

Understanding the landscape of default beverage policies and preliminary data from Delaware restaurants

OVERVIEW

The consumption of sugar-sweetened beverages (SSBs) such as soda and energy drinks has been linked to obesity, diabetes, and heart disease, among other negative health outcomes. The consumption of SSBs is of particular concern for children, because they are forming dietary habits that have the potential to last a lifetime, and because overweight children are at high risk of becoming overweight adolescents and adults. In response, many government entities have enacted a range of policies that seek to limit children's SSB consumption by encouraging healthier choices. One example, and the focal point of this document, are policies that require restaurants offering bundled children's meals to offer only unsweetened or lightly-sweetened drinks as the default beverage option. In most cases, these policies retain the option to purchase an SSB outside of the bundled meal. A healthy default beverage policy intends to discourage SSB consumption and encourage the formation of healthy habits and conscious choices on the part of the consumer. The Center for Research in Education and Social Policy (CRESPP) at the University of Delaware is involved in research to understanding the impact of such policy measures.

SUGAR-SWEETENED BEVERAGES AND CHILDREN

The consumption of sugar-sweetened foods has an established link to obesity, diabetes, and heart disease,¹ and SSBs in particular are especially unhealthy because they lack nutritional value and provide minimal satiation.² The average American child far exceeds the daily recommended intake of added sugars, half of which come from SSBs.³ In fact, the average American child consumes 143 calories from SSBs on an average day.⁴

At the same time, Americans eat meals outside of the home more today than 50 years ago, with half (50.1%) of food expenditures spent away from home, and kids consuming 33% of their daily calories away

¹ Malik, V. S., Schulze, M. B., & Hu, F. B. (2006). Intake of sugar-sweetened beverages and weight gain: A systematic review. *The American Journal of Clinical Nutrition*, 84(2), 274–288. doi:10.1093/ajcn/84.1.274

² Roache, S.A., & Gostin, L.O. (2017). The untapped power of soda taxes: Incentivizing consumers, generating revenue, and altering corporate behavior. *International Journal of Health Policy and Management*, 6(9), 489–493. doi: 10.15171/ijhpm.2017.69

³ American Heart Association News. (August, 2016). *Kids and added sugars: How much is too much?* Retrieved from <https://www.heart.org/en/news/2018/05/01/kids-and-added-sugars-how-much-is-too-much>

⁴ Powell, L.M., & Nguyen, B.T. (2013). Fast-food and full-service restaurant consumption among children and adolescents: Effect on energy, beverage, and nutrient intake. *JAMA Pediatrics*, 167(1), 14–20. doi:10.1001/jamapediatrics.2013.417

Table. Comparison of Kids Meal Beverage Policy Components

Location	Policy	Water	Unsweetened Flavored Water	Sparkling Water	Milk	Non-Dairy Milk	Unsweetened Fruit Juice (8 oz. or less)	Any drink containing fewer than 25 cal/8 oz. and no artificial sweeteners
California	SB No. 1192	✓	✓	✓	✓	✓	✗	✗
Hawaii	SB No. 1192	✓	✓	✓	✓	✓	✓	✗
Delaware	HB No. 79	✓	✓	✓	✓	✓	✓	✗
Lafayette, CO	Ordinance 40, 2017	✓	✓	✓	✓	✓	✗	✗
Baltimore, MD	File #17-0152 (Enactment #18-126)	✓	✗	✗	✓	✗	✓	✗
Louisville, KY	Ordinance 081, 2018	✓	✓	✓	✓	✓	✓	✓

from home (restaurants, school, fast food, etc.).^{5,6} When children eat fast food, as compared to food consumed at home, their average sugar consumption increases by 6-16 grams⁴ (or 24-64 calories), according to a study by Powell and Nguyen. A 2017 study examined 45 chain restaurants with kids menus (over 4,000 kids menu items) and found that "Sugar-sweetened beverages consistently constituted 80% of children's beverages, with soda declining and flavored milks increasing between 2012 and 2015."⁷

The average American child consumes 143 calories from sugar-sweetened beverages on an average day.

Children who consistently consume SSBs have significantly higher chances of becoming obese and remaining obese for their entire lives^{1,8} A study in the medical journal, *The Lancet*, found that a child's chance of becoming obese increases by 60% for every additional 12 ounces of soda that they

consumed.⁹ A 2017 study found that more than 80% of children were receptive to a restaurant meal served with milk, water, or flavored water instead of soda or pop.¹⁰ In 2013, beverage companies spent \$866 million in marketing.¹¹ According to a 2019 report, 83% of 135 chain restaurants (measured out of 200 of the same type and highest-revenue-generating) had labeled children's menus that included soda or other sugary drinks.¹²

GOVERNMENT ACTION TO DATE

Several government entities have passed policies ensuring that only healthy beverages are default drinks in bundled children's meals. These entities include, but are not limited to, the states of California, Delaware, and Hawaii, as well as three cities—Lafayette, CO; Baltimore, MD; and Louisville, KY; key parameters of these policies are noted above. Active,

⁵ United States Department of Agriculture Economic Research Service. (April, 2016). *U.S. food-away-from-home sales topped food-at-home sales in 2014* (pp. 4). Retrieved from <https://cspinet.org/sites/default/files/attachment/Soda%20on%20the%20Menu.pdf>

⁶ Lin, B., & Morrison, R.M. (2012). Food and nutrient intake data: Taking a look at the nutritional quality of foods eaten at home and away from home. *Amber Waves*, 10(2), 1-2.

⁷ Moran, A.J., Block, J.P., Goshev, S.G., Bleich, S.N., & Roberto, C.A. (2016). Trends in nutrient content of children's menu items in U.S. chain restaurants. *American Journal of Preventive Medicine*. Retrieved from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5541374/>

⁸ American Heart Association. (2013). *BMI in Children*. Retrieved from <https://www.heart.org/en/healthy-living/healthy-eating/losing-weight/bmi-in-children>

⁹ Ludwig, D.S., Peterson, K.E., Gortmaker, S.L. (February 17, 2001). Relation between consumption of sugar-sweetened drinks and childhood obesity: A prospective, observational analysis. *The Lancet*, 357(9255), 505-508.

¹⁰ Shonkoff, E.T., et al. (July 25, 2017). Child and parent perspectives on healthier side dishes and beverages in restaurant kids' meals: Results from a national survey in the United States. *BMC Public Health*, 18(1), 56. doi:10.1186/s12889-017-4610-3

¹¹ Harris, J. L., Schwartz, M. B., & LoDolce, M., (2014). *Sugary drink FACTS 2014: Some progress but much room for improvement in marketing to youth*. Retrieved from http://www.sugarydrinkfacts.org/resources/SugaryDrinkFACTS_Report.pdf

¹² Ribakove, S., & Wootan, M.G., (2019, July). *Soda still on the menu: Progress, but more to do to get soda off restaurant children's menus*. Center for Science in the Public Interest. 2019. Retrieved from <https://cspinet.org/sites/default/files/attachment/Soda%20Still%20on%20the%20Menu%202019.pdf>

promising campaigns promoting a similar policy exist in Boulder, CO; New York, NY; Philadelphia, PA; and Washington, D.C.

Children who consistently consume sugar-sweetened beverages have significantly higher chances of becoming obese and remaining obese for their entire lives.

THE DELAWARE EXAMPLE

In the fall of 2018, the city of Wilmington, Delaware passed an ordinance requiring that healthy beverages (specifically milk, water, 100% juice) be the default choices at restaurants serving bundled children's meals.¹³ On July 17, 2019, Delaware Governor John Carney signed a similar state-wide policy, House Bill (HB) 79 into law. As described by the Delaware General Assembly, the law "effectively creates an 'opt in' instead of an 'opt out' for many sugar-rich drink choices."¹⁴

MENU ASSESSMENT SURVEY FOR WILMINGTON, DELAWARE

In December 2018, staff at CRESA at the University of Delaware conducted a survey of restaurant beverage offerings in Wilmington, DE prior to the citywide policy going into effect. Of the 484 restaurants in Wilmington, 16 restaurants (3%) offered bundled children's meals and were subject to the policy. Focusing on these 16 restaurants, the survey documented the availability, pricing, marketing, and other influencing characteristics of each restaurant's offering of SSBs. It also evaluated which beverages were included as the default with children's meals (i.e., water, juice, milk) in accordance with the City's policy.

Results of this effort showed:

- **Regular Soda:** Of the restaurants surveyed, 81% offered regular, non-diet soda. Seventy-seven percent of restaurants featured advertisements for regular soda written on their menus, 31% pictured regular soda on their menus, and 69% offered free refills for regular soda.

Pre-sweetened juice drinks such as Capri Sun, lemonade, fruit punch, aguas frescas, and sweet tea were offered at 56% of the restaurants surveyed. All of these restaurants featured written advertisements for pre-sweetened drinks on their menus, 56% had pre-sweetened drinks pictured on their menus, and 22% offered free refills for pre-sweetened drinks.

- **100% Juice:** At 69% of the restaurants surveyed, 100% juice was offered. Of these, 91% featured written advertisements for 100% juice on their menus, 55% had 100% juice pictured on their menus, 18% offered free refills for 100% juice, and 13% offered six-ounce servings of 100% juice for kids.
- **Milk:** Milk was offered at 69% of the restaurants surveyed.
- **Bottled Water:** Bottled water was offered at one quarter of the restaurants surveyed. All of these restaurants featured advertisements for bottled water on their menus, 75% pictured bottled water on their menus, and none offered free refills of bottled water. All bottled water offerings came in 16 fl. oz. serving sizes.
- **Water Cups:** Water cups were offered at 19% of the restaurants surveyed. All of these restaurants had advertisements for water cups written on their menus while none pictured water cups. Of the restaurants offering water cups, one-third advertised free refills.



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¹³ Wilmington City Council, DE. Ordinance No. 18-046 (2018). Retrieved from https://library.municode.com/de/wilmington/codes/code_of_ordinances?nodeId=PTIIWICO_CH5BU_ARTIINGE_S5-2BEOFCHME

¹⁴ House Bill 79. Delaware General Assembly. (2019). Retrieved from <https://legis.delaware.gov/BillDetail?LegislationId=47551>

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COMPLIANCE AND OVERSIGHT

In most cases, local enforcement agencies monitor compliance with SSB legislation. In California, infractions within the first five years of implementation result in a notice, a \$250 fine, and a \$500 fine for the first, second, and third infractions respectively.¹⁵ Similar enforcement measures are in place in Wilmington, DE. The state of Delaware's policy contains a similar fine structure, though fines are not assessed unless the establishment has other simultaneous infractions.¹⁴ In contrast, the Louisville, KY policy classifies a violation of its sugary-beverage legislation as a civil offense with fines between \$25 and \$100; every day a documented infraction persists constitutes a separate offense warranting additional fines.¹⁶

Given the diversity of the restaurants subject to these policies (e.g., both sit down restaurants and fast food, some with drive-throughs), determining whether these operations comply with a given jurisdiction's policy will be complex and could require more staffing resources than may have been envisioned. Additional resources may also be needed to communicate these policies to restaurant owners and employees to maximize compliance.

FUTURE RESEARCH

The University of Delaware's Center for Research in Education and Social Policy is currently collecting post-policy data at the 16 Wilmington, DE restaurants subject to the City's policy, and is also moving forward with statewide pre- and post-policy assessments across Delaware.

¹⁵ Senate Bill No. 1192. The Legislature of the State of California (2019). Retrieved from http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB1192

¹⁶ Louisville Metro Council, KY. Ordinance No. 081 (2018). Retrieved from https://louisvilleky.gov/sites/default/files/metro_council/pdf_files/ord_081_2018.pdf

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