



# NYSHEPA

New York State Healthy Eating  
and Physical Activity Alliance

**Testimony of Nancy Huehnergath, Director  
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New York State Senate Health Committee Food Policy Hearing  
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Chairman Duane and esteemed Senate Health Committee members, thank you for the opportunity to testify here today on behalf of the New York State Healthy Eating and Physical Activity Alliance -- NYSHEPA. NYSHEPA is a statewide coalition of over 100 health, consumer and education organizations dedicated to improving policies, practices and environments that promote healthy eating and physical activity.

If we hope to improve the health of New Yorkers (60% of New York's adults are overweight or obese; one in four children is obese), lower the cost of healthcare in our state, continue to attract businesses to the state and ensure that our children live long and productive lives, the New York State Legislature must enact sound food policy. Rather than trying to educate or persuade individuals to change their diets, which has not worked, evidence-based policy and environmental strategies like menu labeling, a sugar sweetened beverage tax and a trans fat ban make it easier for people to choose and maintain healthier behaviors.

## **Calorie Labeling**

NYSHEPA has been heavily involved in efforts in ten New York counties to enact calorie labeling in chain restaurants. Laws or regulations have passed in Westchester, Suffolk, Ulster, Albany and Nassau Counties, as well as in New York City. Currently, 50% of New York State's population is covered by a calorie labeling law or regulation. It's time to pass a statewide law that will give the other 50% the information they need, at point of purchase, to make healthier decisions for themselves and their families.

Recently released studies from Stanford and Yale Universities and preliminary data from the NYC DOHMH demonstrate that calorie labeling can be effective in lowering the number of calories purchased by consumers. But the true value of calorie labeling may actually lie in product reformulation, which will impact all chain restaurant diners.

Chains are reformulating high-fat and calorie-laden items and introducing lighter, healthier options in response to menu labeling requirements around the nation. Some recently revealed calorie counts of chain restaurant menu items have been downright embarrassing and significant product reformulation to lower calories has been noted at Starbucks, Denny's, Uno Chicago Grill, Le Pain Quotidien, Dunkin' Donuts, KFC, McDonalds, Cosi and Romano's Macaroni Grill, which managed to squeeze a whopping 880 calories out of just one salad.

In a January 6, 2010 *Washington Post* article, it was reported that Austin Grill, California Pizza Kitchen, the Cheesecake Factory, Fuddruckers, Silver Diner and Sizzler, among others, are working with a consulting company to make their recipes healthier. The consulting company referenced has seen its business jump 80% in 2008 and 100% in 2009.

In order to gain a better understanding of certain localities experience with calorie labeling, NYSHEPA has spoken with Health Department officials in areas that have implemented a measure, including New York City, Westchester County and King's County, Washington. Here is what we have been told:

- Calorie labeling *has not* adversely impacted the finances of any chain restaurant; people may be changing what they order, but they still order.
- The cost of calorie labeling to the individual franchise is negligible; the vast majority of restaurants receive their new menus and menu boards from the parent company as part of their yearly pre-paid advertising and promotion budget.
- At this point in time, the headquarters of virtually every chain restaurant in the nation has calculated the caloric content of menu items and other nutritional data.
- Calories can be added to any drive-through menu board at *any* location, even in New York City.
- Posting the entire calorie count of a menu item that is designed to serve more than one person (for example, a pizza) *has not* confused customers or impacted sales.

Finally, calorie labeling measures have the support of New Yorkers. An April, 2008 statewide poll by Zogby International found that 80% surveyed were in favor of calorie labeling. A September, 2008 Technomics poll on the effectiveness of the New York City menu labeling policy found that 80% polled were aware of the policy, 86% thought the policy was positive and 84% had used the calorie information. NYSHEPA urges you to support a comprehensive statewide calorie labeling bill in 2010.

## **Sugar Sweetened Beverage Excise Tax**

Sugar sweetened beverages have been identified by countless scientific studies as a major contributor to our costly obesity epidemic. NYSHEPA believes that the sugar sweetened beverage excise tax, as proposed in the Executive Budget, will reduce consumption of these drinks by 10 to 15% annually. This would help the average New Yorker avoid 2-3 pounds of additional weight gain over a year. The tax could also help halt and reverse our obesity epidemic and lead to decreased healthcare costs.

What makes this tax especially palatable is that it will have both fiscal and health impacts. Not only is it predicted to reduce consumption of sugar sweetened drinks, which have been heavily linked to obesity, type 2 diabetes and other preventable diseases, but it will bring in much needed revenue of \$1 billion yearly when fully annualized. The revenue will be used to fund healthcare expenditures, including obesity prevention programs.

Economic incentives, like a sugar-sweetened beverage tax are among the most effective tools to change behavior as tobacco taxes have demonstrated. New York State's tobacco taxes, which are currently the third highest in the nation, have helped drive the state's smoking rate to historic lows. Likewise, NYSHEPA believes we can drive down the state's obesity rate with the help of a sugar-sweetened beverage excise tax.

Sugar sweetened beverage consumption has skyrocketed (46 gallons per person a year today, versus 24 gallons in 1970) because of the beverage industry's relentless marketing of these drinks to be consumed like water -- anytime, anywhere and in excessive amounts. Witness the 64 ounce "double gulp" at 7-11. With a good chunk of their

astronomical marketing budgets targeted to young children via school district pouring rights contracts, TV advertising and product placement, branding of vending machines where children congregate, etc., it's no surprise that 10 to 15% of our kid's daily calories now come from sugar-sweetened beverages. Unfortunately, each additional 12-ounce soft drink consumed per day by children increases their odds of becoming obese by 60%.

Whether it's simply the additional calories from sugar-sweetened beverages that trigger weight gain in kids or if there's another mechanism at work is currently under debate. A November 2009 research synthesis titled *The Negative Impact of Sugar Sweetened Beverages on Children's Health*, which can be found at [www.healthyeatingresearch.org](http://www.healthyeatingresearch.org), suggests two additional reasons why sugar sweetened beverage consumption may be linked to weight gain in children:

- Individuals do not compensate for excess liquid calories by reducing consumption of calories from solid food and;
- Consumption of sweetened beverages may induce hunger and thereby increased consumption of other foods.

Some have charged that a sugar sweetened beverage tax is regressive. NYSHEPA believes the regressive tax argument is flawed. Obesity rates are highest in low-income populations and a tax that discourages people from purchasing sugar-sweetened beverages will actually help this population save money by switching to water or low-fat milk. In addition, since decreased consumption of sugar sweetened beverages is associated with lower rates of obesity, low income populations can expect healthcare savings as a result of the tax.

In the coming weeks, the beverage industry will fight this tax proposal and attempt to reframe it as a “fat” tax or “sin” tax. Industry front groups like the Center for Consumer Freedom will blanket the media with anti-tax messages, falsely claiming that these are consumer driven sentiments. NYSHEPA urges you not to buy into the spin. A poll conducted in December, 2008 for the Citizens’ Committee for Children of New York found that 72% of New Yorkers support a tax on soft drinks if the tax revenue is put towards obesity prevention programs.

Last year, Pepsi threatened to leave the state if a sugar-sweetened beverage tax was enacted. We certainly can’t let a corporate entity dictate our state’s health policy, particularly when our kids are predicted to have a shorter life expectancy due to obesity and, when the state is burdened with almost \$8 billion of obesity-related medical expenditures each year.

The sugar sweetened beverage excise tax is a smart idea for New York on many levels. It will improve the health of all New Yorkers, particularly our most vulnerable population – our children. It will raise significant revenue that can be used to avoid further cuts to healthcare during this time of economic instability. It could lead to a decrease in obesity related medical expenditures in our state. And it enjoys public support. NYSHEPA urges you to support the sugar sweetened beverage tax and ensure that it remains in the final Executive Budget.

*All statistics came from the NYS DOH Sugar Sweetened Beverage Tax Toolkit unless otherwise noted.*

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