The Business Council

Testimony to

Senate Health Committee

Food Policy in New York State

Presented by

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Chairman Duane and members of the Health Committee, my name is Marcus Ferguson and I am the Director of Government Affairs at The Business Council of New York State. I am here on behalf of New York's grocers and beverage companies. I thank you for the opportunity to speak this morning. I will briefly address the issue of sugar beverage taxes.

A potential beverage tax, which would be imposed in addition to the existing state sales tax of four percent plus a local tax of up to 5.5 percent and the deposit, is designed to offset government costs related to obesity. Items subject to it include fruit drinks which contain less than 70 percent of natural fruit juice, soft drinks, sodas and beverages such as are ordinarily dispensed at soda fountains (other than coffee, tea and cocoa), whether or not the item is sold in liquid form.

Sugar beverage taxes on soft drinks like the one proposed by Governor Paterson in this year's Executive Budget, would cause serious economic impacts across New York. It would amount to lost jobs and the dislocation of existing businesses. The Governor's plan would impose an excise tax on syrups and simple syrups at a rate of $7.68 a gallon and $1.28 a gallon on bottled soft drinks. Such a tax would raise prices on drinks leading to lost sales and jobs not only in the beverage industry but would be a loss to other businesses that supply these companies and sell their products.

When demand for a product drops substantially, the result will be a loss in jobs, as producers respond to the drop in demand by cutting back on production. This happens because as the price of a good increases demand for the product will drop, as consumers either purchase substitutes or stop buying the product altogether.

Aside from a loss of jobs in the thousands, such a measure would also put New York retailers at a competitive disadvantage with neighboring states, particularly those retailers close to border areas, where price differentials with neighboring states would be most apparent. The last thing we need is to see consumers shopping in neighboring lower-taxed jurisdictions (states). Given the disproportionate impact of the recession on these counties already, especially in the Southern Tier, the proposed tax would be devastating to retailers and beverage interests.

The State of New York shares contiguous borders with five other states – Connecticut, Massachusetts, New Jersey, Pennsylvania and Vermont – as well as Canada.

<u>Sales tax Breakdown</u>

- New York-8%;General State Sales Tax of 4%, plus county sales tax ranging from 3% to 5.5%
- Connecticut-6%; General Sales Tax exempts food products but specifically excludes soft drinks from such exemption
- Massachusetts-0%; 5% "Excise Tax" specifically excludes soft drinks

- New Jersey-7%; General Sales Tax exempts "unprepared" food products; soft drinks not included in the definition, and vending machine products specifically mentioned as taxable
- Pennsylvania-6%; "Excise Tax" on "tangible personal property"; soft drinks included in the definition.
- Vermont-0%; 6% Excise Tax exempts food and beverages consumed off the premises where sold

This means that, even at present, New York retailers are at a disadvantage relative to their cross-border competitors, with store owners near the Vermont and Massachusetts borders facing a seven to eight percent tax burden where these other two states have no sales tax. An additional tax on sugar-sweetened soft drinks will only exacerbate this disadvantage.

In addition, New York retailers face an internal cross-border dilemma that store owners in many other states do not face. Several New York counties such as Oneida County, which has the highest combined state and local sales taxes in the entire state at 9.5%, is in close proximity to Oneida Indian tribal lands, as are the Counties of Chautauqua, Erie and Allegany.

Retailers in this region of the state have been battling with unfair competition from illicit purchases of gasoline and cigarettes by non-Native Americans from Native retailers for years. State sales taxes do not apply to purchases made in tribal stores from Native American consumers. Non-Native Americans, however, are obligated to pay such taxes, though enforcement has been a long-standing problem for state and county governments. These proposed taxes will likely induce still more customers to make their purchases in lower-tax jurisdictions, and will hit stores near tribal stores even worse.

The loss of sales will also translate into a loss of revenues for the state. While the budget proposal is designed to raise additional state revenue this proposed tax will result in a reduction of potentially hundreds of millions of dollars in economic activity. Thus the cost of generating an estimated $465 million in revenue could actually mean a net loss in revenue when factoring in the losses to the economy.

The practical economic impact of Governor Paterson's proposed "obesity tax" on sugar-sweetened soft drinks will likely cost several thousand jobs statewide, and more in the counties along New York's interstate borders. In the short run, such a high, cross-border price differential will hurt those counties along the border, some of which are already experiencing higher unemployment than the rest of the state. In the long run, the result will be far more devastating, as activity shifts out of New York's high-tax jurisdiction to lower-taxed ones, and retailers of all types relocate out of state in response.

Again, we appreciate this opportunity to provide input on this important issue and look forward to the opportunity to discuss this further with members of the State Legislature, and answer any questions you may have on our comments today.

Thank you.