

Food and beverage retailer alliance plans to sue Chicago over bottled-water tax

Food, beverage alliance to sue Chicago over levy

By Karoun Demirjian | Tribune staff reporter
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As part of a campaign against Chicago's upcoming bottled-water tax, an alliance of food and beverage retailer associations plans to file a lawsuit challenging the tax when it goes into effect in the new year.

The American Beverage Association, the International Bottled Water Association, the Illinois Retail Merchants Association and the Illinois Food Retailers Association, have long argued against the tax, which will levy a 5-cent surcharge on every bottle of water bought in Chicago beginning Jan. 1.

Proponents of the tax, which was approved by the City Council this fall as the first of its kind in the nation, have argued that it will encourage water drinkers to forgo plastic water bottles and favor tap water, as well as bring in an estimated \$10.5 million in tax revenues annually.

But bottled-water retailers and manufacturers say the tax is nothing but a thinly veiled money grab, which in the end will drive shoppers and vital business out of Chicago.

"People are already leaving the city when it comes to gas, alcohol and cigarettes," said Dave Vite, CEO of the Illinois Retail Merchants Association, a co-plaintiff in the expected lawsuit. "This will affect anybody that sells bottled water, because when customers do migrate, they take other business with them."

If business goes, it will jeopardize the 4,500 jobs and \$270 million in wages that goes to Chicagoans working in the bottled water industry, the retailer groups said.

And because taxes will add about 30 percent to the overall cost of a case of bottled water -- sales of which comprise about 90 percent of bottled-water sales in the city -- it's a change that is going to price many shoppers out of a healthy alternative to sugary beverages, Vite said.

"I am not aware of any product, any service, any business in Illinois that gets taxed at 30 percent. It's unheard of, it's unprecedented," he said. "Rich people will be able to go outside of the city, buy their Evian, and drink it to their heart's content without having to pay anything extra. It's a very regressive tax."

Illinois Beverage Association Executive Director Tim Bramlet said that after appeals to the City Council to vote down the tax failed, a lawsuit was the next recourse. The associations, which Bramlet said will be represented by Jenner & Block in a suit to be filed in Cook County Circuit Court, claim the tax is illegal based on existing statutes that prohibit the state from singling out a specific food product with a specialized tax.

"State law prohibits the City of Chicago from imposing a tax on a single product like they have done with this bottled water tax," Bramlet said. "If this tax is allowed to go into effect, then what is to preclude the City Council from deciding to tax salad dressing or lawn mowers?"

The suit is expected to be filed in early January, alliance officials said.