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26 *Fuels and Convenience Alliance*

27 SUPERIOR COURT OF THE STATE OF CALIFORNIA

28 COUNTY OF SACRAMENTO

18 CALIFORNIA GROCERS ASSOCIATION;
19 CALIFORNIA HISPANIC CHAMBERS OF
20 COMMERCE; CALIFORNIA ALLIANCE
21 OF FAMILY-OWNED BUSINESSES;
22 CALIFORNIA CHAMBER OF
23 COMMERCE; AMERICAN BEVERAGE
24 ASSOCIATION; and CALIFORNIA
25 FUELS AND CONVENIENCE
26 ALLIANCE,

27 Petitioners and Plaintiffs,

28 v.

CITY OF SANTA CRUZ; ELIZABETH
CABELL, in her capacity as City of Santa
Cruz Finance Director, and DOES 1 through
20, inclusive,

Respondents and Defendants.

CASE NO.

**VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

Code Civ. Proc. § 1085

(Priority Matter Pursuant to Rev. & Tax.
Code § 7284.15)

INTRODUCTION

1
2 1. Californians pay more for groceries than residents of any other State. (See
3 Fiorese, *Report Shows Californians Pay More for Groceries Than Any Other State*, CBS News
4 (Jan. 22, 2024) <[https://www.cbsnews.com/losangeles/news/report-shows-californians-pay-](https://www.cbsnews.com/losangeles/news/report-shows-californians-pay-more-for-groceries-than-any-other-state/)
5 [more-for-groceries-than-any-other-state/](https://www.cbsnews.com/losangeles/news/report-shows-californians-pay-more-for-groceries-than-any-other-state/)> [attached as Ex. 1].) The average California
6 household with children spends over \$1,200 a month on groceries, imposing a substantial added
7 burden on residents who already face the highest cost of living of any State. (*Ibid.*; Pino, *This*
8 *Map Compares the Cost of Living in Every State*, Yahoo! Finance (Feb. 28, 2025)
9 [https://finance.yahoo.com/personal-finance/banking/article/cost-of-living-by-state-](https://finance.yahoo.com/personal-finance/banking/article/cost-of-living-by-state-164246058.html)
10 [164246058.html](https://finance.yahoo.com/personal-finance/banking/article/cost-of-living-by-state-164246058.html) [attached as Ex. 2].)

11 2. The high cost of groceries is only becoming more burdensome for Californians,
12 not less. Grocery prices are 27% higher today than they were just five years ago. (See Wallace,
13 *Food Prices Are on the Rise Again. What's Behind the Increase*, CNN.com (Dec. 15, 2024)
14 <<https://www.cnn.com/2024/12/15/economy/food-prices-increase-why/index.html>> [attached as
15 Ex. 3].) Lingering supply-chain issues associated with the COVID-19 pandemic and rampant
16 inflation are exacerbating food costs that were high to begin with. Grocery prices are again
17 expected to rise in 2025 at a rate faster than the historical average. (See U.S. Dep't of
18 Agriculture, *Economic Research Service, Food Price Outlook – Summary Findings* (Apr. 25,
19 2025), <<https://www.ers.usda.gov/data-products/food-price-outlook/summary-findings>>
20 [attached as Ex. 4].)

21 3. The high cost of groceries imposes particular hardships on Californians of lesser
22 means, who are forced to spend a disproportionate percentage of their income on food. Nearly
23 half of Californians with low incomes report that they cannot afford enough food. (See UCLA
24 Center for Health Policy Research, *Food Insecurity* <[https://healthpolicy.ucla.edu/our-](https://healthpolicy.ucla.edu/our-work/food-insecurity)
25 [work/food-insecurity](https://healthpolicy.ucla.edu/our-work/food-insecurity)> [as of May 19, 2025] [attached as Ex. 5].) Communities of color are
26 likewise disproportionately impacted by rising grocery costs. (Kitson, *Californians with Low*
27 *Incomes Are Hit Hardest by High Costs of Living and Inflation* (Aug. 2022)
28 <<https://calbudgetcenter.org/resources/californians-with-low-incomes-are-hit-hardest-by-high->

1 costs-of-living-and-inflation/> [attached as Ex. 6].)

2 4. As a result of the high cost of food, shelter, and other essentials in California,
3 California’s poverty rate has exploded to almost 20%, a percentage that coincides with the
4 percentage of Californians who are food insecure. (See, e.g., Jetha, et al., *How Hungry is*
5 *California? Millions Struggle to Eat Well in an Abundant State*, CalMatters (Aug. 8, 2023)
6 <<https://calmatters.org/explainers/california-hunger-crisis/>> [attached as Ex. 7]; Andersen et al.,
7 *California’s Poverty Rate Soars to Alarming High Levels in 2023*, California Budget & Policy
8 Center (Sept. 2024) <[https://calbudgetcenter.org/resources/californias-poverty-rate-soars-to-](https://calbudgetcenter.org/resources/californias-poverty-rate-soars-to-alarmingly-high-levels-in-2023)
9 [alarmingly-high-levels-in-2023](https://calbudgetcenter.org/resources/californias-poverty-rate-soars-to-alarmingly-high-levels-in-2023)> [attached as Ex. 8].) In response, California today administers
10 over \$15 billion in food assistance to millions of Californians who depend on that assistance to
11 purchase groceries, feed themselves and their families, and make ends meet.

12 5. The increasing cost of groceries therefore presents a matter of substantial
13 statewide concern.

14 6. The desire to keep grocery prices low and otherwise prevent increased and
15 imbalanced taxes on groceries led to the enactment of the Keep Groceries Affordable Act of
16 2018 (Rev. & Tax. Code § 7284.8 et seq.) (“Affordable Groceries Act”). The Affordable
17 Groceries Act expressly preempts localities from adopting various new taxes on groceries
18 through 2031, including taxes on “carbonated and noncarbonated nonalcoholic beverages.”
19 (Affordable Groceries Act § 7284.10) The Legislature made clear that its intent was “to regulate
20 the imposition and collection of taxes and other charges on groceries comprehensively and to
21 occupy the field to the exclusion of local action,” with limited express exceptions not implicated
22 here. (*Id.*, § 7284.9.) In so providing, it stated that “the promotion of uniformity in the taxation
23 of groceries is a matter of statewide concern and, therefore, is not a municipal affair.” (*Ibid.*)

24 7. During the November 2024 election, the City of Santa Cruz (“City”) knowingly
25 defied the Affordable Groceries Act and adopted a tax on sodas and other sugar-sweetened
26 beverages within the City (“Beverage Tax”). In deciding whether to place the Beverage Tax on
27 the ballot, City Council members recognized that the tax conflicted with the Affordable
28 Groceries Act, and the City Attorney anticipated that there would be a legal challenge. (Tr. of

1 City Council Regular Meeting, June 25, 2024, at 4:8-18, 40:10-41:21 [attached as Ex. 9].)
2 Nevertheless, the City Council proceeded to place the Beverage Tax and implementing
3 ordinance on the ballot as Measure Z (collectively referred to herein as “Measure Z”).

4 8. In so doing, the City Council made clear that the law’s primary purpose was not
5 to raise revenue for the City, but to discourage the consumption of affected beverages. (Santa
6 Cruz City Council June 25, 2024 agenda packet for Item #41, at p. 41.3. [attached as Ex. 10].)
7 The City forecasted that by significantly increasing the cost of beverages subject to the tax, it
8 would make such beverages less affordable for Santa Cruz residents, thereby discouraging their
9 purchase and consumption. (*Id.* at pp. 41.6, 41.11.) As a result, the City forecasted that the
10 revenue generated by Measure Z would decrease over time if the City’s tax was successful.
11 (*Ibid.*)

12 9. A narrow majority of the City’s voters approved Measure Z in November 2024.
13 A true and correct copy of the relevant pages of the November 2024 ballot pamphlet related to
14 Measure Z, including the text of the measure itself, is attached hereto as Exhibit 11.

15 10. Measure Z is expressly preempted by the Affordable Groceries Act.

16 11. Although Santa Cruz is a charter city, it may not contradict the Legislature’s
17 enactments on a matter of “statewide concern.” (*Am. Fin. Servs. Ass’n v. City of Oakland* (2005)
18 34 Cal.4th 1239, 1252.)

19 12. Santa Cruz does not appear to dispute that Measure Z both “contradicts” and
20 “enters an area fully occupied by general [state] law, expressly or by legislative implication.”
21 (*Chevron U.S.A. Inc. v. County of Monterey* (2023) 15 Cal.5th 135, 142 [citing *Sherwin Williams*
22 *Co. v. City of Los Angeles* (1993) 4 Cal.4th 893, 897].)

23 13. The high cost of groceries is unequivocally a matter of substantial statewide
24 concern. Millions of Californians struggle to afford their groceries. And California allocates
25 billions of dollars annually to make those groceries less expensive. Other examples of state
26 executive and legislative action to help Californians obtain less expensive groceries abound.
27 California law has exempted many food products from the State’s sales and use tax for years.
28 And the people of California themselves acted through the initiative process to amend

1 California’s Constitution to ensure that neither the State, nor any city or county, may impose
2 sales and use taxes on most groceries.

3 14. Because the high cost of groceries is a matter of statewide concern, Santa Cruz
4 lacked the power to enact Measure Z.

5 15. The promotion of uniform local taxes on goods has also long been a matter of
6 statewide concern. Indeed, California’s foundational “Bradley-Burns Uniform Local Sales and
7 Use Tax Law” was enacted in response to the substantial hardship and complexity that taxpayers
8 and localities faced in relation to the explosion of divergent local sales or use tax schemes
9 throughout the State.

10 16. As the Legislature later explained, “prior to the enactment of the Bradley-Burns
11 Uniform Local Sales and Use Tax Law in 1955 the differences in the amount of sales tax levied
12 among the various communities of the state created a very difficult situation not only for retailers
13 but also created fiscal problems for the cities and counties[,]” leading to “distort[ions] [in] what
14 would otherwise have been logical economic advantages or disadvantages.” (Stats. 1968, ch.
15 1265, §§ 2, 3.) The Legislature’s promotion of a uniform approach to local taxes on the sale and
16 use of goods, by contrast, “brought about reduced costs to the retailer and . . . corrected illogical
17 competitive situations.” (*Ibid.*) The Legislature thus has a profound statewide interest and
18 longstanding constitutional authority to enact policies promoting the uniform taxation of goods
19 sold throughout the State.

20 17. Plaintiffs are a coalition of associations whose members include businesses which
21 are obligated to pay the tax, as well as businesses for which the Beverage Tax will increase the
22 cost of goods for them and their customers.

23 18. Given the facts set forth in this Petition for Writ of Mandate and Complaint for
24 Declaratory and Injunctive Relief (“Petition”), Plaintiffs urge the Court to declare that the
25 Beverage Tax is invalid, issue an injunction prohibiting Defendants from implementing or
26 enforcing the Beverage Tax and Measure Z, and issue a writ of mandate requiring Defendants to
27 refrain from implementing or enforcing the Beverage Tax and Measure Z.

28

PARTIES

1
2 19. Plaintiff California Grocers Association (“CGA”) is a non-profit, statewide trade
3 association for the State’s grocery community. CGA engages in state and local advocacy on
4 behalf of its members and provides continuing education opportunities for industry employees
5 and their children. CGA’s members include over 300 retailers operating more than 6,000 brick-
6 and-mortar stores, and approximately 150 grocery supply companies. CGA’s members include
7 beverage distributors operating in Santa Cruz which are subject to the Beverage Tax. This action
8 is germane to CGA’s purpose and neither the claims asserted nor the relief requested require the
9 participation of its members.

10 20. Plaintiff California Hispanic Chambers of Commerce (“CHCC”) represents the
11 interests of over 950,000 Hispanic-owned businesses in California through its 125+ chambers
12 and business association members. The CHCC promotes the economic growth and development
13 of Hispanic entrepreneurs and California's emerging businesses. CHCC’s members include
14 beverage distributors operating in Santa Cruz that are subject to the Beverage Tax, as well as
15 retailers that expect to be charged higher rates by distributors as a result of the Beverage Tax.
16 This action is germane to CHCC’s purpose and neither the claims asserted nor the relief
17 requested require the participation of its members.

18 21. Plaintiff California Alliance of Family-Owned Businesses (“CAFOB”) serves as
19 an advocate on behalf of family-owned business owner-operators at the state and local levels.
20 CAFOB’s members include family-owned businesses operating in Santa Cruz that are subject to
21 the Beverage Tax or expect to be charged higher rates by distributors as a result of the Beverage
22 Tax. This action is germane to CAFOB’s purpose and neither the claims asserted nor the relief
23 requested require the participation of its members.

24 22. Plaintiff California Chamber of Commerce (“CalChamber”) is a non-profit
25 business association with approximately 13,000 members, both individual and corporate,
26 representing 25% of the State’s private sector workforce and virtually every economic interest in
27 the State of California. While CalChamber represents several of the largest corporations in
28 California, 70% of its members have 100 or fewer employees. CalChamber acts on behalf of the

1 business community to improve the State’s economic and jobs climate by representing business
2 on a broad range of legislative, regulatory and legal issues. CalChamber’s membership includes
3 beverage distributors operating in Santa Cruz that are subject to the Beverage Tax. This action is
4 germane to CalChamber’s purpose and neither the claims asserted nor the relief requested
5 require the participation of its members.

6 23. Plaintiff American Beverage Association (“ABA”) is a national trade organization
7 representing the non-alcoholic beverage industry, including beverage producers, distributors,
8 franchise companies, and support industries. ABA members bring to market beverages including
9 carbonated soft drinks, bottled water (including still water, mineral water, and artesian water),
10 sports drinks, energy drinks, 100% juices, juice drinks, and ready-to-drink teas. Numerous ABA
11 members distribute beverages in Santa Cruz and are subject to the Beverage Tax. This action is
12 germane to ABA’s purpose and neither the claims asserted nor the relief requested require the
13 participation of its members.

14 24. Plaintiff California Fuels and Convenience Alliance (“CFCA”) is a statewide
15 trade association that represents the needs of wholesale and retail marketers and transporters of
16 gasoline and other petroleum products, and gas station and convenience store operators. The
17 vast majority of CFCA’s members are small business owners. CFCA’s members operate
18 convenience stores in Santa Cruz that expect to be charged higher rates by distributors as a result
19 of the Beverage Tax. This action is germane to CFCA’s purpose and neither the claims asserted
20 nor the relief requested require the participation of its members.

21 25. Defendant City of Santa Cruz is a municipal corporation organized under the laws
22 of the State of California.

23 26. Defendant Elizabeth Cabell is the Director of Finance for the City and serves as
24 the Tax Administrator for the Beverage Tax. As the Tax Administrator, Ms. Cabell is
25 responsible for administering and enforcing the Beverage Tax. Ms. Cabell is sued in her official
26 capacity only.

27 27. Plaintiffs are unaware of the true names and capacities of Respondents and
28 Defendants as fictitiously named Does 1 through 20 and sues such respondents by fictious

1 names. Plaintiff is informed and believes, and on the basis of such information and belief
2 alleges, that the fictitiously names respondents and defendants are also responsible for the
3 actions described in this Petition and Complaint. When the true identities and capacities of these
4 respondents and defendants have been determined, Plaintiff will amend this Petition and
5 Complaint, with leave of the Court if necessary, to insert such identities and capacities.

6 JURISDICTION AND VENUE

7 28. Plaintiff hereby realleges and incorporates by reference the preceding paragraphs
8 in their entirety.

9 29. Pursuant to Code of Civil Procedure section 1085, the Sacramento County
10 Superior Court has initial jurisdiction to issue a writ of mandate to set aside any tax imposed or
11 to provide a refund of any tax collected in conflict with the Affordable Groceries Act.

12 30. Because this action seeks a judicial determination with respect to the Affordable
13 Groceries Act's application to the Beverage Tax, venue for this action properly lies in this Court
14 pursuant to Revenue and Taxation Code section 7284.15, subdivision (b).

15 STATEMENT OF FACTS

16 31. Plaintiffs hereby reallege and incorporate by reference the preceding paragraphs
17 in their entirety.

18 **The Cost Of Groceries Is A Matter Of Substantial Statewide Concern**

19 32. The cost of groceries is a pressing issue across the State of California.

20 33. Californian households, on average, spend roughly \$300 per week on groceries,
21 the highest amount paid by residents of any State. (See Conybeare, *Study Finds That*
22 *Californians Spend the Most on Groceries in America*, KTLA.com (Jan. 10, 2024)
23 <[https://ktla.com/news/california/study-finds-that-californians-spend-the-most-on-groceries-in-](https://ktla.com/news/california/study-finds-that-californians-spend-the-most-on-groceries-in-america/)
24 [america/](https://ktla.com/news/california/study-finds-that-californians-spend-the-most-on-groceries-in-america/)> [attached as Ex. 12].) California's approximately 13.4 million households therefore
25 purchase an average of over \$200 billion of groceries every year. (*Ibid.*; See *QuickFacts,*
26 *California*, Census.gov <<https://www.census.gov/quickfacts/fact/table/CA/PST045223>> [as of
27 May 20, 2025] [attached as Ex. 13].)

28 34. The high cost of food adds to a cost of living that is the highest in the nation. (See

1 *ante* at ¶ 1.) As a result, California’s poverty rate is nearly 20%—the highest in the country.
2 (See Walters, *How will California Overcome High Living Costs, High Poverty, and High Debt?*,
3 CalMatters (Feb. 1, 2024) <[https://calmatters.org/commentary/2024/02/california-living-costs-
4 poverty-debt/](https://calmatters.org/commentary/2024/02/california-living-costs-poverty-debt/)> [attached as Ex. 14].)

5 35. Almost half of California households with children struggle to pay for basic
6 expenses. (See Orbach-Mandel, *Millions of Californians are Struggling to Make Ends Meet*,
7 Cal. Budget & Policy Center (Aug. 2023) [attached as Ex. 15].) And more than 6 in 10
8 households earning less than \$35,000 have difficulty paying for food, housing, and medical
9 costs. (*Ibid.*) These challenges also disproportionately impact Black and Hispanic Californians,
10 as well as residents who are non-citizens. (*Ibid.*; Ex. 5.)

11 36. Many Californians struggle to obtain the amount of groceries that they need. In
12 2023, approximately 8.8 million people—or 23% of the population—experienced food
13 insecurity, or limited or uncertain access to adequate food. (See Vankin, *Hunger and Food
14 Insecurity in California: What Must We Do to Make Sure Everybody Eats*, California Local
15 (Nov. 17, 2023) <[https://californialocal.com/localnews/statewide/ca/article/show/71114-hunger-
16 food-insecurity-california/](https://californialocal.com/localnews/statewide/ca/article/show/71114-hunger-food-insecurity-california/)> [attached as Ex. 16].) The rate of Californians experiencing food
17 insecurity is nearly double the national average, and includes 27% of households with children.
18 (See *ibid.*; see also Davidson & De La Cruz, *California Food Banks Face Growing Hunger
19 Crisis with Federal, State Funding at Risk*, San Diego Tribune (Mar. 1, 2025)
20 <[https://www.sandiegouniontribune.com/2025/03/01/california-food-banks-face-growing-
21 hunger-crisis-with-federal-state-funding-at-risk/](https://www.sandiegouniontribune.com/2025/03/01/california-food-banks-face-growing-hunger-crisis-with-federal-state-funding-at-risk/)> [attached as Ex. 17].) Food insecurity exerts a
22 significant mental and physical toll on those who experience it.

23 37. The cost of groceries has continued to rise over the past five years, exacerbating
24 the burden of purchasing food for household consumption. The COVID-19 pandemic severely
25 disrupted the food supply chain, affecting production, distribution, and retail. Inflation remains
26 persistent, meanwhile, further pressing grocery prices higher. (Rugaber, *US Inflation Got Worse
27 with Rising Prices on Groceries and Gasoline*, Associated Press (Feb. 12, 2025)
28 <<https://apnews.com/article/inflation-economy-federal-reserve->

1 48e77a855078b37bf3ccd58c9db94c82> [attached as Ex. 18].)

2 38. Grocery prices are 27% higher today than they were in February 2020. (See Ex.
3 3.) Prices are expected to continue rising in 2025 at a rate exceeding historical norms. (See *ante*
4 at ¶ 2; Lightman, *Donald Trump and Kamala Harris Both Say Food Costs Too Much. What Can*
5 *They Do About It?*, Sacramento Bee (Sept. 20, 2024) <[https://www.sacbee.com/news/politics-](https://www.sacbee.com/news/politics-government/election/presidential-election/article292727514.html)
6 [government/election/presidential-election/article292727514.html](https://www.sacbee.com/news/politics-government/election/presidential-election/article292727514.html)> [attached as Ex. 19].)

7 **The State's Political Power Has Long Been Employed To Keep Groceries And Other Basic**
8 **Necessities Affordable To Californians**

9 39. The State of California has long exercised its political power to ameliorate the
10 high cost of groceries and other basic necessities, including through enacting uniform statewide
11 tax policies.

12 40. For almost 50 years, California has implemented and administered CalFresh,
13 under which the State issues billions of dollars of food assistance annually to California
14 residents. In 2023-2024, about 5.3 million Californians received over \$12 billion in benefits
15 through CalFresh. Items purchased with CalFresh benefits are exempt from both state and local
16 sales tax statewide. (See Rev. & Tax. Code § 6373.)

17 41. When many non-citizens lost eligibility for such assistance in 1996, California
18 responded by implementing the California Food Assistance Program (CFAP), which has been
19 expanded over time to provide benefits to all income-eligible Californians, regardless of their
20 immigration status.

21 42. The State spends approximately a billion dollars annually to administer CalFresh
22 and to provide benefits under CFAP.

23 43. California also administers numerous other federal food assistance programs
24 directed at California residents, including the National School Lunch Program, School Breakfast
25 Program, Child and Adult Care Food Program, and the Summer Electronic Benefit Transfer
26 (EBT).

27 44. California has also long exempted many foods intended for home consumption
28 from the State's sales and use tax. (Ballot Pamp., Gen. Elec. (Nov. 3, 1992), analysis of Prop.

1 163 by the Legislative Analyst, at p. 41. [attached as Ex. 20])

2 45. In 1991, the Legislature changed State law to apply the sales tax to certain food
3 items, including candy, “snack food,” and bottled water. In response, the electorate approved
4 Proposition 163, which amended the California Constitution to prohibit local governments (and
5 the State) from imposing sales and use taxes on food products intended for home consumption,
6 including candy, “snack food,” and bottled water. (Ballot Pamp., *supra*, at p. 40.)

7 46. The ballot argument in favor of Proposition 163 recognized California’s “proud
8 tradition” of “not taxing the essentials of life,” particularly “the food and water we consume.”
9 The proponents noted that such taxes violate that tradition by “plac[ing] the greatest burden on
10 those who can least afford the tax.” (Ballot Pamp., *supra*, argument in favor of Prop. 163, at p.
11 41.)

12 47. Criticizing the differential taxation of various foods and beverages permitted by
13 the Legislature’s 1991 action, proponents also emphasized that “taxing food is a bad idea but
14 arbitrarily and confusingly taxing certain foods is even worse.” Proponents specifically urged
15 the electorate to amend the Constitution to prevent divergent and burdensome taxation by local
16 or state government. (Ballot Pamp., *supra*, at p. 41.)

17 48. Proposition 163 acknowledged that eliminating the sales and use tax on such
18 groceries would reduce local government revenue by between \$70-120 million annually. (Ballot
19 Pamp., *supra*, at p. 40.)

20 49. Nonetheless, Proposition 163 passed with an overwhelming majority of the vote
21 (66.62%) and the Constitution was amended to prohibit state and local governments from
22 imposing sales or use taxes on certain food products. (UC Law SF Scholarship Repository
23 <https://repository.uclawsf.edu/ca_ballot_props/1078/> [as of May 19, 2025] [attached as Ex.
24 21].)

25 50. The people of California have therefore expressly determined that the taxation of
26 food and beverages is a matter of statewide concern.

27 51. The State’s political branches have also repeatedly taken steps to address the high
28 cost of groceries in California.

1 52. In addition to the numerous programs discussed *ante* at ¶¶ 40-43, the Legislature
2 has enacted or considered numerous proposals designed to ameliorate the high cost of food in
3 California and promote consistent statewide approaches to providing affordable food.

4 53. Among other examples, in 2011, the Legislature enacted Assembly Bill 581, the
5 California Healthy Food Financing initiative. (2011-2012 Reg. Sess.
6 <[http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0551-](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0551-0600/ab_581_bill_20111006_chaptered.html)
7 0600/ab_581_bill_20111006_chaptered.html> [attached as Ex. 22].) This law established a
8 statewide “California Healthy Food Financing Initiative Council” to evaluate recommendations
9 and develop statewide programs “to support access to healthy foods for all Californians.” Health
10 & Saf. Code former § 104661, subd. (c)(1) (2012), repealed by Stats. 2016, ch. 394 (Assem. Bill
11 2635), § 1, operative Jan. 1, 2024.)

12 54. AB 581 also established a corresponding fund in the State Treasury, to be
13 “expended upon appropriation by the Legislature.” (Health & Saf. Code former § 104663
14 (2012), repealed by Stats. 2016, ch. 394 (Assem. Bill 2635), § 1, operative Jan. 1, 2024).)

15 55. In 2023, the Legislature enacted Senate Bill 628, which declared that “it is the
16 established policy of the state that every human being has the right to access sufficient affordable
17 and healthy food.” (Welf. & Inst. Code § 18700 (2023), operative Jan. 1, 2024).

18 56. The State also enacted Assembly Bill 178, which expanded the California Food
19 Assistance Program to include all income-eligible Californians aged 55 or older, regardless of
20 their immigration status. (2021-2022 Reg. Sess.

21 <https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB178>
22 [attached as Ex. 23].)

23 57. The California legislature is currently considering a bill, Assembly Bill 446,
24 which would prevent “surveillance pricing,” defined as differential pricing based on covered
25 information collected through electronic surveillance technology,” to set the price of goods
26 (including food) absent informed consent. (2025-2026 Reg. Sess.

27 <https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202520260AB446>
28 [attached as Ex. 24].)

1 independent sales and use tax administration,” and were considering the imposition of local taxes
2 “in excess of” the rate permitted by Bradley-Burns, the Legislature concluded that such a path
3 “would be disastrous in California today.” (*Century Plaza, supra*, Cal.App.3d at p. 624 fn. 6.)

4 64. In particular, the Legislature warned that “varying and conflicting sales tax rates
5 will have an adverse effect on the general business climate in California”—and would likely lead
6 to increased local taxes in areas where “poor and minority groups” are concentrated, even though
7 those persons “are least able to pay the increased consumer taxes.” (*Century Plaza, supra*,
8 Cal.App.3d at p. 624 fn. 6.) The Legislature cautioned that such groups not only would face
9 higher costs and but also reduced access to businesses, because if cities began to impose higher
10 taxes, “the recent trend of businesses to locate outside of metropolitan areas [would] only be
11 accelerated by a system which grants them a competitive advantage by locating in the suburbs.”
12 (*Ibid.*)

13 65. The Legislature therefore declared that “[i]t is essential that statewide uniformity
14 in sales and use taxes imposed by local taxing jurisdictions be preserved.” (*Century Plaza*,
15 *supra*, Cal.App.3d at p. 624 fn. 6 (quoting Stats. 1968, ch. 1265, § 3).)

16 **California Enacts The Affordable Groceries Act**

17 66. In keeping with California’s “proud tradition” of keeping the cost of groceries
18 low, the Legislature adopted the Affordable Groceries Act in 2018, prohibiting the imposition,
19 increase, levy, and collection, or enforcement by a local agency or its electorate of any new tax,
20 fee, or other assessment on groceries. (Affordable Groceries Act § 7284.12, subd. (a); *id.*
21 § 7284.10, subd. (f).) The Affordable Groceries Act imposes a twelve-year moratorium on such
22 taxes, which sunsets on January 1, 2031. (*Id.*, § 7284.16.)

23 67. “Groceries” are defined for the purpose of the law as “any raw or processed food
24 or beverage . . . intended for human consumption, including, but . . . not limited to, meat, poultry,
25 fish, fruits, vegetables, grains, bread, milk, cheese and other dairy products, *carbonated and*
26 *noncarbonated nonalcoholic beverages*, kombucha with less than 0.5 percent alcohol by volume,
27 condiments, spices, cereals, seasonings, leavening agents, eggs, cocoa, teas, and coffees whether
28 raw or processed, including its packaging, wrapper, or container.” (Affordable Groceries Act

1 § 7284.10, subd. (e)(1) [italics added].)

2 68. The Act defines “[t]ax, fee, or other assessment on groceries” to include taxes,
3 fees, surcharges, or any other similar levy, charge, or exaction of any kind on groceries, or the
4 “manufacture, supply, distribution, sale, acquisition, possession, ownership, transfer,
5 transportation, delivery, use, or consumption” of groceries. (Affordable Groceries Act
6 § 7284.10, subd. (g).)

7 69. In enacting the Affordable Groceries Act, the Legislature found and declared that
8 “[i]t is the intent of the Legislature to regulate the imposition and collection of taxes and other
9 charges on groceries comprehensively and to occupy the field to the exclusion of local action
10 except as specifically provided in this chapter.” (Affordable Groceries Act § 7284.9 subd. (a).)
11 The Legislature further found and declared that “[t]he promotion of uniformity in the taxation of
12 groceries is a matter of statewide concern and, therefore, is not a municipal affair as that term is
13 used in section 5 of article XI of the California Constitution.” (*Id.*, § 7284.9 subd. (b).)

14 70. The Affordable Groceries Act serves the State’s interests in reducing the cost of
15 groceries for California residents, promoting uniform taxation of essentials across the state, and
16 preventing the differential taxation of foods and beverages intended for home consumption.

17 **Santa Cruz Places Measure Z On The Ballot**

18 71. Despite the Affordable Groceries Act’s clear prohibition on local taxes targeting
19 particular classes of grocery items, the Santa Cruz City Council in 2024 proposed a measure to
20 impose just such a tax, targeting sugar-sweetened beverages.

21 72. The California Constitution requires that general local taxes be “submitted to the
22 electorate and approved by a majority vote.” (Cal. Const., art. XIII C, § 2, subd. (b).)

23 73. In accordance with this provision, on June 25, 2024, the City Council considered
24 and adopted a resolution requesting that the November 5, 2024 general election ballot include
25 Measure Z, an ordinance inclusive of the Beverage Tax and implementing requirements. (A true
26 and correct copy of Resolution No. NS-30,360 is attached hereto as Exhibit 25.)

27 74. While the City proposed imposing a Beverage Tax on distributors, it recognized
28 and intended that the incidence of the tax would be passed onto consumers. (See Ex. 10, Agenda

1 Packet, at p. 41.4 [acknowledging that “the large beverage distributors will pass on this cost in
2 the form of higher beverage prices”].)

3 75. Indeed, the City found that similar taxes have resulted in a 33% price increase for
4 sugar-sweetened drinks. (Ex. 10, Agenda Packet, at p. 41.3.)

5 76. Increasing the cost of such beverages, and thereby discouraging their purchase,
6 was a central motivation for Measure Z. As one Councilmember explained, the Measure is
7 intended to enact “tax policy to address a public health crisis”—by making it more expensive to
8 purchase sugar-sweetened beverages within the City. (Ex. 9, Tr. of City Council Regular
9 Meeting, at 44:18-19.)

10 77. Several proponents of the Measure explained that the tax, if successful, would
11 produce *less* revenue over time, because the tax’s goal was to decrease consumption of sugar-
12 sweetened beverages. (Ex. 9, Tr. of City Council Regular Meeting, at 44:17-22, 48:23-25.)

13 78. As Santa Cruz’s Mayor has acknowledged, Measure Z’s proponents intend for
14 Santa Cruz to be “the pointy end of the spear” in facilitating the enactment of similar taxes by
15 other California cities notwithstanding the Affordable Groceries Act. (Ex. 9, Tr. of City Council
16 Meeting, at 50:25.)

17 79. The City Council recognized that Measure Z is incompatible with the Affordable
18 Groceries Act. The proposal by the Measure’s sponsor urging approval expressly acknowledged
19 that the Affordable Groceries Act “prevent[s] local agencies from imposing new taxes on certain
20 grocery items, including SSBs [sugar-sweetened beverages].” (Ex. 10, Agenda Packet, at p.
21 41.1.) The Measure’s sponsor acknowledged concerns that the Measure “defies state law” but
22 asserted that, in her view, the state law (the Affordable Groceries Act) is “unconstitutional.”
23 (Ex. 9, Tr. of City Council Meeting, at 39:16-19, 34:5-6.)

24 80. The City Councilmembers, the Mayor, and the City’s legal counsel recognized
25 that the Beverage Tax would directly conflict with the Affordable Groceries Act and that the
26 City would be the first locality to enact a beverage tax in the wake of the Affordable Groceries
27 Act. (See Ex. 9, Tr. of City Council Meeting, , at 50:7-9 [Mayor Keeley: “[W]e are the single
28 city. No city, no county in the state of California has adopted this under the current set of

1 rules.”]; *ibid.* at 50:11-14 [City Attorney acknowledging that “[n]o public agency has enacted
2 one of these types of taxes since the Keep Groceries Affordable Act was enacted”).
3 Nevertheless, the City Council voted in favor of advancing Measure Z.

4 **Measure Z and the Beverage Tax**

5 81. Measure Z proposed an ordinance to amend the Santa Cruz Municipal Code to
6 add a new Chapter 3.38 establishing a Beverage Tax of two cents per fluid ounce on sugar-
7 sweetened nonalcoholic beverages, inclusive of sodas, sports drinks, sweetened iced teas and
8 coffees, and energy drinks.

9 82. The Beverage Tax is required to be paid by distributors upon the distribution of a
10 qualifying beverage in the City.

11 83. Measure Z establishes the City’s Finance Director as the Tax Administrator. The
12 Tax Administrator is charged with the enforcement of the measure and may “prescribe, adopt,
13 and enforce rules and regulations related to the administration and enforcement” of the Beverage
14 Tax, including the methods and frequency of payment and the administrative process and
15 procedures for challenging a determination under Measure Z.

16 84. Section 3.38.100 of Measure Z includes misdemeanor penalties for violations
17 stating that “[a]ny Distributor violating any of the provisions of this chapter shall be guilty of a
18 misdemeanor and shall be punishable by a fine of not more than one thousand dollars or by
19 imprisonment in the county jail for a period of not more than six months or by both fine and
20 imprisonment”

21 85. On its face, Measure Z does not include a mechanism for challenging its validity.
22 Measure Z only includes a refund process for taxes that have been “erroneously or illegally
23 collected or received by the City” in section 3.38.070, providing the pathway for seeking a
24 refund from the Tax Administrator in relation to the amounts taxed, followed by an appeal to the
25 City Council.

26 86. Measure Z also establishes a community oversight panel to report on the tax’s
27 impact and provide recommendations related to expenditures. The community oversight panel is
28 comprised of 7 members of the community, including one City Councilmember.

1 <[https://ecm.cityofsantacruz.com/OnBaseAgendaOnline/Documents/ViewDocument/Summary
2 %20Sheet%20for%20-%20Certification%20of%20the%20November%205%2C%202024%20
3 General%20Election.pdf?meetingId=2393&documentType=Agenda&itemId=43591&publishId=
4 69395&isSection=false](https://ecm.cityofsantacruz.com/OnBaseAgendaOnline/Documents/ViewDocument/Summary%20Sheet%20for%20-%20Certification%20of%20the%20November%205%2C%202024%20General%20Election.pdf?meetingId=2393&documentType=Agenda&itemId=43591&publishId=69395&isSection=false)> [attached as Ex. 28]; Resolution No. NS (Dec. 10, 2024)

5 <[https://ecm.cityofsantacruz.com/
6 OnBaseAgendaOnline/Documents/ViewDocument/RESOLUTION.DOC.pdf?meetingId=2393&
7 documentType=Agenda&itemId=43591&publishId=69396&isSection=false](https://ecm.cityofsantacruz.com/OnBaseAgendaOnline/Documents/ViewDocument/RESOLUTION.DOC.pdf?meetingId=2393&documentType=Agenda&itemId=43591&publishId=69396&isSection=false)> [attached as Ex.
8 29]; Webber, Statement of Vote, November 5, 2024 Presidential General Election (Dec. 3, 2024)
9 <[https://ecm.cityofsantacruz.com/OnBaseAgendaOnline/Documents/ViewDocument/STATEME
10 NT%20OF%20VOTE.PDF.pdf?meetingId=2393&documentType=Agenda&itemId=43591&pub
11 lishId=69397&isSection=false](https://ecm.cityofsantacruz.com/OnBaseAgendaOnline/Documents/ViewDocument/STATEMENT%20OF%20VOTE.PDF.pdf?meetingId=2393&documentType=Agenda&itemId=43591&publishId=69397&isSection=false)> [attached as Ex. 30].)

12 93. Pursuant to the terms of Measure Z, distributors were required to begin collecting
13 the tax on May 1, 2025. Distributors are required to be registered with the City within 30 days of
14 this date.

15 **State Law Preempts the Beverage Tax**

16 **A. State Preemption of Local Laws**

17 94. California local governments, including cities and counties, may pass laws that
18 govern their specific localities. California Constitution article XI, section 5 provides charter
19 cities, such as the City of Santa Cruz, with special authority to regulate “in respect to municipal
20 affairs.”

21 95. However, local laws may not “conflict with general laws” of the state. (Cal.
22 Const., art. XI, § 7.) Additionally, charter cities may not pass laws on matters of “statewide
23 concern,” where the state has occupied the field. (*O’Connell v. City of Stockton* (2007) 41
24 Cal.4th 1061, 1071, 1076.)

25 96. Where a charter city’s law conflicts with a state law that addresses a matter of
26 statewide concern and is narrowly tailored to that concern, the local law is preempted. A law
27 that is preempted by state law is invalid. (*Chevron U.S.A. Inc. v. County of Monterey* (2023) 15
28 Cal.5th 135, 142 (*Chevron*).

1 97. The first step in determining whether a law is preempted is to determine whether a
2 particular local law actually conflicts with a state law. (*Johnson v. Bradley* (1992) 4 Cal.4th 389,
3 400 (*Johnson*).

4 98. Actual conflict between a local and state law exists where a local ordinance
5 “duplicates, contradicts, or enters an area fully occupied by general law, either expressly or by
6 legislative implication.” (*Chevron, supra*, 15 Cal.5th at p. 1123-24.)

7 99. If there is an actual conflict between a state and local law, the next step is to
8 determine “whether the confl[i]cting state law . . . qualifies as a matter of ‘statewide concern.’”
9 (*Johnson, supra*, 4 Cal.4th at p. 404.) If the answer is no, the law addresses a “municipal affair,”
10 and the state law does not preempt local laws. (*Ibid.*)

11 100. If the state law addresses a matter of statewide concern, however, the final step is
12 to determine whether the law “is narrowly tailored” to that concern. (*Johnson, supra*, 4 Cal.4th
13 at p. 404.) If the answer is yes, the state law preempts the local law.

14 101. The Beverage Tax is preempted, in whole or in part, by at least two different
15 statewide provisions: the Affordable Groceries Act and the Bradley Burns Act. The Beverage
16 Tax also partially violates California Constitution article XIII, section 34.

17 **B. The Affordable Groceries Act Preempts the Beverage Tax**

18 102. The State Legislature has specifically and expressly preempted local taxation of
19 groceries, inclusive of soda and sugar-sweetened beverages.

20 103. The Affordable Groceries Act contains a clear and express statement of
21 preemption of local tax authority. Affordable Groceries Act section 7284.9, subdivision (a)
22 provides that “[i]t is the intent of the Legislature to regulate the imposition and collection of
23 taxes and other charges on groceries comprehensively and to occupy the field to the exclusion of
24 local action except as specifically provided in this chapter.”

25 104. Affordable Groceries Act section 7284.9, subdivision (b) further provides that
26 “the promotion of uniformity in the taxation of groceries is a matter of statewide concern and,
27 therefore, is not a municipal affair as that term is used in section 5 of article XI of the California
28 Constitution.”

1 105. Accordingly, the Beverage Tax conflicts with the Affordable Groceries Act’s
2 express statement of preemption and seeks to infringe on matters of statewide concern—keeping
3 the cost of groceries low and maintaining uniform grocery taxes. The Affordable Groceries Act
4 is narrowly tailored to advancing those interests. The Beverage Tax cannot coexist with the
5 Affordable Groceries Act, which expressly prohibits the type of tax the City placed before the
6 voters in Measure Z.

7 **C. The Bradley-Burns Act Preempts the Beverage Tax**

8 106. Two other provisions of State law preempt the Beverage Tax in full or in part.

9 107. Since 1968, the Bradley-Burns Act has preempted local sales and use tax laws by
10 establishing a uniform statewide system of taxation. (See Rev. & Tax. Code §§ 7200-7212.)
11 The Act imposes a significant penalty for enacting sales and use taxes outside of that uniform
12 scheme.

13 108. Specifically, section 7203.5 of the Revenue and Taxation Code provides: “The
14 State Board of Equalization shall not administer and shall terminate its contract to administer any
15 sales or use tax ordinance of a city, county, redevelopment agency, or city and county, if such
16 city, county, redevelopment agency, or city and county imposes a sales or use tax in addition to
17 the provisions of Sections 7202 and 7203.” In other words, a city cannot collect its regular taxes
18 if it tries to impose additional taxes beyond what Bradley-Burns authorizes.

19 109. The Legislature over time made participation in Bradley-Burns’ uniform system
20 mandatory due to concern about a patchwork of city regulations. It declared that “return to the
21 conflicting systems in existence prior to the adoption of the Bradley-Burns Law would be
22 disastrous in California today.” (*Century Plaza, supra*, 7 Cal.App.3d at p. 624 fn.6 (quoting
23 Stats. 1968, ch. 1265, § 2).)

24 110. The Legislature also “believed that should these cities return to this ‘older
25 system,’ taxpayers who had the least ability to pay would face higher consumer taxes, businesses
26 would leave these cities, and the ‘general business climate in California’ would deteriorate.”
27 (*Cultiva La Salud v. State of California* (2023) 89 Cal.App.5th 868, 880 (citation omitted)).

28 111. A sales tax is a tax that is “imposed for the privilege of selling tangible personal

1 property at retail.” (Rev. & Tax. Code § 7202.)

2 112. A use tax “impos[es] a [] tax upon the storage, use or other consumption in the
3 county of tangible personal property purchased from any retailer for storage, use or other
4 consumption in the county.” (Rev. & Tax. Code § 7203.)

5 113. While Measure Z asserts that the Beverage Tax is not a “sales” or “use” tax, the
6 Beverage Tax’s proponents acknowledge that its purpose is to reduce the sale and use of sugar-
7 sweetened beverages.

8 114. The Beverage Tax’s proponents also acknowledged and intended that the
9 incidence of the tax would be passed along to retailers and consumers—that design is essential to
10 achieve the Beverage Tax’s objective of reducing the consumption of beverages subject to the
11 tax.

12 115. Although ostensibly targeting the distributors of sugar-sweetened beverages, the
13 tax is designed and intended to burden the sale and use of those beverages by retailers and
14 consumers.

15 116. The tax is therefore in effect a sales or use tax in direct conflict with Bradley-
16 Burns.

17 **D. The Beverage Tax Violates California Constitution article XIII, Section 34**

18 117. California Constitution article XIII, section 34 provides: “Neither the State of
19 California nor any of its political subdivisions shall levy or collect a sales or use tax on the sale
20 of, or the storage, use or other consumption in this State of food products for human
21 consumption except as provided by statute as of the effective date of this section.”

22 118. At the time that article XIII, section 34 was adopted, carbonated beverages were
23 excluded from the definition of “food products” as to which sales and use taxes could not be
24 imposed. (See Rev. & Tax. Code § 6359, subd. (b)(3).) While article XIII, section 34 does not
25 itself prohibit the imposition of sales or use taxes on carbonated beverages, it does prohibit the
26 imposition of sales or use taxes on noncarbonated sugar-sweetened beverages.

27 119. The Beverage Tax imposes a local tax on noncarbonated beverages and
28 accordingly directly conflicts with the constitutional snack-tax ban in this respect.

1 Tax's legality.

2 127. Payment of the Beverage Tax is not required prior to Plaintiff's challenge. Where
3 a tax ordinance being challenged provides for criminal penalties for failure to pay, litigants need
4 not pay the challenged tax prior to initiating the action. Measure Z section 3.38.100 provides for
5 misdemeanor penalties, including fines or imprisonment, for failure to pay the tax.

6 128. It is necessary and appropriate for this Court to enjoin Defendants from collecting
7 the Beverage Tax or otherwise implementing or enforcing Measure Z.

8 129. Defendants have a ministerial duty to refrain from enforcing an ordinance that is
9 preempted by State law. It is necessary and appropriate for this Court to issue a writ of mandate
10 compelling Defendants to comply with the requirements of California law and refrain from
11 collecting the Beverage Tax and from taking any steps to otherwise implement or enforce
12 Measure Z.

13 **SECOND CAUSE OF ACTION**

14 **By All Plaintiffs Against All Defendants**

15 **(State Law Preemption: Bradley-Burns Act)**

16 130. Plaintiffs hereby reallege and incorporate by reference the preceding paragraphs
17 in their entirety.

18 131. The Beverage Tax is also preempted by the Bradley-Burns Act, which imposes
19 penalties on local agencies that impose sales and use taxes outside of the unified, statewide
20 system of taxation. The Beverage Tax seeks to effectively impose one such additional tax on
21 sodas and other sugar-sweetened beverages. While the Beverage Tax attempts to evade Bradley-
22 Burns' penalties, the purpose of the tax is intended to reduce the purchase and consumption of
23 such beverages, such that the effects are felt at the level of sales and use.

24 132. An actual controversy has arisen and now exists between the parties relating to
25 these legal rights and duties for which Plaintiffs desire a declaration of rights. Therefore,
26 declaratory judgment is necessary. (Code Civ. Proc. § 1060.)

27 133. Plaintiffs will be irreparably harmed if the Beverage Tax is collected and if
28 Measure Z is otherwise enforced.

1 Measure Z is otherwise enforced.

2 142. The action is timely because Plaintiffs have no adequate remedy at law. The
3 administrative remedies set forth in Measure Z do not provide a forum to challenge the Beverage
4 Tax's legality.

5 143. Payment of the Beverage Tax is not required prior to Plaintiff's challenge. Where
6 a tax ordinance being challenged provides for criminal penalties for failure to pay litigants need
7 not pay the challenged tax prior to initiating the action. Measure Z section 3.38.100 provides for
8 misdemeanor penalties, including fines or imprisonment, for failure to pay the tax.

9 144. It is necessary and appropriate for this Court to enjoin Defendants from collecting
10 the Beverage Tax or otherwise implementing or enforcing Measure Z.

11 145. Defendants have a ministerial duty to refrain from enforcing an ordinance that is
12 preempted by State law. It is necessary and appropriate for this Court to issue a writ of mandate
13 compelling Defendants to comply with the requirements of California law and refrain from
14 collecting the Beverage Tax and from taking any steps to otherwise implement or enforce
15 Measure Z.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiffs pray for judgment as follows:

18 1. For a declaration that the Beverage Tax is preempted by State law and
19 unenforceable;

20 2. For issuance of a writ of mandate or other appropriate relief directing and
21 commanding that Defendants and others acting pursuant to their authority or control refrain from
22 enforcing Measure Z, inclusive of the Beverage Tax;

23 3. For an injunction, both temporary and permanent, prohibiting Defendants and
24 others acting pursuant to their authority or control from enforcing Measure Z, inclusive of the
25 Beverage Tax;

26 4. For the refund to appropriate taxpayers of any amounts collected pursuant to
27 Measure Z;

28 5. For an award to Plaintiffs of their costs of this action;

1 6. For an award to Plaintiffs of their attorneys' fees pursuant to Code of Civil
2 Procedure section 1021.5 or any other appropriate authority; and

3 7. For such other and further relief as the Court may deem just and proper.
4

5 Dated: May 29, 2025

Respectfully submitted,

LATHAM & WATKINS LLP

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