

NY proposes ban on sale of oversized sodas (Update 3)

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New York City Health Commissioner Thomas Farley, accompanied by Deputy Mayor for Health and Human Services Linda Gibbs, addresses a news conference at New York's City Hall, Thursday, May 31, 2012. New York Mayor Michael Bloomberg is proposing a ban on the sale of large sodas and other sugary drinks in the city's restaurants, delis and movie theaters in the hopes of combating obesity, an expansion of his administration's efforts to encourage healthy behavior by limiting residents' choices. (AP Photo/Richard Drew)

(AP) — New York City's mayor is proposing an unprecedented ban on the sale of large sodas and other sugary drinks in the hopes of combating obesity — an expansion of efforts to encourage healthy behavior that have led to shouts that America's largest city is becoming a "nanny state."

The proposal marks the first time an American city has so directly attempted to limit sugary-drink portion sizes. City officials said Thursday they believe it will ultimately prove popular with New Yorkers and push governments around the U.S. to adopt similar rules.

"The percentage of the population that is obese is skyrocketing," Mayor Michael Bloomberg said Thursday on MSNBC television. He added: "We've got to do something."

The plan — expected to win approval from the Bloomberg-appointed Board of Health and take effect as soon as March — is the latest health effort by Bloomberg's administration to spark accusations that city officials are overstepping into matters that should be left in the hands of individuals.

"New Yorkers expect and deserve better than this. They can make their own choices about the beverages they purchase," the Coca-Cola Company said in a statement. "We hope New Yorkers loudly voice their disapproval about this arbitrary mandate."

The proposal would impose a 16-ounce (nearly half a liter) limit on sugary drinks sold at restaurants, movie theaters, sports venues and street carts. It would apply to bottled drinks — many plastic soda bottles contain 20 ounces — as well as fountain sodas.

Bloomberg said people who want to guzzle 32 ounces (nearly a liter) would still be free to order two drinks. But he said restricting sodas to 16 ounces could help curb consumption.

"You tend to eat all of the food in the container. If it's bigger, you eat more. If somebody put a smaller glass or plate or bowl in front of you, you would eat less," he said.

Trimming back beverage offerings would reverse a trend that has been under way for decades. In the 1950s, McDonald's offered only one size for soft drinks: 7 ounces, city officials said.

Under Bloomberg, a three-term mayor, New York has campaigned aggressively against obesity, outlawing trans fats in restaurant food and forcing chain restaurants to post calorie counts on menus. The mayor has also led efforts to ban smoking in the city's bars, restaurants, parks and beaches.

Bloomberg often cites the city's rising life expectancy numbers as proof the health push is working, but his efforts have drawn criticism from others who accuse him of instituting a "nanny state."

"There they go again," said Stefan Friedman, spokesman for the New York City Beverage Association, who called the latest proposal "zealous."

"The New York City Health Department's unhealthy obsession with attacking soft drinks is again pushing them over the top," he said. "The city is not going to address the obesity issue by attacking soda because soda is not driving the obesity rates."

The ban would not extend to drinks sold in grocery or convenience stores that don't primarily sell foods meant to be eaten right away. Businesses that violate the rules would face fines of \$200 per failed inspection.

The ban would apply only to sweetened drinks that contain more than 25 calories per 8 ounces (a quarter of a liter). (A 12-ounce can of Coke contains about 140 calories.) It would not apply to diet soda, and any drink that is at least half milk or milk substitute would be exempt.

City officials said they believe some calorie-heavy beverages wouldn't be

affected. Starbucks Frappuccinos, for example, would probably be exempted because of their dairy content, while the Slurpee partially frozen soft drinks at 7-Eleven wouldn't be affected because the convenience stores are regulated as groceries.

In announcing the proposal, health officials cited research linking sugary drinks to rising rates of obesity, diabetes and heart disease. At the same time, City Health Commissioner Thomas Farley said the city has no intention of reducing portion sizes of solid foods.

"Sugar drinks are not the entire obesity epidemic, but they are uniquely, strongly associated with this rise in obesity over the last 30 years," Farley said. "There's something about sugar water, as a product, which leads to long-term weight gain."

Kelly Brownell, director of the Rudd Center for Food Policy and Obesity at Yale University, said he believes the ban would be effective: "Soft drinks are the single greatest source of added sugar in the American diet."

But Stefan Friedman, spokesman for the New York City Beverage Association, argued the ban would do little to reduce New Yorkers' waistlines, pointing to federal data showing that calories from sugary drinks are a declining portion of American diets even as obesity increases.

At a Burger King in Manhattan, retired postal worker Bobby Brown didn't like the mayor's idea, saying people should be "free to choose what they drink or eat."

But Joseph Alan, a chauffeur eating at a nearby Subway restaurant, said his overweight friends' eating habits ultimately affect him, too: "I tell them, 'This is affecting our insurance, because charges go up more

treating people with diabetes and other health problems. I don't want to pay more for health insurance so people have these drinks!"

The Bloomberg administration has tried other ways to make soda consumption less appealing. The mayor supported a state tax on sodas, but the measure died in the legislature, and he tried to restrict the use of food stamps to buy sodas, an idea that federal regulators rejected.

Legal experts said the soft drink industry may mount a challenge to the new rule by arguing that it's arbitrary or internally inconsistent.

Given that you can't buy a 32-ounce serving but you can buy two 16-ounce ones, "a court might say that all it does is help the cup industry by making people buy more cups," said John Humbach, a professor at Pace Law School. But he called that approach "a long shot."

Mark Kalinowski, an analyst with Janney Capital Markets who covers companies including McDonald's, said it is unlikely the ban will be enacted.

And if it does go into effect, he said, customers will probably just respond by ordering two drinks.

"Maybe the mayor can outlaw all soft drinks and outlaw all fun while he's at it," Kalinowski scoffed.

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