

## After NY ban on big sodas proposed, what's next?

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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) — Just how far would a government go to protect us from ourselves?

In New York City — which already bans smoking in public parks in the name of public health and bars artificial trans fats from food served in restaurants — Mayor Michael Bloomberg now wants to stop sales of

large sodas and other sugary drinks, in a bid to battle obesity. But in a country where fries have been equated with freedom, Bloomberg's proposal begs super-sized questions about government's role in shaping and restricting individual choices. What's next?

"The idea of the state stepping in and treating adults essentially as children and trying to protect them for their own good, as opposed to the good of others, that's been with us for as long as we've been around, as long as we've had governments," says Glen Whitman, an economist at California State University-Northridge who is a critic of paternalistic public policy.

The most famous example was Prohibition, which barred the manufacture and sale of alcohol from 1919 to 1933. But Whitman and others see a new wave of intervention, based on behavioral economics rather than religious moralism, and symbolized by moves like Bloomberg's. Allow it to continue, they say, and who knows where it could lead?

If government officials can limit the size of sodas, why couldn't they next decide to restrict portion sizes of food served in restaurants or the size of pre-made meals sold at supermarkets? Why wouldn't a government determined to curb obesity restrict sales of doughnuts or pastries or — perish the thought, New Yorkers — ban bagels with cream cheese?

If government is within its right to restrict behavior to protect health, then why wouldn't a mayor or other official ban risky sexual conduct or dangerous sports like skydiving? What's to stop a mayor from requiring people to wear a certain type of sunscreen or limit the amount of time they can spend on the beach, to protect them from skin cancer?

The reality is that many of the policies restricting individual choice in

the name of public health seem almost benign, like curbs on fireworks sales or enforcement of motorcycle helmet laws. But such moves represent a "constant creep until all of a sudden it's extremely obvious," said Mattie Duppler of Americans for Tax Reform, a conservative anti-tax lobbying group that regularly spotlights examples of what it considers overreaching "Nanny State" public policy.

She points to moves by governments, like the city of Richmond, California, to impose taxes on sugary sodas and moves by states like Utah, which widened a ban on indoor smoking in public places to include electronic cigarettes that don't emit smoke.

"What we're seeing is government trying to put its fingers around the throat of anything that claims public health impetus," Duppler says.

Others have their doubts. Richard Thaler, co-author of "Nudge: Improving Decisions About Health, Wealth and Happiness," which argues for policies that encourage rather than mandate changes in consumer behavior, calls Bloomberg's soda proposal "inartful and probably ineffective and too heavy-handed for my taste."

But for him, most of the questions it raises are about practicality, rather than red flags.

Thaler, an economist at the University of Chicago, asks, would a Bloomberg curb on big drinks ban free refills? Would it ban special offers to buy one drink and get the second at half price?

Thaler, who says he is against government mandates or bans, argues that governments will get the most mileage from policies that nudge behavior, like placing fruit more prominently in school cafeterias. But he dismisses warnings that government efforts to improve [public health](#) risks sending the country down a slippery slope of more control and less

individual choice.

"Any time people do something that people don't like, they predict it will lead to something awful," Thaler said. "I have not seen a big trend of governments becoming more intrusive."

Even Duppler has her doubts about what Bloomberg's soda proposal represents. "We'll see," she says. "There's some crazy ideas — and sometimes they just take hold."

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