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4 IN THE CIRCUIT COURT OF THE STATE OF OREGON
5 FOR THE COUNTY OF MULTNOMAH

6 ERIC FRUITS,

7 Petitioner,

8 v.

9 JENNY M. MADKOUR, Multnomah County
10 Attorney,

11 Respondent.

Case No. 16CV20485

ORDER RE: PETITION CHALLENGING
BALLOT TITLE AND EXPLANATORY
STATEMENT OF MULTNOMAH
COUNTY INITIATIVE-NO. 3

12 MEL RADER,

13 Petitioner,

14 v.

15 MULTNOMAH COUNTY BOARD OF
16 COMMISSIONERS, as the Governing Body
of the COUNTY OF MULTNOMAH,
17 OREGON,

18 Respondent.

Case No. 16CV20494

ORDER RE: PETITION FOR REVIEW OF
BALLOT TITLE AND EXPLANATORY
STATEMENT

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20 Upon review pursuant to ORS 250.195(1), the Court in the above entitled proceedings
21 certifies the following ballot title for the Multnomah County Initiative No. 3 Petition entitled
22 Multnomah County Sugary Drink Tax which meets the requirements set out in ORS 250.035 and
23 Multnomah County Code section 5.101:

24 **CAPTION:** Taxes sugar-sweetened beverage products distribution; funds children's health,
education.

25 **QUESTION:** Should Distributors pay excise tax of \$0.01/ounce on sugar-sweetened beverage
26 products with revenues used for children's health, education?

1 **SUMMARY:** Creates a Multnomah County Ordinance that imposes an excise tax of \$0.01 per
2 fluid ounce on businesses that distribute in Multnomah County Sugar Sweetened Beverage
3 Products and products used to make them. Defines Distribution as transfer from one business
4 entity to another; excludes retail sales to consumers; applies only to first non-exempt
5 Distribution within Multnomah County. Sugar Sweetened Beverage Products defined as
6 nonalcoholic beverages containing one or more Added Caloric Sweeteners and more than 2
7 calories per ounce of beverage. Exempts milk, milk alternatives, natural fruit and/or vegetable
8 juices; products intended as supplemental meal or meal replacements. Creates “The Children’s
9 Health and Education Fund”, requires revenues from tax to be placed in Fund and used to fund
10 programs primarily serving children in low income communities and communities of color that
11 promote physical exercise, health, nutrition, early childhood education initiatives. Requires Tax
12 to be collected, enforced and administered by County Tax Administrator. Creates Children’s
13 Health Fund Advisory Committee which advises County Commissioners on effectiveness of new
14 tax and makes recommendations on use of funds.

9 **EXPLANATORY STATEMENT**

10 This Measure would create a Multnomah County Ordinance that imposes an excise tax of \$0.01
11 per fluid ounce on Distributors of Sugar-Sweetened Beverage Products (SSBP), which include
12 but are not limited to beverages commonly referred to as soda, pop, cola, soft drinks, sports
13 drinks, energy drinks, sweetened iced teas or sweetened coffee drinks.

14 SSBP does not include Milk, Milk alternatives, fruit juice, vegetable juice, infant formula,
15 beverages for Medical Use, or any product designed as supplemental or meal replacement and
16 which contains proteins, carbohydrates, vitamins and minerals.

17 A Distributor is defined as a Business Entity doing business in Multnomah County and that
18 transfers title of SSBP to another Business Entity in Multnomah County, and includes a business
19 entity that transports SSBP purchased outside the County for the purposes of retail sale within
20 the County. The County’s jurisdiction over Distributors extends to all persons doing business in
21 Multnomah County as defined in the Multnomah County Business Income Tax Code.

22 Retail sales of SSBP to a consumer are not subject to the tax.

23 The tax is levied upon the first non-exempt distribution of SSBP. Distribution of SSBP may not
24 be taxed more than once in the chain of commerce of Distributors subject to the jurisdiction of
25 the County.

26 The following Distributors are exempt from the tax: Distributors not legally subject to taxation
by the County; distribution to a Retailer of sugar or other sweeteners sold by a Retailer such as a
grocery store; and Distribution of small-batch nonalcoholic SSBP produced in the County by a
manufacturer licensed pursuant to ORS 635.027.

Provides for administration of the tax by County or by contract with a State agency, limits
amount spent on administration to 5% of proceeds.

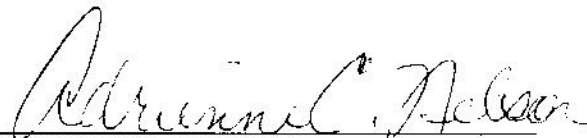
1 Proceeds from the tax are dedicated to "Children's Health and Education Fund" for programs
2 primarily serving children in low income communities and communities of color that increase
3 physical fitness; improve nutrition, dental health; reduce health disparities, support early
4 childhood education. Requires a performance audit of the Fund every other year.

5 Establishes The Children's Health and Education Fund Advisory Committee comprised of 15
6 members. Provides for appointment of Committee members by the County Board of
7 Commissioners based upon recommendations of Regional Health Equity Coalition, All Hand
8 Raised, Multnomah County Youth Commission, Oregon Hunger-Relief Task Force, and
9 Multnomah County Health Department. Requires Advisory Committee to advise County on the
10 effectiveness of the excise tax in reducing Distribution and consumption of SSBP, the impact on
11 beverage prices, on consumer purchasing, and on health outcomes, and to make
12 recommendations regarding funding of programs.

13 Requires County Auditor to conduct performance audit every other year.

14 Specifies an operative date for Ordinance of 1/1/2017, and an operative date for imposition and
15 collection of tax of 1/1/2018.

16 DATED this 29th day of July, 2016.

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ADRIENNE C. NELSON
Circuit Court Judge