

**Testimony**

of

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**New York City Department of Health and Mental Hygiene**

before the

**New York City Council Committee on Health**

on

**Intro 442-2014**

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**Committee Room - City Hall**  
**New York City**

Good afternoon Chairman Johnson and members of the Committee. I am Dr. Sonia Angell, Deputy Commissioner of the Division of Prevention and Primary Care at the New York City Department of Health and Mental Hygiene. I am joined by Dan Kass, Deputy Commissioner for the Division of Environmental Health and Tom Merrill, General Counsel. On behalf of Commissioner Bassett, thank you for the opportunity to testify today on the proposed legislation, which would set nutritional standards for meals that include incentive items appealing to children.

I want to note at the outset of my testimony that the Law Department is still reviewing this bill, so my testimony does not include any possible legal issues the Law Department may find in its review.

The Health Department shares the Council's interest in creating healthier food environments for all New Yorkers, and in particular we applaud you for thinking about ways to reduce childhood obesity rates. We are concerned, however, that the bill will fail to achieve this goal for a variety of reasons. First, we believe that restaurants will not be able to comply with and the Department will not be able to enforce the bill's requirements. The bill restricts *any* restaurant from offering a toy or other incentive item unless the meal, food item, or beverage meets certain nutritional standards. The majority of the City's 24,000 restaurants are independent establishments that prepare meals to order for their customers. It would be difficult for these restaurants to determine whether they are compliant with these standards, and it would be impossible for the Department to determine compliance. Chain restaurants serve more standardized meals, and, by federal law, they will be required to have certain nutritional information on site for customers – and the Department – to reference beginning on December 1, 2016. The bill, however, imposes standards beyond the information required by federal law. And for these standards, the Department similarly will not be able to determine whether a particular meal, food item or beverage complies with the proposed legislation.

Second, the bill's broad definition of "incentive" creates enforcement problems. While a meal sold with a toy giveaway is easy to identify, the bill could also apply to meals served on placemats with clown faces, meals that offer children crayons to draw with, or ice cream served in a little Yankees or Mets helmet. Identifying what *is* and *is not* a covered meal would lead to longer inspections and disputes with restaurants which could eventually require judicial interpretation.

Finally, we also are concerned that the bill will have limited reach. The bill would only apply to meals, food items, and beverages with incentive items, which are a small proportion of the meals purchased for children in restaurants. According to 2009 data from the NPD Group – a market research company – nearly 80 percent of meals ordered for children in restaurants are *not* from a kids’ menu. Similarly, a 2015 study conducted in three chain restaurants found that *only* 35 percent of children ordered a meal sold with a toy. Thus, the bill’s nutrition standards would only apply to a small percentage of food sold by restaurants to children. Also, a restaurant could avoid implementing the nutrition standards simply by not offering incentive items with kids’ meals, or by not offering “kids’ meals,” as Taco Bell did in 2013.

Given this, the Department does not think that this bill would achieve the Council’s laudable goal of reducing childhood obesity. As I said earlier, however, we are excited to be talking about this issue and we welcome the opportunity to discuss with you other ways to tackle this problem.

The mission of the Department of Health and Mental Hygiene is to improve and protect the health of all New York City residents and promote and protect health equity. Obesity and associated chronic diseases – type 2 diabetes and heart disease – are a significant health problem in New York City, and disproportionately affect Blacks, Latinos and poor New Yorkers. Continued efforts to address these chronic conditions are needed. Two key dietary contributors are high sodium and sugary drinks, the latter being the single largest source of added sugars in American’s diets.

Reducing consumption of sugary drinks is a priority of the Department, as consumption of sugary drinks is linked to long-term weight gain<sup>1,2,3,4</sup> and increased risk of heart disease and diabetes.<sup>5,6,7</sup> Consumption of sugary drinks by children is especially concerning: with every additional sugary drink a child consumes daily, the odds of becoming obese increase 60%.<sup>8</sup> In the United States, nearly 50% of added sugar consumed among children and teens come from beverages<sup>9</sup> and over 40% of New York City children ages 6-12 were reported to consume one or more sugary drinks daily.<sup>10</sup> An assessment of children’s meals on menus in the top 25 US chain restaurants found that soft drinks are the most popular beverage offered with children’s meals.<sup>11</sup> Improving beverage options in children’s meals can help improve diet quality, as they are a significant contributor of empty calories in children’s diets.<sup>12</sup>

These products are also heavily marketed in our communities. In 2013, beverage companies spent \$866 million on ads for unhealthy drinks, four times the amount spent on advertising of non-sugar sweetened drinks like 100% fruit juice and water.<sup>13</sup> Disparities in marketing exposure exist and may impact equity in health among all children. Throughout the United States, Black and Latino TV viewers are overexposed to sugary drink advertising compared to other youth. In 2013, Black youth saw more than twice as many TV ads for sugary drinks and energy drinks compared with White youth.<sup>14</sup> Locally, 85% of food and non-alcoholic beverage ads in supermarkets and bodegas surveyed in South Bronx neighborhoods were for sugary drinks in 2012.<sup>15</sup>

Several leading restaurant chains, including McDonald's, Burger King, Wendy's and most recently Applebee's and IHOP, have removed sugary drinks as a default option from children's meals. This voluntary action demonstrates that this targeted change is feasible and appealing to consumers. The Department agrees that sugary drinks have no place in children's meals, and encourages restaurants to offer healthier default beverage choices across their menu options.

Thank you again for the opportunity to testify. I am happy to answer any questions.

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- <sup>1</sup> Schulze MB, et al. Sugar-sweetened beverages, weight gain, and incidence of type 2 diabetes in young and middle-aged women. *JAMA* 2004;292(8):927-34.
- <sup>2</sup> Malik VS, Popkin BM, Bray GA, Despres J-P, Hu FB. Sugar-sweetened beverages, obesity, type 2 diabetes mellitus, and cardiovascular disease risk. *Circulation* 2010;121(11):1356-64.
- <sup>3</sup> Malik VS, Schulze MB, Hu FB. Intake of sugar-sweetened beverages and weight gain: A systematic review. *AJCN* 2006;84(2):274-88.
- <sup>4</sup> Mozaffarian D, Hao T, Rimm EB, Willett WC, Hu FB. Changes in diet and lifestyle and long-term weight gain in women and men. *NEJM* 2011;364:2392-404.
- <sup>5</sup> Fung TT, et al. Sweetened beverage consumption and risk of coronary heart disease in woman. *AJCN* 2009;89(4):1037-42.
- <sup>6</sup> Schulze MB, et al. Sugar-sweetened beverages, weight gain, and incidence of type 2 diabetes in young and middle-aged women. *JAMA* 2004;292(8):927-34.
- <sup>7</sup> Malik VS, Popkin BM, Bray GA, Despres J-P, Hu FB. Sugar-sweetened beverages, obesity, type 2 diabetes mellitus, and cardiovascular disease risk. *Circulation* 2010;121(11):1356-64.
- <sup>8</sup> Ludwig DS, Peterson KE, Gortmaker SL. Relation between consumption of sugar-sweetened drinks and childhood obesity: a prospective, observational analysis. *Lancet*. 2001;357(9255):505-8.
- <sup>9</sup> Ervin RB, Kit BK, Carroll MD, Ogden CL. Consumption of added sugar among U.S. children and adolescents, 2005–2008. NCHS data brief no 87. Hyattsville, MD: National Center for Health Statistics. 2012.
- <sup>10</sup> New York City Department of Health and Mental Hygiene. Epiquery: NYC Interactive Health Data System - Child Community Health Survey 2009. Viewed January 19, 2016. <http://nyc.gov/health/epiquery>
- <sup>11</sup> Wootan MG, Batada A, Marchlewicz E. Kids' Meals: Obesity on the Menu. Center for Science in the Public Interest. August 2008.
- <sup>12</sup> Reedy J, Krebs-Smith SM. Dietary sources of energy, solid fats, and added sugars among children and adolescents in the United States. *J Am Diet Assoc*. 2010;110:1477-1484.
- <sup>13</sup> Rudd Center for Food Policy and Obesity. Sugary Drink FACTS, 2014. [http://www.sugarydrinkfacts.org/resources/sugarydrinkfacts\\_report.pdf](http://www.sugarydrinkfacts.org/resources/sugarydrinkfacts_report.pdf). Viewed January 12, 2015.
- <sup>14</sup> Rudd Center for Food Policy and Obesity. Sugary Drink FACTS, 2014. [http://www.sugarydrinkfacts.org/resources/sugarydrinkfacts\\_report.pdf](http://www.sugarydrinkfacts.org/resources/sugarydrinkfacts_report.pdf). Viewed January 12, 2015.
- <sup>15</sup> Shop Healthy evaluation (Shop Healthy NYC Year 1 Evaluation Report – West Farms and Fordham, Bronx. New York City Department of Health and Mental Hygiene, May 2014. <http://www.nyc.gov/html/doh/downloads/pdf/pan/shop-sealthy-report.pdf>