



CENTER FOR  
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*The nonprofit publisher of  
Nutrition Action Healthletter*

**Testimony of Julie Greenstein, Deputy Director of Health Promotion Policy  
Center for Science in the Public Interest**

**Hearing on Food Policy in New York State  
New York State Senate  
Health Committee  
January 22, 2010**

Good Afternoon, Chairman Duane and other Members of the Committee. I am Julie Greenstein, Deputy Director of Health Promotion Policy at the Center for Science in the Public Interest (CSPI), a nonprofit health advocacy organization based in Washington, D.C. Since 1971, CSPI has worked to improve the foods we eat and governmental policies that promote a healthy population. Among many other considerable contributions, CSPI led the effort to win passage of the law requiring nutrition labeling on packaged foods. We publish the Nutrition Action Healthletter, the world's largest-circulation nutrition newsletter. 50,000 of our subscribers live in New York.

CSPI applauds Chairman Duane for holding this hearing today on food policy and for exploring the effects of specific food policies on public health, including a trans fat ban in restaurants, a tax on sugared beverages, and calorie labeling.

**Trans Fat**

Artificial trans fat is the single most harmful type of fat and is a totally unnecessary ingredient in our food supply. CSPI strongly supports phasing out trans fat in all New York restaurants.

Twenty years ago, the FDA and academic scientists (and CSPI) thought that trans fat was safe. But that all changed in 1990, when research began demonstrating that trans fat, on a gram-for-gram basis, is the single most harmful type of fat—even worse than the saturated fat in meat and dairy products—in terms of promoting heart disease. There is now a consensus among scientists that people should consume as little trans fat from partially hydrogenated oils as possible.

In 2006, researchers at the Harvard School of Public Health estimated that each year trans fat was causing 72,000 to 228,000 heart attacks,<sup>1</sup> including roughly 50,000 fatal ones.<sup>2</sup> Fortunately, because of several factors—including food labeling; local, city and state (including California and New York City) laws phasing out artificial trans fat from restaurants; litigation; and massive publicity—the toll is considerably smaller today. The remaining trans fat in the American diet may be causing about 15,000 to 25,000 deaths annually.

CSPI, in 1993, first called on the U.S. Food and Drug Administration to require the trans-fat content to be listed on food labels. The FDA's labeling regulation ultimately went into effect in 2006, stimulating many manufacturers to begin using healthier oils. However, restaurants have been slower to make changes. Most major chains, and some smaller restaurants, have greatly reduced the amount of trans fat in their products. However, some restaurants, according to nutrition information on their websites, such as White Castle, Bob Evans and Long John Silver's, as well as cafeterias, bakeries, delis, and other foodservice establishments, have not cut the dangerous fats, putting their customers at unnecessary risk of heart disease. Those consumers deserve protection.

New York City and Nassau, Westchester, Albany, Suffolk, and (most recently) Broome counties, have already passed laws that phase-out trans fat in restaurants. Residents of those areas, who account for more than half of the state's population, can now rest assured that the food they are eating in restaurants is a bit healthier. And, remarkably, companies like McDonald's report not having received a single complaint about the taste of the reformulated foods. Shouldn't all of New York's residents be entitled to that healthier food that tastes just as good as always?

Residents of New York strongly support phasing out trans fat in restaurants. According to a Zogby International poll, commissioned by CSPI in 2008, seven in ten New Yorkers want to get artificial trans fat out of restaurant food.

In the past, the restaurant industry argued that alternative fat supplies were unavailable. The industry's concern regarding the adequacy of the supply of alternative oils has since become a non-issue. Currently, the supply is sufficient and the price differential between different types of oils is minimal. The only issue that remains relevant in this debate is how fast trans fat can be removed from our food supply. CSPI urges the New York State Legislature to limit trans fat in restaurants sooner rather than later.

Others have done just that. Over the last several years, we've seen a great deal of movement on the trans fat issue. For example, in 2007, New York City and Philadelphia passed laws largely eliminating trans fat from restaurants. Soon after, Montgomery County and Baltimore, Maryland; Boston, Brookline, and Cambridge, Massachusetts; King County (Seattle), Washington; and Nassau, Albany, Suffolk, and Broome Counties, New York, as mentioned earlier, passed bans. Also, California was the first state to pass such a ban, which it did in 2008.

Many jurisdictions have already implemented their bans without any glitches or outcry from restaurants or consumers. Soon after New York City implemented its ban, the city reported close to a 100% compliance rate, as did other cities and counties. In addition, according to the New York City Department of Health and Mental Hygiene, the cost to enforce this regulation was minimal. Food safety inspectors check whether food products contain trans fat at the same time they conduct their regular food safety inspections.

For every year that New York waits to ban trans fat from restaurants, **hundreds or thousands of residents will suffer fatal and non-fatal heart attacks. Those illnesses and deaths are unnecessary, and many could be prevented by passage of a state-wide trans fat ban in restaurants.**

## **Sugared Beverage Tax**

More than two-thirds of Americans are overweight or obese.<sup>3</sup> In New York State, 35% of adults are overweight and 25% of adults are obese. A 2005 Centers for Disease Control (CDC) study estimated that approximately 112,000 deaths are associated with obesity each year in the United States, making obesity the second-leading contributor to premature death.<sup>4</sup> That death toll is equivalent to a jetliner full of 300 people crashing *every day*.

While many factors promote weight gain, the science is quite clear – soft drinks are the only food or beverage that has been shown to increase the risk of overweight and obesity, which in turn increase the risk of diabetes, stroke, and many other health problems.

Soft drinks are nutritionally worthless, but add a lot of calories to the diet. Several scientific studies have shown that soft drinks are directly related to weight gain, partly because many people consume such huge volumes of soft drinks, and because beverages are more conducive to weight gain than solid foods.<sup>5,6,7</sup> According to one study, for each additional sugared drink consumed per day, the likelihood of a child becoming obese increases by 60%.<sup>8</sup>

Countless studies demonstrate that excess weight is a prime risk factor for type 2 diabetes, heart attacks, strokes, cancer (colon, breast, and others), sleep apnea, and many other problems. Frequent consumption of soft drinks also contributes to osteoporosis, tooth decay, and dental erosion.<sup>9</sup>

Americans spend roughly \$150 billion a year on medical expenses related to obesity, of which about half is paid with Medicare and Medicaid dollars.<sup>10</sup> In New York State alone the cost of obesity is approximately \$7.6 billion.<sup>11</sup> While obesity should be addressed through a wide variety of actions, one action to recoup some of those expenses is for New York to levy a tax on soft drinks, including non-diet carbonated sodas, energy drinks, sports drinks, fruit drinks, and ready-to-drink teas, to recoup some of those expenses. (Note: At this time, we do not support taxing diet soda since the evidence linking consumption of diet soda with a desire for sugar-sweetened foods and an increase in caloric intake and weight gain is weak).

The revenues would not only help counter some of New York's budget woes, but also should be used to support programs to promote healthy diets and physical activity. A one-cent-per-ounce excise tax, which would generate an estimated \$1.2 billion annually, would be expected to reduce consumption by 13%, according to the previous Health Commissioner of New York City, Tom Frieden (now Director of the Centers for Disease Control) and Yale obesity expert Kelly Brownell.<sup>12</sup>

Like the steep taxes now levied on tobacco products, which have significantly reduced tobacco use, more modest taxes on sugared beverages would reduce soda consumption – encouraging consumers to switch to more healthful beverages, and leading to healthier diets and reduced calorie intake and less weight gain.

Half of America's states, including New York, already tax sugared beverages. Their experiences show that even modest taxes can generate millions of dollars to offset swelling health care costs related to obesity or help pay for Medicaid. Levying an excise tax, in addition to the current

little-noticed sales tax, on sodas and sports drinks would encourage nutritious lifestyles, cut thousands of empty calories from diets and promote better health in New York.

An excise tax on soft drinks would not prohibit people from buying sugary beverages. But they could avoid the tax entirely by switching to diet sodas, tap or bottled water, seltzer, or low-fat milk, benefiting their health in the process.

It should be noted that excise taxes, levied per unit volume of soft drinks, such as a penny per ounce, are the most efficient and effective kinds of taxes. An excise tax is normally built into the price (rather than added quietly at the check-out counter) and is readily noticed by consumers. Furthermore, excise taxes are easy for governments to collect. They could be imposed at the bottler/distributor/importer level, mitigating the need for grocers to remember to charge a tax (and pay the government). An excise tax would affect equal volumes of inexpensive store brands and more expensive national brands equally.

Predictably, the soft drink industry and its allies have loudly opposed a public health tax that might shrink their profits. Their messages come straight from Big Tobacco's playbook. As Big Tobacco denied the connection between cigarette smoking and cancer, Big Soda now denies the connection between soft drink consumption and obesity. As Big Tobacco hid behind front groups, Big Soda has established the Americans Against Food Taxes – an industry-led front group claiming to protect the pocketbooks of American families, but really looking out for companies' bottom lines.

The beverage industry claims that all calories are the same and that there is nothing unique about liquid calories. However, studies reveal that calories consumed in the form of liquid, such as soda, rather than solids, are more likely to promote obesity. For example, assume that two people go out to lunch and both consume a 600 calorie lunch. If 200 of the 600 calories for one of them comes in liquid form, such as soda, and the other eats 600 calories all in solid form, the one who consumed some liquid calories will likely eat more calories during the rest of the day.

Today's liquid refreshment is not served as it used to be. Once consumed infrequently in relatively small quantities, usually as a treat, soft drinks now come in gargantuan proportions, available almost everywhere. Container sizes have grossly expanded over the past 50 years. In the 1950s, Coca-Cola's standard serving was a 6½-ounce bottle. That grew into the 12-ounce can and now the new standard has become the 20-ounce bottle, which contains 17 teaspoons of sugar! The 7-Eleven chain of convenience stores even offers a 64-ounce Double Gulp – which contains more than 50 teaspoons of sugar! Supersizing has become the norm, both for sodas, and unfortunately, for most soda-drinking Americans.

Coca-Cola recently introduced a "mini" 7.5-oz can with calorie labeling on the front. According to Coca-Cola, "The Coca-Cola mini can innovation reinforces the Company's support for healthy, active lifestyles." But it's actually just a cover for greed. If you look at the unit price, Coke is basically charging \$9 a gallon at a local Waldbaum's for these small-sized drinks (compared to \$6 a gallon for 12-oz.cans). (In Washington, DC, 8-oz. cans cost more than three times as much per gallon than 12-oz. cans.) This price gouging hardly squares with industry's purported concern for consumer costs, which is the reason given for opposing excise taxes. If economic times are so bad, why is Coke digging even deeper into consumers' pockets under the

guise of improving consumers' health? That's the equivalent of a 2-cents-per-ounce excise tax (and 7 cents per ounce in Washington).

Perhaps the sugared-beverage industry needs more money to fund its aggressive political and public relations campaigns. In 2009 alone, the beverage industry spent \$24 million in lobbying and advertising, mostly to fight a federal excise tax on its products.

The hundreds of millions of dollars annually that soft-drink companies invest in marketing supports the flood of soda that is drowning our youth in calories. Beverage companies produce some 14 billion gallons of calorie-laden soft drinks annually.<sup>13</sup> That is equivalent to about 506 12-oz. servings per year, or 1.4 servings per day, for every man, woman, and child. Even the very young are drinking soda. According to a recent study of California children, one-third of children 2-5 years old drink soda everyday.<sup>14</sup>

Once again, I thank you and the members of the Committee for exploring the link between soft drinks and obesity. If we are to address this country's obesity epidemic, we must find ways to reduce soft drink consumption.

### **Menu Labeling**

As you may know, CSPI has been advocating for menu labeling policy for the past seven years. Specifically in the state of New York, we have worked with local advocates to pass menu labeling policies in New York City, Albany County, Ulster County, Westchester County, and Suffolk County, and also introduced policies in Rockland County, Nassau County, and the state of New York. Two of those policies, New York City and Westchester County, have been implemented, so if you have visited recently you may have noticed the calories on your menu.

On the national level, CSPI has been working closely with members of Congress, public health organizations, and the restaurant industry to develop a strong, federal menu labeling bill. Currently, both the Senate and House health reform bills include menu labeling as part of their disease prevention provisions. Along with the restaurant industry and national public health groups, CSPI strongly supports this legislation.

Because the national policy will cover all states and localities with uniform menu labeling provisions, we are no longer advocating for additional state and local menu labeling laws. If a local bill passes simultaneously with the national bill, it will not be implemented long before the national law and therefore will not serve the citizens of that area significantly sooner. We hope you will concentrate your efforts on state legislation such a tax on soft drinks and a phase-out of trans fats that will help the citizens of New York make important improvements in their health.

Thank you for your consideration.

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<sup>1</sup> Mozaffarian D, Katan MB, Ascherio A, et al. Trans fatty acids and cardiovascular disease. N Engl J Med. 2006 Apr 13;354(15):1601-13.

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<sup>2</sup> Pers. Comm. Walter Willett.

<sup>3</sup> Centers for Disease Control and Prevention. Behavioral Risk Factor Surveillance System. Prevalence and Trends Data Nationwide (States and DC) 2007 Overweight and Obesity (BMI).

<http://apps.nccd.cdc.gov/brfss/display.asp?cat=OB&yr=2007&qkey=4409&state=UB> (accessed April 8, 2009).

<sup>4</sup> Flegal KM, et al. "Excess Deaths Associated with Underweight, Overweight, and Obesity." *Journal of the American Medical Association* 2005, vol. 293, pp. 1861-1867.

<sup>5</sup> Vartanian LF, Schwartz MB, Brownell KD. Effects of soft drink consumption on nutrition and health: a systematic review and meta-analysis. *Am J Public Health* 2007 Apr;97(4):667-75.

<sup>6</sup> Malik VS, Schulze MB, Hu FB. Intake of sugar-sweetened beverages and weight gain: a systematic review. *Am J Clin Nutr.* 2006 Aug;84(2):274-88.

<sup>7</sup> Chen L, J Appel LJ, Loria C, et al. Reduction in consumption of sugar-sweetened beverages is associated with weight loss: the PREMIER trial. *Am J Clin Nutr* 2009;89:1299-306.

<sup>8</sup> Nielsen SJ, Popkin BM, Changes in beverage intake between 1977 and 2001, *Am J Prev Med* 2004;27:205-10. [Erratum, *Am J Prev Med* 2005; 28:413.]

<sup>9</sup> See summary of health problems related to soft drinks in Jacobson MF. Liquid Candy – How Soft Drinks are Harming Americans' Health. Center for Science in the Public Interest. 2005. [www.cspinet.org/new/pdf/liquid\\_candy\\_final\\_w\\_new\\_supplement.pdf](http://www.cspinet.org/new/pdf/liquid_candy_final_w_new_supplement.pdf).

<sup>10</sup> Finkelstein EA, Trogon JG, Cohen JW, Dietz W, Annual medical spending attributable to obesity: payer- and service-specific estimates, *Health Affairs* 28, no. 5 (2009): w822-w831 (published online 27 July 2009; 10.1377/hlthaff.28.5w822)

<sup>11</sup> Governor Patterson, 2010 Budget Address. January 19, 2010.

<http://www.state.ny.us/governor/press/2010budgetaddress> (accessed January 19, 2010).

<sup>12</sup> *Ounces of Prevention – The Public Health Case for Taxes on Sugared Beverages*, Brownell and Frieden, *N Engl J Med* (April 30, 2009) Vol. 360.

<sup>13</sup> CSPI calculations are based on 2008 estimates of beverage categories reported in: Beverage Marketing Corporation. Press Release: Smaller Categories Still Saw Growth as the U.S. Liquid Refreshment Beverage Market Shrank By 2.0% in 2008. March 30, 2009.

[www.beveragemarketing.com/?section=news&newsID=111](http://www.beveragemarketing.com/?section=news&newsID=111) <http://www.beveragemarketing.com/?section=news&newsID=111> (accessed April 6, 2009). Market share of diet and regular soda estimated from USDA/Economic Research Service 2006 data. Beverages: Per capita availability. March 15, 2008.

[www.ers.usda.gov/data/foodconsumption/Spreadsheets/beverage.xls](http://www.ers.usda.gov/data/foodconsumption/Spreadsheets/beverage.xls)

<sup>14</sup> California Center for Public Health Advocacy Report. Bubbling Over: Soda Consumption and Its Link to Obesity in California, 2009. <http://www.publichealthadvocacy.org/bubblingover.html>, (accessed November 3, 2009).