



Jim Justice
Governor of West Virginia

March 21, 2017

The Honorable Mitch Carmichael
Office of the Senate President
Room 229M, Building 1
1900 Kanawha Boulevard, East
Charleston, WV 25305

The Honorable Timothy Armstead
Office of Speaker of the House of Delegates
Room 228M, Building 1
1900 Kanawha Boulevard, East
Charleston, WV 25305

Dear President Carmichael and Speaker Armstead:

On February 27, 2017, I outlined several alternatives to the tax measures I discussed during my State of the State Address on February 8, 2017. The purpose of this letter is to explain how bills previously introduced at my request can be modified if the Legislature would rather use these alternative proposals.

A. Motor Fuel Excise Tax

To change the proposed increase in the Motor Fuel Excise Tax from 10 cents to 4.5 cents, amend S.B. 477, on page 2, §11-14C-5 in line 3, after the word "to" by striking out ".305" and inserting in lieu thereof "\$.25".

B. Consumer Sales and Use Taxes

To change the proposed increase in the Consumer Sales and Services Tax and Use Tax from 0.5 cents to 0.25 cents, and to maintain the exemption for advertising services, amend S.B. 484 as follows:

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On page 4, §11-15-3, in line 10, after the word "be" by striking out the words "six and one-half" and inserting in lieu thereof the words "six and one-quarter."

On page 5, §11-15-3, in line 57, after the word "to" by striking out the words "six and one-half" and inserting in lieu thereof the words "six and one-quarter."

On page 11, §11-15-9, in line 113, after the word "services" by changing the colon to a semi colon and deleting the rest of subdivision (12).

On page 22, §11-15A-2, in line 6, after the word "of" by striking out the words "six and one-half" and inserting in lieu thereof the words "six and one-quarter."

C. Personal Income Tax

To implement an additional temporary income tax on wealthy individuals, amend S.B. 484, on page 26, by inserting before §11-21-97 a new section, designated §11-21-4g, to read as follows:

§11-21-4g. Temporary additional tax on certain resident individuals.

(a) *Temporary additional tax imposed.* - For the tax year beginning on and after January 1, 2017, but not on or after January 1, 2018, there is hereby imposed on resident individuals a tax in addition to the tax imposed by section four-e of this article, determined as follows:

When West Virginia taxable

Income exceeds:	The additional tax imposed is:
\$200,000	\$500
\$250,000	\$750
Over \$300,000	\$1,000

(b) The additional tax imposed by this section shall not apply to tax years beginning on and after January 1, 2018.

D. Commercial Activity Tax

To reduce the rate of the proposed Commercial Activity Tax from two-tenths of one percent of gross income of a business to seventy-five one thousandths of one percent, amend S.B. 484, on page 29, §11-28-1, in line 2, after the word "of" by striking out the words "two tenths" and inserting in lieu thereof the words "seventy-five one thousandths."

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E. Cigarette Tax Increase

On February 27, 2017, I proposed as an alternative source of additional revenue increasing the rate of the excise tax on cigarettes by 50 cents per 20 cigarettes. In Attachment A to this letter is language amending W. Va. Code § 11-17-3, which would implement this recommendation.

F. Sugary Soft Drinks Tax

On February 27, 2017, I proposed as an alternative source of revenue imposing a new excise tax on sugary soft drinks tax. In Attachment B to this letter is language that would add a new article 19A to chapter 11 of the Code, which would implement this recommendation.

Please do not hesitate to contact my office in the event you have any questions about this letter or need any additional information.

Sincerely,



Jim Justice
Governor

cc: The Honorable Roman Prezioso, Senate Minority Leader
The Honorable Tim Miley, House Minority Leader
The Honorable Mike Hall Senate Finance Chair
The Honorable Eric Nelson, House Finance Chair
Dave Hardy, Secretary of Revenue

ATTACHMENT A. CIGARETTE TAX INCREASE.

CHAPTER 11. TAXATION.

ARTICLE 17. TOBACCO PRODUCTS EXCISE TAX ACT.

§11-17-3. Levy of tax; ratio; dedication of proceeds.

1 (a) *Tax on cigarettes and tobacco products other than cigarettes.* —
2 For the purpose of providing revenue for the General Revenue Fund of the
3 state, an excise tax is hereby levied and imposed on sales of cigarettes
4 and tobacco products other than cigarettes.

5 (b) *Tax rate on cigarettes.* — Effective May 1, 2003, the excise tax
6 rate levied and imposed on the sale of cigarettes is 55 cents on each
7 twenty cigarettes or in like ratio on any part thereof: *Provided*, That on and
8 after July 1, 2016, the excise tax rate levied and imposed on the sale of
9 cigarettes is \$1.20 on each twenty cigarettes or in like ratio on any part
10 thereof: *Provided, however*, That on and after July 1, 2017, the excise tax
11 *rate levied and imposed on the sale of cigarettes is \$1.70 on each twenty*
12 *cigarettes or in like ratio on any part thereof.* Only one sale of the same
13 article shall be used in computing the amount of tax due under this
14 subsection.

15 (c) *Tax on tobacco products other than cigarettes.* — Effective 9
16 January 1, 2002, the excise tax levied and imposed on the sales or use of
17 tobacco products other than cigarettes at the rate equal to seven percent
18 of the wholesale price of each article or item of tobacco products other
19 than cigarettes sold by the wholesaler or subjobber dealer, whether or not

20 sold at wholesale, or if not sold, then at the same rate upon the use by the
21 wholesaler or dealer: *Provided*, That on and after July 1, 2016, the excise
22 tax rate levied and imposed on the sales or use of tobacco products other
23 than cigarettes is at the rate equal to twelve percent of the wholesale price
24 of each article or item of tobacco products other than cigarettes sold by
25 the wholesaler or subjobber dealer, whether or not sold at wholesale, or if
26 not sold, then at the same rate upon the use by the wholesaler or dealer.
27 Only one sale of the same article shall be used in computing the amount
28 of tax due under this subsection.

29 (d) *Effective date of amendments.* — Amendments to this section
30 enacted in the year 2003 apply in determining tax imposed under this
31 article from May 1, 2003, through June 30, 2016. Amendments to this
32 section enacted in the year 2016 apply in determining tax imposed under
33 this article effective on and after July 1, 2016. Amendments to this section
34 enacted in the year 2017 apply in determining tax imposed by this article
35 on and after July 1, 2017.

ATTACHMENT B. SUGARY SWEETENED BEVERAGE TAX.

CHAPTER 11. TAXATION.

ARTICLE 19A. SUGER SWEETENED BEVERAGE TAX.

§11-19A-1. Legislative findings.

1 The Legislature finds and declares:

2 (1) Our nation, our state, and our communities face a major public health crisis.
3 Diabetes, obesity, and tooth decay have been on the rise for decades. No segment of
4 our population has escaped these epidemics, but the children of low-income families
5 continue to be disproportionately affected.

6 (2) While there is no single cause for the rise in diabetes, obesity, and tooth
7 decay, there is significant evidence of the link between the consumption of sugary
8 drinks and the incidence of diabetes, obesity, and tooth decay.

9 (3) Sugary drinks such as sugary soft drinks, energy drinks, sweetened coffees
10 and teas, and sport drinks offer little or no nutritional value, but large quantities of added
11 sugar. A single 20-ounce bottle of soda, for example, typically contains the equivalent of
12 approximately 16 teaspoons of sugar.

13 (4) Hundreds of millions of dollars have been spent by manufacturers of sugary
14 soft drink products in an ongoing massive marketing campaign that particularly targets
15 children. The resulting impact on consumption should not be surprising. The average
16 American now drinks nearly 50 gallons of sugary drinks a year.

17 (5) This level of consumption has had tragic impacts on community health. Type
18 2 Diabetes –previously only seen among adults – is now increasing seen among

19 children. If the current obesity trends are not reversed, it is predicted that one in three
20 children will develop type 2 diabetes in their lifetimes.

21 (6) Childhood obesity has more than doubled in children and tripled in
22 adolescents in the past 30 years.

23 (7) Tooth decay, while not as life threatening as diabetes or obesity, still has a
24 meaningful impact, especially on children. Tooth decay is the most common childhood
25 disease in West Virginia. Children who frequently or excessively consume beverages
26 high in sugar are at increased risk for tooth decay. Dental problems are a major cause
27 of missed school days and poor school performance as well as pain, infection, and tooth
28 loss.

§11-19A-2. Purpose and intent.

1 (a) Based on the findings set forth in section one of this article, the purpose of
2 this article is to diminish the human and economic costs of diseases associated with the
3 consumption of sugary drinks by discouraging their distribution and consumption in
4 West Virginia through a tax. The purpose of this article is to impose an excise tax on
5 sugary soft drink products to be paid at the time of their first distribution in this State.

6 (b) This article is not enacted to regulate the distribution of soft drink products.

7 (c) This article imposes an excise tax on the distribution of sugar-sweetened soft
8 drink products such as high-calorie, low-nutrition products, like soda, energy drinks, and
9 presweetened coffees and teas, as well as the added caloric sweeteners used to
10 produce these sugar-sweetened beverages, such as the premade syrup used to make
11 fountain drinks. Certain drinks containing sugar are exempted, including infant formula,
12 milk products, and natural fruit and vegetable juice.

§11-19A-2. Definitions.

1 As used in this article, the following words and phrases shall have the following
2 meanings, unless the context clearly indicates otherwise:

3 (a) "Added caloric sweetener".

4 (1) "Added caloric sweetener" means any substance or combination of
5 substances that meets all of the following four criteria:

6 (A) Is suitable for human consumption;

7 (B) Adds calories to the diet if consumed;

8 (C) Is perceived as sweet when consumed; and

9 (D) Is used for making, mixing, or compounding sugar-sweetened beverages by
10 combining the substance or substances with one or more other ingredients including,
11 without limitation, water, ice, powder, coffee, tea, fruit juice, vegetable juice, or
12 carbonation or other gas.

13 (2) An added caloric sweetener may take any form, including but not limited to a
14 liquid, syrup, and powder, whether or not frozen.

15 (3) "Added caloric sweetener" includes, without limitation, sucrose, fructose,
16 glucose, other sugars, and high fructose corn syrup, but does not include a substance
17 that exclusively contains natural, concentrated, or reconstituted fruit or vegetable juice
18 or any combination thereof.

19 (b) "Alcoholic beverage" means any beverage subject to regulation under chapter
20 sixty of this code.

21 (c) "Beverage for medical use" means a beverage suitable for human
22 consumption and manufactured for use as an oral nutritional therapy for persons who

23 cannot absorb or metabolize dietary nutrients from food or beverages, or for use as an
24 oral rehydration electrolyte solution for infants and children formulated to prevent or
25 treat dehydration due to illness. "Beverage for medical use" does not include drinks
26 commonly referred to as "sports drinks" or any other common names that are
27 derivations thereof.

28 (d) "Bottled sugary soft drinks" includes any and all nonalcoholic beverages,
29 whether carbonated or not, such as soda water, ginger ale, Coca Cola, lime cola, Pepsi
30 Cola, Doctor Pepper, root beer, carbonated water, orangeade, lemonade, fruit juice
31 when any plain or carbonated water, flavoring or syrup is added, or any and all
32 preparations commonly referred to as "soft drinks" of whatever kind, which are closed
33 and sealed in glass, paper, metal cans, plastic or any other type of container,
34 envelope, box, package, bottle or can, whether manufactured with or without the use of
35 any syrup. The term "bottled sugary soft drinks" does not include fluid milk, natural
36 undiluted fruit juice or vegetable juice, or soft drinks marketed as diet soft drinks.

37 (e) "Dealer" means any person engaged in the business of selling sugar-
38 sweetened beverage for retail sale within the State, including but not limited to
39 restaurants; retail stores; street vendors; owners and operators of vending machines;
40 and distributors who engage in making retail sales.

41 (f) "Distributor" means any person who manufactures, bottles, produces or
42 purchases for sale to retail dealers any bottled sugary soft drink product.

43 (g) "Milk" means natural liquid milk, regardless of animal source or butterfat
44 content, natural milk concentrate, whether or not reconstituted, regardless of animal
45 source or butterfat content, or dehydrated natural milk, whether or not reconstituted and

46 regardless of animal source or butterfat content, and plant-based milk substitutes, that
47 are marketed as milk, such as soy milk and almond milk.

48 (h) "Natural undiluted fruit juice" means the liquid resulting from the pressing of
49 fruit without sweetener being added, or the liquid resulting from the reconstitution of
50 natural fruit juice concentrate by the restoration of water to dehydrated natural fruit juice
51 without sweetener being added.

52 (i) "Natural undiluted vegetable juice" means the liquid resulting from the
53 pressing of vegetables without sweetener being added or the liquid resulting from the
54 reconstitution of natural vegetable juice concentrate by the restoration of water to
55 dehydrated natural vegetable juice without sweetener being added.

56 (j) "Person" means an individual, partnership, limited liability company,
57 corporation, trust, business trust, other business entity, government, receiver, trustee,
58 syndicate, social club, fraternal organization, estate, and association or any other group
59 or combination acting as a unit.

60 (k) "Retail dealer" includes every person other than a wholesale dealer mixing,
61 making, compounding or manufacturing any drink from a soft drink syrup or powder
62 base, or a person selling such syrup or powder.

63 (l) "Simple syrup" means the making, mixing, compounding or manufacturing, by
64 dissolving sugar and water or any other mixtures that will create simple syrup to which
65 may or may not be added concentrates or extracts.

66 (m) "Soft drink syrups and powders" includes the compound mixture or the basic
67 ingredients, whether dry or liquid, practically and commercially usable in making, mixing
68 or compounding soft drinks by the mixing thereof with carbonated or plain water, ice,

69 fruit, milk or any other product suitable to make a soft drink, among such syrups being
70 such products as Coca Cola syrup, chero cola syrup, Pepsi Cola syrup, Doctor Pepper
71 syrup, root beer syrup, nu-grape syrup, lemon syrup, vanilla syrup, chocolate syrup,
72 cherry smash syrup, rock candy syrup, simple syrup, chocolate drink powder, malt drink
73 powder, or any other prepared syrups or powders sold or used for the purpose of mixing
74 soft drinks commercially at soda fountains, restaurants or similar places as well as
75 those powder bases prepared for the purchaser to mix with water or other liquids or
76 other ingredients to make a sugary soft drink product: *Provided*, That soft drink syrups
77 and powders include only those products with any form of caloric sugar based
78 sweetener.

79 (n) "Sugar-sweetened soft drink" means any beverage intended for human
80 consumption to which one or more added caloric sweeteners has been added and that
81 contains at least two calories per fluid ounce.

82 (o) "Sugar-sweetened beverage"

83 (1) Sugar-sweetened beverage includes:

84 (A) Any non-alcoholic beverage that lists as an ingredient any form of caloric
85 sugar-based sweetener, including, but not limited to, sucrose, glucose or high fructose
86 corn syrup; or

87 (B) Any non-alcoholic syrup or other concentrate that is intended to be used in
88 the preparation of a beverage and that lists as an ingredient any form of caloric sugar-
89 based sweetener, including, but not limited to, sucrose, glucose or high fructose corn
90 syrup; or

91 (2) Notwithstanding subdivision (1), above, "sugar-sweetened beverages" does
92 not include:

93 (A) Any product advertised and sold as baby formula.

94 (B) Any beverage that meets the statutory definition of "medical food" under the
95 Orphan Drug Act, 21 U.S.C. § 360ee(b)(3), as amended before enactment of this article
96 in 2017.¹

97 (C) Any product, more than fifty percent (50%) of which, by volume, is milk.

98 (D) Any product that consists of undiluted natural fruit juice or natural vegetable
99 juice, or a combination of the two formulated or compounded by someone other than
100 the customer.

101 (F) Unsweetened drinks to which a purchaser can add, or can request that a
102 seller add, sugar, at the point of sale.

103 (G) "Nonintoxicating beer" or "nonintoxicating craft beer" as defined in article
104 sixteen of this chapter.

105 (H) An alcoholic beverage subject to regulation under chapter sixty of this code.

106 (I) Any beverage for medical use.

107 (J) Any liquid advertised and sold for use for weight reduction as a meal
108 replacement.

109 (K) Soft drinks product sweetened by any form of artificial sugar substitute,
110 including stevia, aspartame, sucralose, neotame, acesulfame potassium (Ace-K),
111 saccharin, and advantame.

¹ 21 U.S.C. 360ee(b)(3) reads: "(3) The term "medical food" means a food which is formulated to be consumed or administered enterally under the supervision of a physician and which is intended for the specific dietary management of a disease or condition for which distinctive nutritional requirements, based on recognized scientific principles, are established by medical evaluation."

112 (3) Examples of sugar-sweetened beverages include, but are not limited to, soda
113 except diet soda, non-100%-fruit drinks; sports drinks; sweetened flavored water;
114 energy drinks; pre-sweetened coffee or tea; and non-alcoholic beverages intended to be
115 mixed into an alcoholic drink.

116 (4) The Tax Commissioner is authorized to promulgate interpretive and
117 legislative rules in accordance with article three-a, chapter twenty-nine-a of this code to
118 clarify the inclusion or exclusion of particular products; and to exclude particular
119 products with respect to which, because of their ingredients or other administrative or
120 health-related reasons, exclusion would be consistent with sound public policy and the
121 purposes of this article.

122 (p) "Sugary soft drink products" include sugary bottled soft drinks, sugary soft
123 drink powders and sugary soft drink syrups.

124 (q) "Supply" means to sell, distribute, transfer, deliver or supply.

125 (r) "Tax" includes the tax imposed by this article and any interest, additions to tax
126 any penalties imposed by article ten of this chapter with respect to the tax imposed by
127 this article.

128 (s) "Tax Commissioner" means the state tax commissioner, and where the
129 meaning of the context requires, all deputies and employees duly authorized by him.

130 (t) "Wholesale dealer" includes only those persons who sell any bottled soft drink
131 or soft drink syrup to retail dealers for the purpose of resale.

132

§11-19A-3. Excise tax on bottled sugary soft drinks, syrups and dry mixtures; disposition thereof.

1 (a) In addition to the tax imposed in article nineteen of this chapter and to provide
2 revenue for the General Revenue Fund, an excise tax is hereby levied and imposed on
3 and after July 1, 2017, upon the sale, use, handling or distribution of all bottled sugary
4 soft drinks, all sugary soft drink syrups, and all sugary soft drink powders whether
5 manufactured within or without this state, as follows:

6 (1) On each bottled sugary soft drink, a tax of one cent per ounce or fraction
7 thereof contained therein.

8 (2) On each gallon of sugary soft drink syrup, a tax of \$13.52, and in like ratio on
9 each part gallon thereof, or on each four liters of soft drink syrup a tax of \$14.27, and in
10 like ratio on each part four liters thereof.

11 (3) On each ounce by weight of sugary soft drinks dry mixture or fraction thereof
12 used for making soft drinks, a tax of 17 cents per ounce, or fraction thereof, or a tax of
13 17 cents per 28.35 grams, or fraction thereof.

14 (b) Any person manufacturing or producing within this state any bottled soft drink
15 or soft drink syrup for sale within this state and any distributor, wholesale dealer or retail
16 dealer or any other person who is the original consignee of any bottled soft drink or soft
17 drink syrup, dry mix or powder manufactured or produced outside this state, or who
18 brings such drinks or syrups into this state, shall be liable for the excise tax imposed by
19 this article. The excise tax imposed by this article shall not be collected more than once
20 in respect to any bottled sugary soft drink or sugary soft drink syrup, dry mix or powder
21 that is manufactured, sold, used or distributed in this state.

22 (c) This tax shall be paid upon the first non-exempt distribution of a sugary soft
23 drink product in this State. To the extent that there is a chain of distribution within this
24 State involving more than one distributor, the tax shall be levied on and paid by the first
25 distributor subject to the jurisdiction of this State. To the extent the tax is not paid as set
26 forth above for any reason, it shall be payable on subsequent distributions and by
27 subsequent distributors: *Provided*, That that the distribution of a sugary soft drink
28 product may not be taxed more than once by this State.

29 (d) All taxes collected by the Tax Commissioner under the provisions of this
30 article, less refunds and such costs of administration as are hereinafter provided for,
31 shall be paid by the Commissioner into the General Revenue Fund of this State.

§11-19-4. Due date of reports; additional reports; payment of tax; extension of time.

1 (a) Every person subject to the tax imposed by this article shall on or before the
2 fifteenth day of each month make and file with the Tax Commissioner a report of the
3 person's operations for the preceding month to verify liability for tax under this article
4 and pay the amount of tax due under this article. This report shall be in a form
5 prescribed by the Tax Commissioner. Forms shall be filed electronically and taxes paid
6 electronically when rules of the Tax Commissioner require electronic filing or electronic
7 payment.

8 (b) The Tax Commissioner may by fifteen days' written notice require the filing of
9 such additional reports as the Commissioner deems necessary to verify a person's
10 liability under this article.

11 (c) Upon written application setting forth good cause, the Tax Commissioner may
12 extend the time for filing reports or additional reports under this section on such terms
13 and conditions as the Commissioner may require.

§11-19A-5. General procedure and administration.

1 Each and every provision of the "West Virginia Tax Procedure and Administration
2 Act" set forth in article ten of this chapter shall apply to the tax imposed by this article
3 nineteen with like effect as if said act were applicable only to the tax imposed by this
4 article nineteen and were set forth in extenso in this article nineteen.

§11-19A-6. Enforcement powers.

1 (a) Any employee or agent of the Tax Commissioner, so designated by the tax
2 commissioner, shall have all the lawful powers delegated to members of the department
3 of public safety to enforce the provisions of this article in any county or municipality in
4 this state.

5 (b) The employee shall execute a bond with security in the sum of thirty-five
6 hundred dollars, payable to the state of West Virginia conditioned for the faithful
7 performance of his duties, as such, and such bond shall be approved as to form by the
8 attorney general, and the same shall be filed with the secretary of state and preserved
9 in his office.

10 (c) The West Virginia State Police or any county sheriff or sheriff's deputy is,
11 upon request of the tax commissioner, hereby authorized and required to assist in the
12 enforcement of the provisions of this article.

§11-19A-7. Penalties; crimes.

1 Any person who violates any of the provisions of this article or any lawful rule
2 promulgated by the Tax Commissioner for this article under the authority of article ten of
3 this chapter, for the violation of which no other penalty is provided by law, shall be guilty
4 of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less
5 than one hundred dollars nor more than one thousand dollars.

**§11-19A-8. Seizure and sale of sugary bottled soft drinks, sugary soft drink
powders and sugary soft drink syrups by Tax Commissioner; forfeiture;
collection of tax.**

1 Whenever the Tax Commissioner or any of the Commissioner's duly authorized
2 agents shall discover any sugary bottled soft drinks, sugary soft drink syrups or sugary
3 soft drink powders or dry mix, subject to tax as provided by this article and upon which
4 the tax has not been paid as required by this article, the Tax Commissioner or his duly
5 authorized agent is hereby authorized and empowered forthwith to seize and take
6 possession of such sugary bottled soft drinks, sugary soft drink syrups or sugary soft
7 drink powders, which shall thereupon be deemed to be forfeited to the State, and the
8 Tax Commissioner shall within a reasonable time thereafter sell such forfeited soft drink
9 products; and from the proceeds of such sale shall collect the tax and interest due
10 thereon, together with a penalty of fifty percent of the tax due and the cost incurred in
11 such proceedings, and pay the balance, if any, to the person in whose possession such
12 sugary soft products were found: *Provided*, That such seizure and sale shall not be
13 deemed to relieve any person from fine or imprisonment provided in this article for
14 violation of any provision of this article. The sale shall be made in the county where
15 most convenient and economical. Notice of the sale shall be published as a Class I

16 legal advertisement in compliance with the provisions of article three, chapter fifty-nine
17 of this code, and the publication area for such publication shall be the county wherein
18 the seizure was made and the county wherein the sale is to take place. Notice shall be
19 published at least five days prior to the sale. All moneys collected under the provisions
20 of this section shall be paid into the State General Revenue Fund and treated as other
21 taxes collected under this article.

§11-19A-9. Certain tax-not-paid sugary soft drink products declared contraband.

1 (a) Whenever the Tax Commissioner or any of the Commissioner's authorized
2 deputies, agents or employees, or any law-enforcement officer in this state, discovers
3 any sugary soft drink product subject to the tax imposed by this article, and upon which
4 the tax has not been paid, as required by this article, the sugary soft drink products shall
5 thereupon be considered to be contraband, and the Tax Commissioner, or the
6 Commissioner's authorized deputy, agent or employee, or any law-enforcement officer
7 in this state, may immediately seize and take possession of the sugary soft drink
8 products without a warrant, and the sugary soft drink products and related property shall
9 be forfeited to the State as provided in article seven, chapter sixty-a of this code.

10 (b) Seizure of contraband shall not be considered to relieve any person from fine
11 or imprisonment, as provided in section seven of this article, for any of the offenses set
12 forth in said section

13

§11-19A-10. Vending machines; presence of tax-not-paid sugary soft drink products.

1 (a) If tax-not-paid sugary soft drink products are found in any vending machine,
2 both the tax-not-paid sugary soft drink products and the vending machine are
3 contraband goods within the meaning of article seven, chapter sixty-a of this code, and
4 may be seized by the Tax Commissioner, at the discretion of the Tax Commissioner, or
5 the Tax Commissioner's authorized deputies, agents or employees, or any law-
6 enforcement officer in this state, without a warrant. The provision of article seven,
7 chapter sixty-a of this code apply to the seizure and disposition of the contraband.

8 (b) Seizure and sale of the contraband shall not relieve the owner of the property
9 from any action by the Tax Commissioner for violations of any other sections of this
10 article.

§11-19A-11. Severability.

1 If any provision of this article or the application thereof shall for any reason be
2 adjudged by any court of competent jurisdiction to be invalid, such judgment shall not
3 affect, impair or invalidate the remainder of said article, but shall be confined in its
4 operation to the provision thereof directly involved in the controversy in which such
5 judgment shall have been rendered, and the applicability of such provision to other
6 persons or circumstances shall not be affected thereby.