percent of Latinos, 9*  
26 *percent of Asian Americans, 14 percent of Pacific Islander*  
27 *Americans, 13 percent of African Americans, and 17.5 percent of*  
28 *Native American populations. If trends are not reversed, it is*  
29 *predicted that one in three children and nearly one-half of Latino*

1 *and African American children born in the year 2000 will develop*  
2 *type 2 diabetes in their lifetime.*

3 *(f) The prevalence of obesity in the United States has increased*  
4 *dramatically over the past 30 years. In California, obesity rates*  
5 *have increased even more, rising from 8.9 percent in 1984 to 23.8*  
6 *percent in 2011. Although no group has escaped the epidemic, low*  
7 *income and communities of color are disproportionately affected.*

8 *(g) The rate of children who are overweight has also increased*  
9 *dramatically in recent decades. In 2010, 38 percent of California*  
10 *children in grades 5, 7, and 9 were overweight or obese. Thirty-one*  
11 *of California's 58 counties experienced an increase in childhood*  
12 *obesity from 2005 to 2010.*

13 *(h) In 2006, California overweight and obesity-related health*  
14 *costs were estimated at almost \$21 billion.*

15 *(i) There is overwhelming evidence of the link between obesity,*  
16 *diabetes, and heart disease and the consumption of sweetened*  
17 *beverages, such as soft drinks, energy drinks, sweet teas, and sports*  
18 *drinks. California adults who drink a soda or more per day are*  
19 *27 percent more likely to be overweight or obese, regardless of*  
20 *income or ethnicity.*

21 *(j) According to nutritional experts, sweetened beverages, such*  
22 *as soft drinks, energy drinks, sweet teas, and sports drinks, offer*  
23 *little or no nutritional value, but massive quantities of added*  
24 *sugars. A 20-ounce bottle of soda contains the equivalent of*  
25 *approximately 16 teaspoons of sugar. Yet, the American Heart*  
26 *Association recommends that Americans consume no more than*  
27 *five to nine teaspoons of sugar per day.*

28 *(k) Research shows that almost one-half of the extra calories*  
29 *Americans consume in their diet comes from sugar-sweetened*  
30 *beverages, with the average American drinking nearly 50 gallons*  
31 *of sugar-sweetened beverages a year, the equivalent of 39 pounds*  
32 *of extra sugar every year.*

33 *(l) Research shows that 41 percent of California children from*  
34 *2 to 11 years of age, inclusive, and 62 percent of California teens*  
35 *from 12 to 17 years of age, inclusive, drink soda daily, and for*  
36 *every additional serving of sweetened beverage that a child*  
37 *consumes per day, the likelihood of the child becoming obese*  
38 *increases by 60 percent.*

39 *(m) Sugary drinks are a unique contributor to excess caloric*  
40 *consumption. A large body of research shows that calories from*

1 *sugary drinks do not satisfy hunger the way calories from solid*  
2 *food or beverages containing fat or protein do, such as those*  
3 *containing milk and plant-based proteins. As a result, sugary*  
4 *beverages tend to add to the calories people consume rather than*  
5 *replace them.*

6 *(n) Dental caries (tooth decay) is the most common chronic*  
7 *childhood disease, experienced by more than two-thirds of*  
8 *California’s children. Children who frequently or excessively*  
9 *consume beverages high in sugar are at increased risk for dental*  
10 *caries. Untreated dental caries can lead to pain, infection, tooth*  
11 *loss, and in severe cases, even death.*

12 *(o) It is the intent of the Legislature, by adopting the Children*  
13 *and Family Health Promotion Trust Fund to diminish the human*  
14 *and economic costs of diabetes, obesity, heart disease, and dental*  
15 *disease in California. The fund is intended to create a dedicated*  
16 *revenue source for health, education, and wellness programs*  
17 *designed to prevent and treat obesity, diabetes, and heart and*  
18 *dental disease, and to reduce the burden of attendant health*  
19 *conditions that result from the overconsumption of sweetened*  
20 *beverages.*

21 *SEC. 2. Chapter 5 (commencing with Section 104895.50) is*  
22 *added to Part 3 of Division 103 of the Health and Safety Code, to*  
23 *read:*

24

25 *CHAPTER 5. CHILDREN AND FAMILY HEALTH PROMOTION*  
26 *PROGRAM*

27

28 *104895.50. The following definitions shall apply for purposes*  
29 *of this chapter:*

30 *(a) (1) “Beverage for medical use” means a beverage suitable*  
31 *for human consumption and manufactured for use as an oral*  
32 *nutritional therapy for persons who cannot absorb or metabolize*  
33 *dietary nutrients from food or beverages, or for use as an oral*  
34 *rehydration electrolyte solution for infants and children formulated*  
35 *to prevent or treat dehydration due to illness.*

36 *(2) “Beverage for medical use” includes a “medical food.”*  
37 *Consistent with Section 5(b)(3) of the Orphan Drug Act (Public*  
38 *Law 97-414; at 21 U.S.C. 360ee(b)(3)), “medical food” means a*  
39 *food that is formulated to be consumed or administered internally*  
40 *under the supervision of a physician and that is intended for the*

1 *specific dietary management of a disease or condition for which*  
2 *distinctive nutritional requirements, based on recognized scientific*  
3 *principles, are established by medical evaluation.*

4 (3) *“Beverage for medical use” does not include drinks*  
5 *commonly referred to as “sports drinks,” or any other derivative*  
6 *or similar terms.*

7 (b) *“Board” means the State Board of Equalization.*

8 (c) *“Bottle” means any closed or sealed container, regardless*  
9 *of size or shape, including, without limitation, those made of glass,*  
10 *metal, paper, plastic, or any other material or combination of*  
11 *materials.*

12 (d) *“Bottled sugar-sweetened beverage” means any*  
13 *sugar-sweetened beverage contained in a bottle that is ready for*  
14 *consumption without further processing, such as dilution or*  
15 *carbonation.*

16 (e) *“Caloric sweetener” means any caloric substance suitable*  
17 *for human consumption that humans perceive as sweet, including,*  
18 *but not limited to, sucrose, fructose, glucose, fruit juice*  
19 *concentrate, or other sugars. “Caloric sweetener” excludes*  
20 *noncaloric sweeteners. For purposes of this definition, “caloric”*  
21 *means a substance that adds calories to the diet of a person who*  
22 *consumes that substance.*

23 (f) *“Consumer” means a person who purchases a*  
24 *sugar-sweetened beverage for consumption and not for sale to*  
25 *another.*

26 (g) *“Distributor” means any person, including a manufacturer*  
27 *or wholesale dealer, who receives, stores, manufactures, bottles,*  
28 *or distributes bottled sugar-sweetened beverages, syrups, or*  
29 *powders for sale to retailers doing business in the state, or any*  
30 *combination of these activities, whether or not that person also*  
31 *sells those products to consumers.*

32 (h) *“Fund” means the Children and Family Health Promotion*  
33 *Trust Fund.*

34 (i) *“Milk” means natural liquid milk, regardless of animal or*  
35 *plant source or butterfat content, natural milk concentrate, whether*  
36 *or not reconstituted, or dehydrated natural milk, whether or not*  
37 *reconstituted.*

38 (j) *“Natural fruit juice” means the original liquid resulting*  
39 *from the pressing of fruits, or the liquid resulting from the dilution*  
40 *with water of dehydrated natural fruit juice.*

1 (k) “Natural vegetable juice” means the original liquid resulting  
2 from the pressing of vegetables, or the liquid resulting from the  
3 dilution with water of dehydrated natural vegetable juice.

4 (l) “Noncaloric sweetener” means any noncaloric substance  
5 suitable for human consumption that humans perceive as sweet,  
6 including, but not limited to, aspartame, acesulfame-K, neotame,  
7 saccharin, sucralose, and stevia. “Noncaloric sweetener” excludes  
8 caloric sweeteners. For purposes of this definition, “noncaloric”  
9 means a substance that contains fewer than five calories per  
10 serving.

11 (m) “Person” means a natural person, partnership, cooperative  
12 association, limited liability company, corporation, personal  
13 representative, receiver, trustee, assignee, or other legal entity.

14 (n) “Place of business” means any place where sugar-sweetened  
15 beverages, syrups, or powders are manufactured or received for  
16 sale in the state.

17 (o) “Powder” means any solid mixture of ingredients used in  
18 making, mixing, or compounding sugar-sweetened beverages by  
19 mixing the powder with one or more other ingredients, including,  
20 but not limited to, water, ice, syrup, simple syrup, fruits, vegetables,  
21 fruit juice, vegetable juice, or carbonation or other gas.

22 (p) “Retailer” means any person who sells or otherwise  
23 dispenses in the state a sugar-sweetened beverage to a consumer  
24 whether or not that person is also a distributor.

25 (q) “Sale” means the transfer of title or possession for valuable  
26 consideration, regardless of the manner by which the transfer is  
27 completed.

28 (r) “State” means the State of California.

29 (s) (1) “Sugar-sweetened beverage” means any nonalcoholic  
30 beverage, carbonated or noncarbonated, that is intended for human  
31 consumption and contains added caloric sweetener. As used in  
32 this subdivision, “nonalcoholic beverage” means any beverage  
33 that contains less than one-half of 1 percent alcohol per volume.

34 (2) “Sugar-sweetened beverage” does not include any of the  
35 following:

36 (A) Bottled sugar-sweetened beverages, syrups, and powders  
37 sold to the United States government and American Indian tribal  
38 governments.

39 (B) Bottled sugar-sweetened beverages, syrups, and powders  
40 sold by a distributor to another distributor that is registered

1 pursuant to Section 104895.58, if the sales invoice clearly indicates  
2 that the sale is exempt. If the sale is to a person who is both a  
3 distributor and a retailer, the sale shall also be fee-exempt and  
4 the fee shall be paid when the purchasing distributor or retailer  
5 resells the product to a retailer or a consumer. This exemption  
6 does not apply to any other sale to a retailer.

7 (C) Beverages sweetened solely with noncaloric sweeteners.

8 (D) Beverages consisting of 100 percent natural fruit or  
9 vegetable juice, with no added caloric sweetener.

10 (E) Beverages in which milk, or soy, rice, or similar milk  
11 substitute, is the primary ingredient or the first listed ingredient  
12 on the label of the beverage.

13 (F) Beverages with fewer than five grams of added sugar or  
14 other caloric sweeteners per 12 ounces.

15 (G) Coffee or tea without added caloric sweetener.

16 (H) Infant formula.

17 (I) Beverages for medical use.

18 (J) Water without any caloric sweetener.

19 (t) "Syrup" means a liquid mixture of ingredients used in  
20 making, mixing, or compounding sugar-sweetened beverages using  
21 one or more other ingredients, including, but not limited to, water,  
22 ice, powder, simple syrup, fruits, vegetables, fruit juice, vegetable  
23 juice, carbonation, or other gas.

24 (u) "Water" includes nonflavored water, or water flavored with  
25 noncaloric "natural fruit essence" or "natural flavor." The source  
26 of the water may be artesian, mineral, spring, or well. The type of  
27 water may also include carbonated, such as sparkling, club, or  
28 seltzer, and still, distilled, or purified, such as demineralized,  
29 deionized, or reverse osmosis.

30 104895.51. The Children and Family Health Promotion Trust  
31 Fund is hereby established in the State Treasury. The fund shall  
32 consist of all fees, interest, penalties, and other amounts collected  
33 pursuant to this chapter, less refunds and reimbursement for  
34 expenses incurred in the administration and collection of the fees.

35 (a) Fifty-one percent of the moneys in the fund shall be allocated  
36 to the State Department of Public Health. Amounts allocated for  
37 purposes of this subdivision shall be distributed equally, as follows:

38 (1) To administer a competitive grant program for county  
39 governments seeking to invest in childhood obesity and diabetes  
40 prevention activities.



1 (2) *To administer a competitive grant program for nonprofit*  
2 *organizations and community based organizations seeking to invest*  
3 *in childhood obesity and diabetes prevention activities.*

4 (3) *The department may award a grant to any entity described*  
5 *in subparagraphs (A) and (B) that will use the grant to support*  
6 *programs that use educational, environmental, policy, and other*  
7 *public health approaches to achieve all of the following goals:*

8 (A) *To improve access to, and consumption of, healthy and*  
9 *affordable foods and beverages, and reduce access to, and*  
10 *consumption of, calorie-dense and nutrient-poor foods.*

11 (B) *To encourage physical activity and decrease sedentary*  
12 *behavior.*

13 (C) *To raise awareness about the importance of nutrition and*  
14 *physical activity in the prevention of childhood obesity and*  
15 *diabetes.*

16 (4) *To the department's Oral Health Program to support dental*  
17 *health programs.*

18 (5) *To administer a competitive grant program for licensed*  
19 *clinics to invest in childhood obesity and diabetes prevention and*  
20 *treatment activities, and children's dental programs. Funding shall*  
21 *support programs that use educational and other public health*  
22 *approaches that raise awareness about the importance of nutrition*  
23 *and physical activity in the prevention of childhood obesity and*  
24 *diabetes.*

25 (b) *Four percent to the Expanded Access to Primary Care, Rural*  
26 *Health Services Development, Seasonal Agricultural Migratory*  
27 *Workers, and Indian Health programs in the State Department of*  
28 *Health Care Services. Funds shall be used to support clinic-based*  
29 *obesity and diabetes prevention and related disease management.*

30 (c) *Twenty-five percent to the Department of Education, to be*  
31 *distributed equally for the following purposes:*

32 (1) *To administer a competitive grant program for school*  
33 *districts for educational, environmental, policy, and other public*  
34 *health approaches that promote physical activity. The approaches*  
35 *funded pursuant to this paragraph may include improving or*  
36 *constructing school recreational facilities that are used for recess*  
37 *and physical education, providing continuing education training*  
38 *for physical education teachers, hiring qualified physical education*  
39 *teachers, and implementing Safe Routes to School programs.*

1 (2) To administer a competitive grant program for school  
2 districts for educational, environmental, policy, and other public  
3 health approaches that promote nutrition. The approaches funded  
4 pursuant to this paragraph may include improving the quality and  
5 nutrition of school breakfasts, lunches, and snacks, and  
6 incorporating practical nutrition education into the curriculum.

7 (3) To the California Farm to School Program administered by  
8 the department.

9 (4) To administer a competitive grant program for school  
10 districts for ensuring access to clean drinking water throughout  
11 the schoolday, including, but not limited to, drinking fountains  
12 and water bottle refilling stations.

13 (d) Twenty percent to the Department of Food and Agriculture,  
14 to be distributed equally for the following purposes:

15 (1) To the Office of Farm to Fork for nutritious foods incentive  
16 programs.

17 (2) To administer a grant program to support producers of fresh  
18 fruits and vegetables and other specialty crops.

19 (e) (1) The State Department of Public Health shall develop  
20 an application and application process for the grant programs  
21 established pursuant to this section.

22 (2) Applicants interested in receiving a grant shall submit an  
23 application to the department responsible for the individual grant  
24 program.

25 (f) No more than seven percent of the funds received shall be  
26 used by any department for administrative costs.

27 (g) All moneys in the fund shall be allocated with priority given  
28 to communities exhibiting high prevalence of type 2 diabetes, as  
29 reported by the California Health Interview Survey (CHIS)  
30 conducted by the University of California, Los Angeles Center for  
31 Health Policy Research. Departments shall use the most current  
32 survey data available.

33 (h) Upon appropriation by the Legislature, all moneys in the  
34 fund shall be expended only for the purposes expressed in this  
35 chapter, and shall be used only to supplement existing levels of  
36 service. Moneys in the fund shall not supplant any federal, state,  
37 or local funding for existing levels of service.

38 (i) The State Public Health Officer, the Secretary of the  
39 Department of Food and Agriculture, the Director of Health Care  
40 Services, and the Superintendent of Public Instruction may

1 *coordinate to establish regulations and procedural measures*  
2 *necessary to effectuate the purposes of this chapter. The regulations*  
3 *may provide for specific programs to be funded consistent with*  
4 *the allocation of funds as set forth in this section. In establishing*  
5 *these regulations, the department shall give particular*  
6 *consideration to reducing the prevalence of diabetes, as identified*  
7 *by data from the CHIS.*

8 *(j) The California State Auditor's office shall conduct periodic*  
9 *audits to ensure that the annual allocation to individual programs*  
10 *is awarded by the fund in a timely fashion consistent with the*  
11 *requirements of this chapter. The first audit shall be conducted no*  
12 *later than 24 months after the effective date of this section.*

13 *104895.52. (a) No later than July 1, 2016, the Director of the*  
14 *Department of Public Health shall appoint an advisory committee*  
15 *to provide input regarding the implementation of the program.*  
16 *The advisory committee shall be a purely advisory body and shall*  
17 *have no final decisionmaking authority with respect to the*  
18 *implementation of this chapter.*

19 *(b) The advisory committee shall be composed of at least seven*  
20 *members as follows:*

21 *(1) The State Department of Public Health, the Department of*  
22 *Food and Agriculture, the State Department of Health Care*  
23 *Services, and the State Department of Education each shall appoint*  
24 *at least one member, for a total of at least four members.*

25 *(2) The Governor, the Speaker of the Assembly, and the*  
26 *President pro Tempore of the Senate each shall appoint one*  
27 *member with expertise in childhood obesity and diabetes*  
28 *prevention, and experience in researching public health issues or*  
29 *evaluating public health programs related to diabetes, obesity,*  
30 *chronic disease prevention, and sugary drink consumption. At*  
31 *least one of those three members shall have experience with a*  
32 *community-based chronic disease prevention organization.*

33 *(c) The advisory committee shall conduct an annual study and*  
34 *submit a report to the Legislature and all relevant standing*  
35 *committees, regarding the process and outcome performance of*  
36 *the fund. The study and report may include, but need not be limited*  
37 *to, a review of how moneys in the fund were allocated, annual and*  
38 *longitudinal data on childhood obesity prevalence and incidence*  
39 *rates, data on childhood diabetes and incidence rates, and*  
40 *longitudinal information on sweetened beverage consumption rates*

1 across the state population. The report shall be submitted each  
2 year.

3 104895.53. (a) A health impact fee is hereby imposed on every  
4 distributor for the privilege of distributing bottled sweetened  
5 beverages and concentrate in the state, for deposit into the fund.  
6 The fees shall be calculated as follows:

7 (1) The fee on bottled sweetened beverages distributed in this  
8 state shall be two cents (\$0.02) per fluid ounce.

9 (2) The fee on concentrates distributed in the state either as  
10 concentrate or as a sweetened beverage derived from that  
11 concentrate shall be equal to two cents (\$0.02) per fluid ounce of  
12 sweetened beverage produced from that concentrate. For purposes  
13 of calculating the fee for concentrate, the volume of sweetened  
14 beverage to be produced from concentrate shall be the largest  
15 volume resulting from use of the concentrate according to any  
16 manufacturer's instructions.

17 (b) In each transaction described in subdivision (a), the  
18 distributor shall include the following information on each receipt,  
19 invoice, or other form of accounting for the distribution of bottled  
20 sweetened beverages or concentrate:

21 (1) The name and address of the distributor.

22 (2) The name and address of the purchaser.

23 (3) The date of sale and invoice number.

24 (4) The kind, quantity, size, and capacity of packages of bottled  
25 sweetened beverages, sweetened beverages, or concentrate sold.

26 (5) The amount of fees due from the distributor on the sale of  
27 the bottled sweetened beverages, sweetened beverages, or  
28 concentrate.

29 (6) Any other information, as required by the board.

30 (c) The program shall develop reimbursement criteria to enable  
31 participating departments to recover administrative costs  
32 associated with collecting the charge.

33 (d) This section shall not preempt a city or county from enacting  
34 or enforcing an ordinance related to taxation of sugar-sweetened  
35 beverages if the ordinance is more stringent than this section.

36 104895.54. (a) (1) No later than July 1, 2016, and annually  
37 thereafter, the State Department of Public Health, in consultation  
38 with the State Department of Health Care Services, the Department  
39 of Education, and the Department of Food and Agriculture, shall

1 *commence preparation of a program budget for the following*  
2 *calendar year that includes all of the following information:*

3 (A) *Anticipated revenues and costs of implementing the program,*  
4 *including related programs, projects, contracts, and administrative*  
5 *expenses.*

6 (B) *A recommended funding level sufficient to cover the*  
7 *program's budgeted costs and to operate the program over a*  
8 *multiyear period in a prudent and responsible manner.*

9 (C) *The amount of the health impact fees, as described in Section*  
10 *104895.53 and itemization of costs that the fees cover.*

11 (2) *The department shall adopt a final program budget for*  
12 *purposes of this chapter by October 1 of each year.*

13 (b) *The fund shall reimburse the department for administration*  
14 *and implementation costs the department incurs pursuant to this*  
15 *chapter, as provided in subdivision (c). The reimbursement shall*  
16 *not exceed the department's direct costs to implement and enforce*  
17 *this chapter.*

18 (c) *The department shall deposit all moneys submitted for*  
19 *reimbursement costs by the program into the Children and Family*  
20 *Health Promotion Administration Account, which is hereby*  
21 *established within the fund. Upon appropriation by the Legislature,*  
22 *moneys in the account shall be expended by the State Department*  
23 *of Public Health to administer and enforce this chapter; and to*  
24 *repay any outstanding loans made from other funds used to finance*  
25 *startup costs of the department's activities pursuant to this chapter.*

26 104895.55. (a) *The board shall administer and collect the fees*  
27 *imposed by this chapter pursuant to the Fee Collection Procedures*  
28 *Law (Part 30 (commencing with Section 55001)). For purposes*  
29 *of this chapter, the references in the Fee Collection Procedures*  
30 *Law to "fee" shall include the fees imposed by this chapter and*  
31 *references to "feepayer" shall include a person required to pay*  
32 *the fees imposed by this chapter.*

33 (b) *The board may prescribe, adopt, and enforce regulations*  
34 *relating to the administration and enforcement of this chapter,*  
35 *including, but not limited to, collections, reporting, refunds, and*  
36 *appeals.*

37 (c) *The board may adopt regulations to implement this chapter.*  
38 *The adoption, amendment, repeal, or readoption of a regulation*  
39 *authorized by this section is deemed to address an emergency, for*  
40 *purposes of Sections 11346.1 and 11349.6 of the Government*

1 Code, and the board is hereby exempted for this purpose from the  
2 requirements of subdivision (b) of Section 11346.1 of the  
3 Government Code.

4 104895.56. The fees imposed by this chapter are due and  
5 payable to the board on or before the last day of the first month  
6 following each calendar quarter.

7 104895.57. (a) On or before the last day of the first month  
8 following each calendar quarter, a return for the preceding  
9 calendar quarter shall be filed with the board using electronic  
10 media.

11 (b) The board may prescribe those forms and reporting  
12 requirements as are necessary to implement the fees, including,  
13 but not limited to, information regarding the total amount of bottled  
14 sweetened beverages and concentrate sold and the amount due.

15 (c) Returns shall be authenticated in a form or pursuant to  
16 methods prescribed by the board.

17 104895.58. Every distributor required to pay the fees imposed  
18 under this chapter shall register with the board. An application  
19 for registration shall be made upon a form prescribed by the board  
20 and shall set forth the name under which the applicant transacts  
21 or intends to transact business, the location or locations of each  
22 place of business, and any other information required by the board.  
23 An application for an account under this section shall be  
24 authenticated in a form, or pursuant to methods, prescribed by the  
25 board.

26 104895.59. The distribution of bottled sweetened beverages  
27 or concentrate by a distributor to either of the following persons  
28 shall be exempt from the fees imposed by this chapter:

29 (a) To a person when, pursuant to the contract of sale, the  
30 bottled sweetened beverages or concentrate shall be shipped, and  
31 are shipped, to a point outside of this state by the distributor by  
32 means of either of the following:

33 (1) Facilities operated by the distributor.

34 (2) Delivery by the distributor to a carrier, customs broker, or  
35 forwarding agent, whether hired by the purchaser or not, for  
36 shipment to the out-of-state point.

37 (b) To a person who is otherwise exempt from the taxation of  
38 that sale, use, or consumption under the Constitution of the United  
39 States, federal law or regulation, or the California Constitution.

1 104895.60. A distributor who has paid a fee, either directly to  
2 the state or to another distributor registered under this part, and  
3 makes a subsequent distribution of bottled sweetened beverages  
4 or concentrate may claim a credit on its return for the period in  
5 which the subsequent sale or distribution occurs.

6 SEC. 3. This act is an urgency statute necessary for the  
7 immediate preservation of the public peace, health, or safety within  
8 the meaning of Article IV of the Constitution and shall go into  
9 immediate effect. The facts constituting the necessity are:

10 In order to provide timely funding necessary to help mitigate  
11 the deleterious health effects that result from the overconsumption  
12 of sweetened beverages, including diabetes, heart disease, and  
13 oral decay, it is necessary for this act to take effect immediately.

14 SECTION 1. ~~The Legislature finds and declares all of the~~  
15 ~~following:~~

16 ~~(a) Over 2.3 million California adults report having been~~  
17 ~~diagnosed with diabetes, representing one out of every 12 adult~~  
18 ~~Californians. The vast majority of diabetes cases in California are~~  
19 ~~type 2, representing 1.9 million adults.~~

20 ~~(b) According to the California Department of Public Health,~~  
21 ~~diabetes is the seventh leading cause of death in California, and~~  
22 ~~determined to be the underlying cause of death in almost 8,000~~  
23 ~~people each year. Diabetes may be underreported as a cause of~~  
24 ~~death, and is a contributing factor to many deaths from heart~~  
25 ~~disease and stroke.~~

26 ~~(c) Adults with type 2 diabetes more often have other health~~  
27 ~~problems. One out of every two adults with type 2 diabetes also~~  
28 ~~has hypertension. This is two times higher than among those~~  
29 ~~without diabetes. Adults with diabetes are also two times more~~  
30 ~~likely to have cardiovascular disease than adults without diabetes.~~

31 ~~(d) Hispanics, African Americans, Native Americans, and~~  
32 ~~Asian/Pacific Islanders have higher prevalence of type 2 diabetes~~  
33 ~~than non-Hispanic Whites. Hispanics and African Americans have~~  
34 ~~two times higher prevalence: 7 percent of non-Hispanic Whites~~  
35 ~~have type 2 diabetes, compared with 12 percent of Latinos, 9~~  
36 ~~percent of Asian Americans, 14 percent of Pacific Islander~~  
37 ~~Americans, 13 percent of African Americans, and 17.5 percent of~~  
38 ~~Native American populations.~~

39 ~~(e) Type 2 diabetes, previously only seen among adults, is now~~  
40 ~~increasing among children. If the current obesity trends are not~~

1 reversed, it is predicted that one in three children and nearly  
2 one-half of Latino and African American children born in the year  
3 2000 will develop type 2 diabetes in their lifetime. Research shows  
4 that overweight children have a much greater chance of being  
5 obese as adults, with all the health risks that entails. Heart disease  
6 is the leading cause of death in the United States, with diabetes as  
7 the seventh leading cause of death.

8 (f) There is overwhelming evidence of the link between obesity,  
9 diabetes, and heart disease and the consumption of sweetened  
10 beverages, such as soft drinks, energy drinks, sweet teas, and sports  
11 drinks. California adults who drink a soda or more per day are 27  
12 percent more likely to be overweight or obese, regardless of income  
13 or ethnicity.

14 (g) The rate of children who are overweight has also increased  
15 dramatically in recent decades. After being relatively constant  
16 from the 1960s to the 1970s, the prevalence of overweight children  
17 has more than quadrupled among children between 6 and 11 years  
18 of age and nearly tripled among those between 12 and 19 years of  
19 age. In California in 2010, 38 percent of children in grades 5, 7,  
20 and 9 were overweight or obese. Thirty-one of California's 58  
21 counties experienced an increase in childhood overweight from  
22 2005 to 2010.

23 (h) The obesity epidemic is of particular concern because obesity  
24 increases the risk of diabetes, heart disease, certain types of cancer,  
25 arthritis, asthma, and breathing problems. Depending on their level  
26 of obesity, from 60 percent to over 80 percent of obese adults have  
27 type 2 diabetes, high blood cholesterol, high blood pressure, or  
28 other related conditions. It has been reported that up to 60 percent  
29 of obese children 5 to 10 years of age have early signs of heart  
30 disease.

31 (i) According to nutritional experts, sweetened beverages, such  
32 as soft drinks, energy drinks, sweet teas, and sport drinks, offer  
33 little or no nutritional value, but massive quantities of added sugars.  
34 A 20-ounce bottle of soda contains the equivalent of approximately  
35 16 teaspoons of sugar. Yet, the American Heart Association  
36 recommends that Americans consume no more than five to nine  
37 teaspoons of sugar per day.

38 (j) Research shows that almost one-half of the extra calories  
39 Americans consume in their diet comes from sugar sweetened  
40 beverages, with the average American drinking nearly 50 gallons



1 of sugar-sweetened beverages a year, the equivalent of 39 pounds  
2 of extra sugar every year.

3 (k) Research shows that 41 percent of California children 2 to  
4 11 years of age and 62 percent of California teens 12 to 17 years  
5 of age drink soda daily, and for every additional serving of  
6 sweetened beverage that a child consumes a day, the likelihood of  
7 the child becoming obese increases by 60 percent.

8 (l) The proportion of youth drinking at least one sugary beverage  
9 per day was highest among Latinos at 48 percent, significantly  
10 higher than among whites at 33 percent. African-American youth,  
11 at 43 percent, and multi-racial youth, at 46 percent, also had  
12 significantly higher consumption than whites.

13 (m) Dental caries (tooth decay) are the most common chronic  
14 childhood disease, experienced by more than two-thirds of  
15 California's children. Children who frequently or excessively  
16 consume beverages high in sugar are at increased risk for dental  
17 caries. Untreated dental caries can lead to pain, infection, tooth  
18 loss, and in severe cases, even death. It can slow normal growth  
19 and development by restricting nutritional intake. Children who  
20 are missing teeth may have chewing problems that limit their food  
21 choices and result in nutritionally inadequate diets.

22 (n) It is the intent of the Legislature to create a program designed  
23 to prevent and treat obesity, diabetes, heart and dental disease and  
24 reduce the burden of attendant health conditions that result from  
25 the overconsumption of sweetened beverages.

26 SEC. 2. Chapter 5 (commencing with Section 104895.5) is  
27 added to Part 3 of Division 103 of the Health and Safety Code, to  
28 read:

29

30 CHAPTER 5. CHILDREN AND FAMILY HEALTH PROMOTION  
31 PROGRAM

32

33 104895.5. (a) The Children and Family Health Promotion  
34 Program is hereby established in the Department of Public Health.

35 (b) The program shall consist of a competitive grant process in  
36 which grants are awarded by the department to counties, cities,  
37 nonprofit organizations, community-based organizations, and  
38 clinics licensed pursuant to Chapter 1 (commencing with Section  
39 1200) of Division 2 that seek to invest in childhood obesity and  
40 diabetes prevention activities and oral health programs.

- 1     ~~(e) The department may award a grant to any entity described~~
- 2     ~~in subdivision (b) that will use the grant to support programs that~~
- 3     ~~use educational, environmental, policy, and other public health~~
- 4     ~~approaches to achieve all the following goals:~~
- 5         ~~(1) Improve access to, and consumption of, healthy, safe, and~~
- 6         ~~affordable foods and beverages.~~
- 7         ~~(2) Reduce access to, and consumption of, calorie-dense and~~
- 8         ~~nutrient-poor foods.~~
- 9         ~~(3) Encourage physical activity and decrease sedentary behavior.~~
- 10        ~~(4) Raise awareness about the importance of nutrition and~~
- 11        ~~physical activity to childhood obesity and diabetes prevention.~~
- 12     ~~(d) The department shall develop an application and application~~
- 13     ~~process for the program.~~
- 14     ~~(e) Applicants interested receiving a grant shall submit an~~
- 15     ~~application to the department.~~
- 16     ~~(f) The program shall be funded by any moneys appropriated~~
- 17     ~~by the Legislature to the department for this purpose.~~