

Why the Soda Ban Won't Work

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NYC's Soda Ban Is A Good Idea, But A Tax Would Be Better

By Nathan Sadeghi-Nejad
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1. There are few who would criticize Mayor Bloomberg for working towards the goal of a healthier New York. Unfortunately, there are many who would criticize Mayor Bloomberg for seeking to achieve that goal the wrong way. In fact, most New Yorkers think the so-called "soda ban" — which would prohibit the sale of sugar-sweetened beverages over 16 ounces by most food establishments — is a bad idea.
2. Although we stand with Mayor Bloomberg's efforts to support New Yorkers in making healthy food choices, and recognize the city's outrageous rates of obesity, heart disease, and diabetes — especially among communities of color — we remain deeply concerned about the proposal for the following reasons:
 - a. the ban, if implemented, will yield an adverse economic impact for small businesses and may result in job losses; and
 - b. the ban would harm producers that ship soda-syrup and cups across state lines into New York, possibly violating the federal commerce clause; and
 - c. the ban infringes on the civil liberties (choice) of New Yorkers, and may be overturned.
3. And choice very much matters. In 2011, federal officials rejected Mayor Bloomberg's proposal to bar the city's food stamp users from buying soda and other high-sugar drinks. This proposal,

1. Earlier today, the New York City Board of Health voted unanimously to approve Mayor Bloomberg's proposed ban on sweetened drinks in containers larger than 16 ounces at any establishment that receives a grade from the health department. Absent a court ruling, the ban will take effect in six months.
2. Members of virtually every major constituency, from Republican politicians to *The Daily Show's* Jon Stewart, have vociferously objected to the Mayor's plan. A recent New York Times poll found that 60% of participants objected to the so-called "soda ban." The disapproval is both widespread and geographically diverse: the same poll revealed majority opposition in each of New York City's five boroughs.
3. There's only one problem. The pundits, politicians, and populace are wrong. Like it or not, the soda ban is a good idea.
4. Over the past three decades, obesity has become a massive problem in the U.S. The Centers for Disease Control's (CDC) recently published obesity map (scroll to the bottom) offers a frightening look at U.S. obesity trends. Whether or not you consider obesity a disease or a disorder, rising rates of Type II diabetes and other obesity-linked complications threaten the long-term economic health of our country.
5. Something must be done.

<p>if passed, might also be struck down.</p> <p>4. For a ban meant to address health in low-income communities, it was particularly concerning to us that it was brought forth during a time when the city was considering cuts to minority health programs. And scratching the surface of the proposal, we believe the ban does not consider the complexity of how and why people acquire food and drink, and instead applies a simplified solution to a layered problem (one highly likely to fall short of its intended goal). For instance, the ban would exempt drinks over 16 ounces that contained over 50 percent milk. This would include drinks like a 24 fl. oz. serving of a certain corporation’s popular blended crème caffeinated beverage, a drink that is roughly 470 calories — equivalent to the amount of calories in a medium 10-ounce steak. Yet it would ban a single-serving of soda, juice, enhanced water beverage, tea, coffee or sports drink of equivalent size if purchased from certain establishments.</p> <p>5. It’s also important to look at where people acquire such large drinks. The average New Yorker goes to the movie theater (known for large single-servings of beverages) only four times a year, and attends sports venues even less regularly. Daily trips to the neighborhood deli store (or ‘bodega’) are much more common occurrences. Such neighborhood stores selling over 50 percent food products fall under the jurisdiction of the City’s Department of Health, and therefore would be limited by the ban. Those selling under 50 percent food products would be exempt from the ban. This effectively means that two stores on the same block might</p>	<p>6. My dad, a pediatric endocrinologist who has seen childhood obesity soar in his clinic over the past thirty years, has long referred to sugary drinks as “empty calories.” He’s right. Soda and other sweetened beverages are luxury items that offer no nutritional benefit to the consumer. Even the food at McDonald’s offers modest nutrition at a low price — a defensible value proposition, especially for low-income individuals. Soda proponents can make no such claim.</p> <p>7. So although I support Mayor Bloomberg’s soda ban, my preference would be for a common sense, albeit politically impossible solution: a soda tax.</p> <p>8. The industry’s powerful lobby quickly quashed efforts to include a soda tax in President Obama’s Affordable Care Act (ACA), thereby eliminating a major potential source of funding and forcing greater cuts to Medicare. Politics also doomed Mayor Bloomberg’s initial proposal for a soda tax, which I think of as “the plan before the ban.”</p> <p>9. The idea of a special tax on luxury, whether real or perceived, isn’t revolutionary. Consider New York’s “mansion tax,” which requires homebuyers to pay an additional 1% sales tax on any dwelling that costs more than \$1 million. Anyone familiar with New York City real estate knows that \$1 million hardly buys a mansion, yet the law hasn’t led to criticism on Comedy Central. Although I realize the potential influence of socioeconomic factors on public opinion, the two taxes are conceptually identical.</p> <p>10. Opponents of the soda ban tend to</p>
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<p>very well be held to different standards. In fact, some major chain stores would be exempted by this same standard.</p> <p>6. This kind of arbitrary standard is what leads us to believe that the proposal — if passed — would not only be ineffective, but also harmful to small local businesses, specifically those servicing low-income communities.</p> <p>7. Most importantly, we simply feel that the administration should shift focus towards the much more difficult goal of creating programs to subsidize healthy food access, including implementing the recommendations outlined in the 2009 New York City Council report “FoodWorks: A Vision to Improve NYC’s Food System.” The real issue at hand, in our opinion, is access to low-cost, quality healthy food across this city. We need to do even more to bring comprehensive food-access programs to local communities.</p> <p>8. While community-based food advocacy coalitions have taken on the daunting task of developing and supporting localized community-supported agriculture (CSAs), food cooperatives, farmers markets, and school-based food networks, the city makes it increasingly difficult for local communities to establish and maintain neighborhood gardens (a major source of localized food growth), under the fear of them becoming permanent institutions that would be difficult to displace. If the administration is truly interested in getting New Yorkers outdoors, there should be appropriate funding put towards the rehabilitation of outdoor parks and playgrounds, as well as indoor recreational spaces, to encourage New Yorkers (many of</p>	<p>highlight the law’s restrictions on freedom of choice, while bemoaning an inevitable Bloomberg “nanny state.” This view has serious flaws. First, choice has always been restricted by industry, yet no one objected to the far smaller portion sizes common in the 1980s or lobbied for the freedom to supersize. Second, the ban is far from comprehensive. New Yorkers most often purchase sugary beverages in the grocery store, at a corner bodega, or a chain convenience store. None of these establishments are currently subject to the soda ban.</p> <p>11. The third flaw is that the law doesn’t stop those who want 32 ounces of soda from purchasing two 16-ounce bottles. I’m not sure why opponents consider that insufficient, especially since multiple studies — found here, here, here, and here — strongly suggest that U.S. obesity trends are linked to portion sizes and that reducing portion sizes leads to less food consumption.</p> <p>12. Despite the recent FDA approvals of Arena’s Belviq and Vivus’ Qsymia, these minimally-to-modestly effective drugs will not solve — or even have much impact on — the obesity epidemic over the long-term. As a disease or disorder, obesity is a vicious cycle with multiple contributing factors. Chief among these is lifestyle choice, and to have any meaningful impact on obesity we all need to start making better choices.</p> <p>13. Unfortunately, humans tend to unconsciously use hyperbolic discounting — the tendency to inappropriately value future events or outcomes — and must often be coaxed towards desirable behavior. Few object</p>
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<p>whom cannot afford a gym membership) to exercise.</p> <p>9. A ban is easy, establishing real solutions in the long term is much more difficult. And frankly we believe moving towards any of these goals would have a greater impact on public health than a beverage ban that might hurt small businesses, would be arbitrarily applied, and may very well be illegal. When Mayor Bloomberg proposes more real solutions (like this) to our public health problems, we will be standing right behind him. But the soda ban is simply bad for New York.</p>	<p>to the behavioral economics techniques practiced by pharmacy benefit managers (PBMs), since the intended outcome — increased drug compliance — benefits the patient. The soda ban is no different, except that the source of behavior modification is the government rather than industry.</p> <p>14. I empathize with the “slippery slope” argument, which is why I prefer a soda tax. Yet the consequences of unrestricted consumption, which Americans must indirectly bear through the increasingly unbearable burden of Type II diabetes, will become increasingly dire if left unchecked.</p> <p>15. At some point, enough is enough.</p>
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