

## ***Clashing Views in Health and Society***

UNIV 241 Fall 2011—Thursday Evenings 6:30 pm to 9:20 p.m.

Saeed Hydaralli, Stephen Gambescia & Michael Howley

### ***A city sin tax: obesity prevention or a city in distress?***

Readings for Session Five—20 October 2011

An adage is that there are two things guaranteed in life: paying taxes and dying. Citizens in all countries are generally accepting of taxes because they allow governments to operate and provide basic services such as police and fire protection, building roads, and sanitation. Taxes also provide goods and services “for the common good,” such as public education, parks and recreation, even if not all citizens take advantage of these public goods. A quasi tax is sometimes called a user fee that charges citizens the use of a good or service, such as paying a toll for the use of a road or bridge. There are several types of taxes. The bulk of state and municipal taxes comes from some formula on a residency tax and some percentage of wage taxes and corporate or business operating taxes. Consumer taxes is another type of tax and one that generates broad controversy because it is difficult for the consumer to see the link between the money raised from the product or service taxed and the service provided. Revenue from consumer taxes may be sent to the “general fund” or fund a service provided to a select group of citizens.

Recently governments have levied what have become known as “sin taxes” because these are taxes levied on products (e.g. tobacco and alcohol) or activities (e.g. gambling) that are considered harmful to one’s health. Historically the move to levy these taxes has meet with resistance, but over time citizens have become more accepting of these taxes recognizing that consuming less of the product is a good thing. Critics of these taxes consistently argue that it will lead governments down a slippery slope for what products and activities are taxed. What will be next? Fatty foods? Sugary foods? Also, they argue that it is contradictory for the government to benefit from and become “dependent” on money that was gained by our poor judgment. More problematic of sin taxes is that they effect all in the economic chain and unnerve businesses, industries, and workers that produce, manufacture, distribute, market, and sell a particular product.

This week we will examine the recent move by officials of the city of Philadelphia to levy a “sweetened beverage” tax. There were two moves backed by the mayor of Philadelphia to levy such a tax. In 2010, the main rationale was to reduce childhood obesity, assuming that the rise in the cost of sweetened beverages would reduce consumption of these drinks among children and adolescents. This was labeled the *Healthy Philadelphia Initiative*. In 2011, the main rationale switched to raising money for the city, specifically a large budget shortfall in the school district. You will read news reports of this public policy initiative from *The Philadelphia Inquirer* and commentaries from several publications either for or against such a tax. You can refer to two main websites to learn about the opposing sides of this health issue.

The **Rudd Center for Food Policy and Obesity** at Yale University

[http://www.yaleruddcenter.org/hot\\_topics.aspx](http://www.yaleruddcenter.org/hot_topics.aspx)

From the business and consumer perspective see **Americans Against Food Taxes**

<http://nofoodtaxes.com/>

In reading these materials and listening to the guest panel speakers, keep in mind the constructs of analysis that we are using:

- Identification of a viewpoint on an issue
- Stated or implied assumptions
- Analysis of the validity of the supporting arguments
- Evaluate conclusions
- Make recommendations or suggested action

## **Fat Fees and Smoker Surcharges: Tough-Love Health Incentives**

By Melba Newsome Monday, Nov. 30, 2009 *TIME* Magazine

Psychology Professor Anita Blanchard has a pretty sweet deal with her employer. Even if the 40-something mother of three leaves her job at the University of North Carolina at Charlotte, the state of North Carolina guarantees her premium-free health insurance that will cover 80% of her health care costs for life. But there's a hitch: she can't gain too much weight or start smoking. If she does, she could be on the hook for an additional 10% of her health care tab.

Companies have long promoted healthier behavior by subsidizing gym memberships and smoking-cessation classes. But several private and public employers have started tying financial incentives to their health-insurance plans. North Carolina this year became the second state to approve an increase in out-of-pocket expenses for state workers who smoke and don't try to quit or who are morbidly obese and don't try to lose weight. Alabama was the first to pass what critics call a fat fee, in 2008, and several state insurance plans have started imposing a \$25 monthly surcharge on smokers.

There's even a push in Congress to let employers further link lifestyles to insurance premiums. Right now companies that run their own insurance programs can reward employees with bonuses or premium reductions of up to 20% if they meet certain health guidelines. John Ensign, Republican Senator from Nevada, and Tom Carper, Democratic Senator from Delaware, co-sponsored an amendment to the current health care bill that would raise the limit to as high as 50%. The Senate Finance Committee gave it a thumbs-up in September.

Nationwide, employee insurance premiums have increased 131% over the past decade, according to the Kaiser Family Foundation. And it's well documented that smoking and obesity are associated with higher medical costs. That helps explain why 34% of respondents in a new Aon survey of more than 1,300 employers said they plan to introduce or increase financial incentives to encourage participation in wellness programs and why 17% plan to do the same for disease-management programs.

But there's a big difference between handing out gift cards and jacking up people's co-pays. The Tar Heel State in particular has been criticized for using a big-stick approach. Starting in July, state workers who smoke will be moved from the plan that covers 80% of health care costs to one that pays 70%, an out-of-pocket difference of approximately \$480 a year, unless they agree to enroll in a smoking-cessation program.

In 2011, the state will turn its attention to the obese. Workers who have a body mass index (BMI) below 40--e.g., someone who is 5 ft. 6 in. and weighs 250 lb.--can remain in the 80% plan for the first year. But after that, they need to either have a BMI of 35 (5 ft. 6 in., 217 lb.) or enroll in a weight-loss program to qualify for the less expensive plan.

Alabama, rather than adopting penalties, is offering discounts on state workers' \$70 monthly premiums. To get \$30 off for not using tobacco, participants have to sign a form under penalty of perjury. (An audit of relevant medical records could result in back-billing and a recall of claims.)

Since the plan started giving such a discount in 2005, it has seen a 4% decline in the number of smokers.

After Dec. 31, state employees in Alabama will be eligible for an additional \$25 discount on their monthly premiums if screenings indicate that their blood pressure, blood glucose, cholesterol and weight are in the normal range or if they see a doctor to address any risk factors. People with a BMI of 35 or higher have to enroll in a weight-loss program to receive the discount.

"We're trying to get across to the population that they have to take responsibility for their well-being and engage in more healthy behavior," says Jack Walker, executive director of the North Carolina State Health Plan. The plan estimates that claims for chronic diseases related to obesity may top \$108 million a year and claims for tobacco-related illnesses more than \$137 million a year.

It's too early to know whether raising the cost of insurance will lead to behavioral changes. But dangling carrots seems to work. In 2005 the Safeway supermarket chain implemented a voluntary wellness plan. Employees who take and pass tests for such things as blood pressure and cholesterol levels can reduce their annual insurance premiums by nearly \$800. The company credits the plan with keeping its insurance costs flat on a per capita basis for the past five years.

You might think organizations that focus on improving health and eradicating disease would be thrilled that employers are coming up with more incentives to lose weight and stop smoking. But in October the American Heart Association, the American Cancer Society and 61 other organizations sent a letter to Congress calling the Ensign-Carper amendment discriminatory and warning that it could make health insurance too expensive for the people who need it most. Says George Huntley of the American Diabetes Association: "This is not a wellness program. It's a penalty for failing to achieve a specific health status."

The University of North Carolina's Blanchard, a fit nonsmoker, is among those troubled by the changes to her state's health-insurance plan. "I understand the perspective that people who are carrying more risk should pay more, but it just doesn't seem fair," she says. "I don't think it's the best way to get people to lose weight and stop smoking." Then again, people who get caught speeding have to pay more for car insurance. Has that made us all safer drivers?

### **City sweet-drink tax could be a hard sell The proposed levy, at 2 cents an ounce the highest in the U.S., may be too much for Council.**

March 04, 2010|By Jeff Shields *The Philadelphia Inquirer*

Mayor Nutter wants to treat the city's weight and wallet problems in his 2010-11 budget with the same remedy: the nation's highest tax on all sweetened beverages including soda, energy drinks, ice tea, even chocolate milk.

Nutter's plan would put Philadelphia at the front of the movement to tax sweet drinks, an effort that the beverage industry already opposes and that could encounter resistance in City Council.

The tax rate would be 2 cents per ounce, 40 cents on a 20-ounce bottle of soda. The levy would cover fountain-drink syrups and powders, based on the number of liquid ounces they produce. Diet drinks without added sugar and baby formula would be excluded.

City officials said they could raise \$77 million a year. Health Commissioner Donald F. Schwarz estimated that a typical city resident drinks a half-liter of sweet beverages a day.

Nutter gave the tax a name, Healthy Philadelphia Initiative, but it's clear the city's first priority is to raise money.

Of the proposed added revenue, \$57 million would go to the general fund. But Schwarz said \$20 million annually would go to new programs fostering healthy eating and exercise, and he made it clear that he hoped to change habits.

"For the average individual in town, if this is passed on, we believe that we can make them healthier simply through substitution for healthier beverages," Schwarz said.

Schwarz, a pediatrician, rolled out statistics yesterday for reporters: Half of Philadelphia's children are overweight or obese, and soft-drink consumption is rising while milk consumption is falling.

Philadelphia is not the first to propose such a tax. New York, Massachusetts, and California are among seven states considering levies on sugar-sweetened drinks. But Nutter's proposal would double New York's and dwarf the 3 percent soft-drink tax in Chicago, the only major city with such a tax.

Chicago's tax, for instance, adds 4 cents to a 20-ounce Coke priced at \$1.29. The city taxes soda, diet drinks, sports drinks, sweet tea, and all drinks containing natural or artificial sweeteners.

The Philadelphia proposal is 32 times Pennsylvania's state beer tax, a penny per pint.

A drink tax was briefly considered by the House Ways and Means Committee as a way to pay for a health-care overhaul last year. The mammoth soft-drink lobby, led by the American Beverage Association, Coca-Cola, and PepsiCo, helped quash the idea, boosting their spending on lobbying from \$4.7 million in 2008 to \$40.4 million in 2009, according to the Center for Responsive Politics.

The local campaign against the Philadelphia proposal surfaced yesterday with an alliance between the Pennsylvania Beverage Association and the Teamsters.

"Philadelphians already pay the highest sales tax in the state, and this would increase the cost of the beverages they enjoy by as much as a staggering 100 percent," Tony Crisci, lobbyist for the

Pennsylvania Beverage Association, said in a statement timed to coincide with Nutter's release of budget details.

Crisci, in a phone interview, estimated the number of sweet-drinks jobs in the city at 2,000, including 1,000 in the Coke and Pepsi bottling plants in North Philadelphia and Northeast Philadelphia.

"Clearly, if there's a reduction in sales there's going to be a reduction in production and a reduction in jobs," he said. "We don't believe the way to solve obesity is to tax things."

Danny Grace, secretary-treasurer of Teamsters Local 830, was quoted in the news release saying, "Philadelphia can't afford to bleed any more middle-class jobs," particularly in an industry that he said had added jobs during the recession.

Kelly D. Brownell, director of the Rudd Center for Food Policy and Obesity at Yale University, disagreed with the pronouncements of Crisci and Grace. Brownell has been one of the country's strongest advocates for a sugary-drink tax to reduce the intake of "empty" calories devoid of nutrition.

Brownell said drinkers of sweet beverages would simply choose a diet drink, water, milk, or other drink, which would still require bottlers, drivers, and corner stores.

In a paper published in the New England Journal of Medicine last year, Brownell and six other researchers and doctors recommended a 1-cent-per-ounce tax.

"We figured that would be more politically feasible . . . but, that said, a higher tax would accomplish a higher goal," Brownell said in an interview.

He rejected the idea that reducing sweet-drink consumption would not have an impact on obesity.

"No one thing you or I could conjure up will solve the problem all by itself. That doesn't mean it wouldn't be helpful," Brownell said. "I salute the mayor and the city and Health Department for taking the lead."

At Temple University's Center for Obesity Research and Education, director Gary Foster has been leading the study of childhood obesity and nutrition and their connection to the corner store. In a study released in the fall, Foster found that Philadelphia children who go to a corner store spend \$1.07 and walk out with 360 calories, most from sugary drinks, chips, and candy.

"If we could change what kids eat by 100 calories a day . . . those kind of small changes are whopping if that happens five, six, seven times a week," Foster said.

Still, it would be a tough decision for some Council members, particularly those whose districts include businesses bound to oppose it.

Councilwoman Maria Qui Jones Sanchez, who married into a family of retailers, represents a district filled with bodegas, and Coca-Cola has its main bottling plant at 725 E. Erie Ave.

She questioned how the city was going to make sure that store owners passed the sweet-drink tax on to consumers of a specific drink rather than raise prices across the board, even on healthy drinks. Health Commissioner Schwarz said the city would promote "the importance of passing this on to consumers."

The tax would be collected along with the city's gross-receipts tax at the end of the year as a business-privilege tax. City officials said it would not be a sales tax and would not require state authorization.

"I'm concerned for those businesses where soda products are a large percentage of their businesses," said Sanchez, who said she would meet with bodega representatives.

Councilwoman Blondell Reynolds Brown, a champion of public-health initiatives, said that, in lieu of raising other taxes or cutting services, "we as legislators have a responsibility to give this proposal - as unattractive as it is to create a new tax - strong consideration."

Contact staff writer Jeff Shields at 215-854-4565 or [jshields@phillynews.com](mailto:jshields@phillynews.com).

## **Fat city needs a soda tax Mayor Nutter's bold proposal could save money and lives.**

March 09, 2010 | Commentary by Jane Shin Jue *The Philadelphia Inquirer*

Half of Philadelphia's children and adults are overweight or obese. As a physician, I have seen the devastating consequences for too many of my patients - sleep apnea, high blood pressure, heart attacks, and diabetes, to name a few. And many will become disabled, miss days at work, or even lose their jobs.

That's why Mayor Nutter's proposed tax on soda and other sweetened beverages is about more than just closing a budget deficit. It could be a key to reversing dangerous declines in the city's health.

If there's one thing I've come to understand as an obesity researcher, it's that obesity has many causes. Genetics, ethnicity, neighborhood, economics, personal behavior - they all matter.

What's within the power of policymakers is helping people make better food choices. The cards now are stacked against healthy consumer decisions. The truth is that junk food is cheap: Fresh fruits and vegetables cost much more than bags of chips, and a bottle of water can cost a lot more than a 32-ounce soda.

So it's not surprising that those with less money have higher rates of obesity. They eat the least expensive items, and the least expensive items are less nutritious.

The new tobacco

Most of us want government to protect us from health dangers such as air pollution, dirty water, and lead poisoning. But what about dangerous food?

The evidence is clear that consumption of sweetened drinks is associated with increased weight, poor nutrition, and a higher risk of obesity and diabetes. Over the last 30 years, daily caloric intake from sugary beverages has steadily risen. That's why Philadelphia is just one of several American cities considering soda taxes.

Americans once had the same debate about tobacco that we are having about soda today. For years, many insisted that public education was the answer to the tobacco problem, just as they are now saying that people need to take personal responsibility for their nutrition now.

But it wasn't until states started aggressively taxing tobacco that we saw dramatic decreases in smoking rates. The result has been one of our biggest public-health successes of the last two decades.

Those high taxes prevented millions of kids from picking up the tobacco habit and becoming lifelong smokers. We can approach the epidemic of obesity, particularly among our children, the same way.

I couldn't agree more with the idea that people should be encouraged to take control of their health. But a tax on sweetened beverages is not a ban; people can still choose to drink what they want. A tax would simply help everyone make healthier decisions.

Hefty price

Some have asked whether the goal should be making healthy food cheaper instead of making unhealthy foods more expensive. I'm part of a team of researchers from the University of Pennsylvania and Carnegie Mellon that's studying that question. However, another recently published study found that taxing unhealthy items works, while subsidizing healthy items does not. The researchers found that money saved on discounted healthy items was spent on junk food.

There's one more reason to be in favor of this tax: Right now, you are covering the costs of obesity. Every American taxpayer is paying about \$180 a year in obesity-related medical expenses, mostly through public programs such as Medicare and Medicaid. And we are paying the price of lower economic productivity.

Philadelphia has been known as one of America's fattest cities for too long, but that could be changing. Last month, Michelle Obama visited the city to spotlight its success in encouraging food and grocery stores with healthier options to open in urban neighborhoods. Nutter's proposed soda tax is another bold, smart step in that direction.

*Dr. Jane Shin Jue is an internist and a Robert Wood Johnson Foundation clinical scholar at the University of Pennsylvania School of Medicine. She can be reached at [janejue@gmail.com](mailto:janejue@gmail.com).*

**Why Phila. soda tax has already gone flat The idea fails on practical, policy, and legal grounds. March 24, 2010|Commentary by James Edward Maule**

*The Philadelphia Inquirer*

Mayor Nutter's proposed soda tax has gotten the attention and analysis a proposed new tax deserves. The scrutiny has shown why it shouldn't be enacted.

The tax lacks coherent policy foundations, draws unjustifiable distinctions, could violate state law, poses several practical implementation problems, and would be too easily avoided.

The rationale for the tax rests on four premises, three of which are shaky.

The first is that the city needs revenue to eliminate a budget shortfall. But perhaps Philadelphians would prefer that the city stop fixing potholes, lay off a substantial number of police officers, or cut spending some other way.

The second premise is that there are no other taxes that can be increased. The chief alternative candidate for the revenue is the property tax, but until the city's assessment system is fixed, its inequities should not be magnified by increasing the rate.

The third is that Philadelphians need to get healthier. That's true.

The fourth is that the soda tax will help make that happen. That's highly questionable.

Put together, the four premises don't make the case for the proposed tax.

As to its unjustifiable distinctions, the soda tax would apply to sugar-containing beverages. But if the concern is sugar, why single out beverages? What about cookies? Doughnuts? Candy? Pie? Cake? Sugary gum?

For many reasons, including health, I gave up soda and doughnuts decades ago. But cookies and candy can do as much damage, if not more. Why not tax those items? Are the special interest groups representing the cookie, doughnut, candy, pie, cake, and gum industries somehow more influential or powerful than those representing the beverage industry?

Is it because beverages are an easy political target? Tax policy shouldn't take advantage of easy targets. That's how bullies work.

And it's not just sugar that contributes to poor health. Should there be a tax on fried food? Red meat? Lard?

What's next - a tax on total caloric intake? Even healthy foods can be unhealthy if consumed in excess.

Then there are the legal issues. Advocates of the tax claim it's simply an adjustment of the gross-receipts tax, not a new type of tax. That would require approval by the state legislature, which would be difficult.

But the argument that this is only an adjustment ignores the critical difference between a tax computed as a percentage of a dollar amount and a tax based on the volume of certain beverages sold by a business. This is not a matter of increasing a tax rate, or the dollar amount subject to that rate; it's a separate computation buried within a tax of a totally different nature. The soda tax could face a legal challenge on those grounds

In terms of implementation, the proposed tax is the sort that fuels taxpayer anger. Will stores, restaurants, and sugary-beverage sellers have the ability or resources to install systems to track the number of ounces of a beverage sold to a particular customer? The unique nature of the tax would require customized computer programming, not off-the-shelf software.

How would vendors ensure that the existing sales tax applies only to the cost of a beverage, before the soda tax is included? Failure to do so would impose the sales tax on the beverage tax, creating another basis for a legal challenge.

Finally, there's the issue of avoidance. Many residents would respond to the tax by making their bulk beverage purchases outside the city. This would reduce revenue from the tax, making it less of a solution to the budget deficit.

Consumers could also purchase nontaxable unsweetened ice tea, for example, and add sugar themselves. Do we want a tax that distinguishes between sugar added by the manufacturer and sugar added by the consumer? Even less revenue will be raised when beverage manufacturers start selling unsweetened versions of their products, to which consumers can add their own untaxed sugar.

Tax policy should be based on rational analysis - which should send the soda tax down the drain.

*James Edward Maule is a professor at Villanova University School of Law who regularly writes about taxation on his blog, "MauledAgain," which is at [www.mauledagain.blogspot.com](http://www.mauledagain.blogspot.com).*

## **Step Away From the Coke Machine**

By Tom Bartlett *The Chronicle of Higher Education* P. A8

April 4, 2010

Sometimes an idea takes a while to catch on.

In a 1994 op-ed essay for *The New York Times*, Kelly D. Brownell proposed taxing junk food. The response, he recalls, was immediate and powerful. Among the outraged was Rush Limbaugh, who deemed Mr. Brownell a member of the "high-fat gestapo." A few furious snackers wrote letters to the Yale psychologist noting that they knew where he lived.

What a difference 15 years make. With obesity now an acknowledged national problem, the notion of taxing junk food doesn't seem so radical. These days Mr. Brownell, director of Yale University's Rudd Center for Food Policy and Obesity, is focusing his efforts on sugary drinks, which he contends are a significant contributor to the ever-expanding American waistline. And more than a dozen cities and states, including New York and California, are considering so-called soda taxes.

His idea works like this: The government adds a penny-per-ounce excise tax to all sugar-sweetened beverages, like carbonated sodas and sports drinks. Because excise taxes are often passed along directly to consumers, people who buy those drinks will notice the price jump. According to Mr. Brownell's research, the higher cost will result in a 10-percent decrease in consumption—which, for the average soda drinker, will mean a loss of two pounds a year.

But it gets better. The government can use the money raised from the tax to offset the health-care costs of obesity-related diseases, like diabetes. Everybody wins.

OK, almost everybody. The beverage industry, not surprisingly, thinks it's a terrible idea. Last fall the CEO of Coca-Cola, Muhtar Kent, said that if such taxes were the answer, "the Soviet Union would still be around." A spokesman for the American Beverage Association, Kevin Keane, accuses Mr. Brownell of being "single-minded in his vengeance" against the industry. The association has organized Americans Against Food Taxes to give its opposition a grass-roots feel.

Not all the criticism is coming from the industry. Richard Williams, an economist, argues that the tax just won't work, because people will substitute equally high-calorie drinks for those that are taxed. Mr. Williams is managing director of George Mason University's Mercatus Center, whose stated mission is to find "market-based solutions" to social problems. "I don't think this is the right way to go with obesity," he says. "What can work is giving people specific information at the point of purchase."

In other words, education and personal responsibility will reduce obesity rates. Mr. Brownell doesn't buy that argument. He says most consumers are no match for what he's dubbed America's toxic food environment. The huge sums spent by beverage companies on advertising (like Coke's current "Open Happiness" campaign) overwhelm well-intentioned but meager attempts by the government to counter those messages. "Education is doomed to failure, and that's why the food industry doesn't oppose it," says Mr. Brownell.

What's more, according to a recent study of rats in *Nature Neuroscience*, certain foods can trigger brain changes similar to those produced by heroin and cocaine, perhaps making it all the more difficult for people to eat healthfully.

Another criticism of the tax is that, like any excise tax, it would tend to be regressive—that is, it would unequally hit people with low incomes. In a paper published last month, Mr. Brownell and his co-authors responded, writing that the "arguments that this would create hardship or remove one of life's simple pleasures are difficult to swallow." They pointed out that, even if the tax is as successful as proponents hope, the average American would still guzzle, by their calculations, 38.5 gallons of sugary drinks every

year.

Strengthening Mr. Brownell's case is growing evidence of a link between price and consumption. A recently published report by researchers at the University of North Carolina at Chapel Hill, who had examined the dietary habits of 5,000 people over a 20-year period, found that when soda prices increased by 10 percent, consumption dropped by 7 percent. Charge more and people drink less.

For a brief time last spring, it looked as if Mr. Brownell's idea might be included in the national health-care overhaul, but the proposal was quickly shelved. Even so, President Obama has called it an idea "worth exploring." Last year Mr. Brownell wrote a paper making the case for soda taxes with Thomas R. Frieden, who has since been named director of the federal Centers for Disease Control and Prevention. After the George W. Bush administration, which Mr. Brownell said did "almost nothing" to combat obesity, he now has some supporters in high places.

The professor is aware that the renewed interest in his idea is, at least in part, prompted by the budget shortfalls in states and cities across the country. For cash-strapped governments, a new source of revenue that also appears to promote an altruistic goal may be nearly irresistible. For Mr. Brownell, as long as the tax is big enough to reduce consumption, the purity of the motive is of little concern.

He became interested in obesity research after taking a class with Terence G. Wilson, a charismatic psychologist at Rutgers University who studies the treatment of eating disorders. Later, after landing a position at the University of Pennsylvania, Mr. Brownell became frustrated with the treatment of obesity—a notoriously intractable condition—and turned his attention to what he thought would be a more fruitful pursuit: prevention.

The battle over soda taxes has at times turned personal. The corporate-sponsored Center for Consumer Freedom, which was started with a grant from the Philip Morris tobacco company, has mocked Mr. Brownell's own apparent weight problem, a topic the professor declined to discuss in an interview.

"Perhaps the best advice we could give Brownell (both policy and dietary) is for him to shut his mouth," read a blog item posted on the center's Web site last month. The organization has also argued that concerns about trans fats and obesity in general are overblown, and that mercury in fish is no big deal.

Mr. Brownell shrugs off the insults, noting that such groups have a vested interest in attacking him and his research. Besides, he says, the vitriol is proof that the beverage industry is worried, and that, after a decade and a half, he is finally winning.

"I'm more optimistic than ever," he says. "It's just a matter of time until these taxes start to happen."

## **Sugary-drink tax is dead - for now - but the battle rages on**

March 06, 2011 | By Jeff Shields, *The Philadelphia Inquirer*

Remember Mayor Nutter's proposal to tax sugary drinks?

The most aggressive soda-tax proposal in America died in Philadelphia almost a year ago, and no one is talking of reviving Nutter's 2-cents-per-ounce tax idea in this, an election year.

But here and across the nation, the debate over sugary drinks rages on - with some new twists.

The Nutter administration has ramped up its campaign against such drinks. And the industry is fighting back - in part by quietly gathering information about that campaign.

With the help of \$15 million in federal stimulus money to combat obesity, the city is working to put fresh food in stores, increase biking and walking, and reduce Philadelphians' sweet-drink intake.

"Cut back on sugary drinks," pronounces a television ad developed and circulated by the city with \$850,000 of the stimulus aid.

The ad shows a mother and her plump son in a car. The distraught mom frets about her child's weight and eyes the drink in the cup-holder.

The industry wants to know all about the money behind such ads. And it's not just a local fight. As budgets are drawn up in states and cities across the country, the debate is cranking up again, with new soda-tax proposals in Texas, Hawaii, California, and Utah.

The beverage companies won last year in Washington state, where a 2-cents-per-12-ounce tax approved in spring was repealed in a fall referendum. The industry also trounced initiatives in New York, New Mexico, and California.

And the food and beverage industry knows a thing or two about spending money to influence opinion: It spent \$99 million on lobbying in 2009 and 2010, much of it fighting soda taxes. That was up from \$38 million in 2007 and 2008.

Now beverage companies are gathering ammunition for a new counteroffensive against "attack ads" such as Philadelphia's. The American Beverage Association on Friday acknowledged it was behind broad Freedom of Information Act requests made to health departments in Philadelphia, New York City, and Seattle and to the Centers for Disease Control.

Why the requests?

The beverage trade group wants inside details of how the city used federal stimulus funding to craft messages targeting sugary drinks, spokesman Kevin Keane said Friday.

"They're spending taxpayer dollars - meant to create jobs - to fund attack ads that will actually discourage the creation of jobs," Keane said. Jobs, that is, connected to the sale of soft drinks.

Philadelphia officials answered the request, which asked for all "analyses, data, paper, and electronic correspondence, etc.," used to make assertions on Foodfitphilly.org, a site sponsored by the city Health Department.

Those assertions include: "If you drink just one soda per day and keep eating as you normally would, you would drink nearly 90,000 calories in a year and gain 25 pounds."

Donald F. Schwarz, deputy mayor for public health, defended the messages, saying, "We're not allowed to tax, we're not allowed to raise price - but we're allowed to raise awareness."

Schwarz said the beverage group had used lawyers to make the information requests without revealing itself as the client. "I have to wonder why they didn't just ask," he said.

That returns the argument to the classic comparison critics make, likening Big Beverage to Big Tobacco.

"This is clear and outright harassment by beverage companies to try and make life difficult for public health officials who are trying to improve the public's health," said Kelly Brownell, director of the Rudd Center for Food Policy and Obesity at Yale University, which champions cutting intake of sugary drinks.

Brownell and Schwarz argue that a drop in sugary-drink intake would spur sales of healthier alternatives, from water to diet drinks.

The industry isn't blinking.

"We've never walked away from the fact that our products have calories in them. The challenge is, how do you balance those calories within a balanced diet?" Keane said.

He pointed to the industry's efforts to more prominently display calorie content on each bottle. Then there is the national campaign to put healthier drinks in schools. Locally, the industry is expected to soon announce a multimillion-dollar health initiative it promised last year in lieu of a soda tax.

"Our critics are always trying to tie us to tobacco, and that's just ridiculous," Keane said.

A sugary-drinks tax won't happen here this year, but Nutter has not ruled it out for the future - particularly after his \$15 million stimulus grant runs out.

"We have not stopped thinking about the issue of obesity or how best to fund programs to fight that chronic health issue," said Nutter spokesman Mark McDonald, "and a sugar-sweetened-beverage tax of some kind remains one of many possibilities."

## **Nutter proposes soda tax or higher property tax to aid schools**

June 03, 2011|By Troy Graham and Jeff Shields, The Philadelphia Inquirer, pp. A1, A5.

Mayor Nutter presented Council with two options Thursday to raise money for the School District: a 10 percent property-tax increase and a 2-cents-per-ounce soda tax.

Nutter said he preferred the tax on sugar-sweetened beverages because it "affects fewer people."

"It's paid for by people who access a certain product, versus real estate, which is virtually everyone," he said. "We are in at least the aftermath of a recession. . . . People are still hurting, and these are still tough economic times."

The soda tax would go into effect Oct. 1 and raise \$60 million for the remainder of the district's fiscal year, \$80 million for an entire year. If the tax is cobbled together with a potential hike in hourly parking rates, help from SEPTA to fund student Transpasses, and a state block grant, Nutter said, the city could fulfill his pledge to raise \$75 million to \$110 million for the schools without raising property taxes.

He said he offered the \$95 million property-tax hike so there would be "a range of options" for Council.

The mayor's gambit sets the stage for an intense two weeks of backroom negotiations before Council's final hearing and summer recess, scheduled for June 16.

Since School District of Philadelphia officials asked last week for help closing a \$629 million budget gap, Council members have shown little willingness to raise taxes.

"I don't know anybody who's interested in raising property taxes at this time. And as far as the soda tax goes, I don't know where we are on that," Council President Anna C. Verna said Thursday. "This is a mess. I don't know what alternatives we really have."

The mayor also proposed the soda tax last year, but the measure faced such strong opposition that Council never brought the bill for a vote.

Danny Grace, secretary-treasurer of Teamsters Local 830, helped defeat the 2010 bill. He argued that the tax would cost jobs for half of his 2,000 members who haul soda and other drinks.

"I never believed he would bring it back this year," Grace said soon after finishing a conference call with other opponents of the bill. "We're already mobilized, and we'll defeat it once again."

The Teamsters, the beverage industry, and local retailers are part of a coalition that lists 621 members at a site created last year, [www.savephillyjobs.com](http://www.savephillyjobs.com).

Last year's proposal included \$20 million annually for new programs promoting healthful eating and exercise; this year's bill has no such trimmings.

Larry Ceisler, spokesman for the coalition, repeated last year's mantra that the proposal was simply a "revenue grab."

"A tax is a tax is a tax," he said. "A year ago it was a tax based on the pretense of an antiobesity campaign. Today, there is no pretense."

The 2010 soda tax would have been collected at points of sale, which raised concerns about its enforceability and legality.

The new proposal would collect the tax from distributors, who would have to be licensed by the city. The city Law Department has vetted that method and found no objections.

Council members have noted that a soda tax is likely to be challenged in court, and once the city passes a revenue stream for the schools, state law says that money must be provided every year.

"Relying on a sugar-sweetened beverage tax is very dangerous," Councilman Bill Green said. "We'll be required to come up with that money even if a sugar-sweetened beverage tax is struck down" in court.

Several members said they realized something must be done for the schools, but they still have reservations because the district is controlled by the state and doesn't answer to Council.

Nutter said the extra city revenue would save full-day kindergarten, transportation for students, and alternative schools, and would keep class sizes small.

The exact amount needed to achieve those aims remains unknown and dependent on how much help the district can get elsewhere - another element giving Council pause.

"I do believe at the end of the day there will be some need for some revenue for the School District," Majority Whip Darrell L. Clarke said. "At this time, I'm not comfortable with signing off on any level of contribution until we get an accurate accounting of what is actually needed."

Clarke also introduced a measure on Thursday that would authorize the city to raise \$44 million for the schools from a one-year property-tax hike and would be distributed as an "accountability grant."

Administration officials said the measure would violate the state law requiring the city to continue the funding year after year.

Nutter also seems poised to raise about \$6 million for the schools by hiking parking rates at meters and kiosks. He has the authority to raise rates in Center City to \$3 an hour and in University City to \$2 an hour.

Councilwoman Jannie Blackwell, chair of the Education Committee, who represents University City, objected Thursday. "I think it's unfair at the last minute with no notification," she said. "I hope the administration will reconsider this."

Nutter said he hoped to resolve "all these budgetary matters" by June 16, but several Council members have noted that the recess is an arbitrary date.

"If we have to stay here until the 30th, so be it," Verna said.

The mayor's proposals must pass through a committee vote and readings at two Council meetings. A committee hearing on the measures has been set for June 10, seemingly making it impossible for two readings before June 16.

But through a bit of legislative jujitsu, Council could recess the June 9 meeting, then reconvene on June 10 after the committee meeting. It could give the mayor's proposals a first reading then and consider them for final passage on June 16.

Majority Leader Marian B. Tasco said she didn't know whether Nutter could garner the nine votes necessary to pass either measure by then.

"This stuff is fluid. It moves every minute, so you can never say definitely what's going to be the case in a legislative body," she said. "You put the bill in, and then the negotiations begin."

### **Soft-drink industry has given heavily in Council races**

June 05, 2011|By Jeff Shields, *The Philadelphia Inquirer*

Nearly burned in 2010 with the nation's steepest tax on their product, the beverage industry has turned its attention to City Council to make sure it doesn't happen again.

The soft-drink industry gave a total of \$95,300 to Council candidates in 2010-11, a nearly 800 percent increase from 2006-07, when the industry contributed just \$10,600 to Council.

The 17 Council members will now decide the fate of Mayor Nutter's effort to revive the tax, which died in Council during budget negotiations last year.

Nutter says the tax would raise \$80 million toward closing a gap of more than \$600 million faced by the Philadelphia School District. On Friday, he stuck to the idea even after the district announced that it could save full-day kindergarten - the chief concern raised by the mayor and Council.

Well before Nutter returned to the soda tax, the industry was laying the political groundwork for another showdown.

Leading the way were Harold and Lynne Honickman and their children, owners of Pepsi and Canada Dry bottling operations in New Jersey that provide nearly 20 percent of the city's soft drinks.

The Honickmans, prolific Rittenhouse Square philanthropists whose interests include the arts, gun control, and homelessness, contributed \$63,300 in 2010-11 after giving just \$500 to Council races in 2006-07. Their adult children, Shirley Honickman Hahn and Marjorie Honickman, and son-in-law Richard Hahn joined in the giving.

Other contributors the last two years were the state industry's new political action committee, Liberty Bell Beverage PAC, funded mostly by PepsiCo Inc. The PAC contributed \$18,000 to 14 candidates.

Coca-Cola PACs and one Coke executive gave a total of \$14,000 in 2010-11, showing no contributions in 2007 Council races.

The Liberty Bell Beverage PAC was formed in response to the debate last year over Nutter's push for a 2-cents-per-ounce tax on sugary drinks to close a gap in the city budget.

"The fact is, Mayor Nutter put a target on the back of this industry and dragged them into the political process," said Larry Ceisler, spokesman for a coalition of bottling companies, local businesses, and union members who oppose the soda tax.

The industry has been joined by Local 830 of the International Brotherhood of Teamsters, whose members drive the trucks that deliver the drinks. The union's contributions to Council went from \$2,950 in the 2007 election to \$9,000 this year.

"Teamsters Local 830 is actively involved in the political arena, and, yes, we were involved to make sure candidates were elected or reelected," said Danny Grace, business manager for the union.

The industry is not a newcomer to the city's political fray. The Honickman family supported several mayoral candidates in 2007, giving Nutter \$17,000 and U.S. Rep. Chaka Fattah \$25,000.

And despite the disagreement with Nutter, the family has continued to support him, sending \$15,600 to his reelection campaign during the last year. Harold and Lynne Honickman gave the maximum individual contribution, \$2,600, in both 2010 and 2011.

The Honickman family could not be reached for comment through a spokesman Friday.

Ceisler noted the Honickmans' other interests, specifically gun control. Harold and Lynne Honickman gave Joe Grace, former executive director of CeaseFire PA, a gun-control advocacy group, the maximum of \$5,200 between them in March.

The biggest beneficiary of the Honickman largesse was Democrat Darrell L. Clarke, Harold and Lynne Honickman's district councilman and Council's chief gun-control proponent. He received \$15,300 in 2010-11.

The city's campaign-finance records show no contributions from the Honickmans to Clarke from 2006 to 2009.

Councilman Bill Green was a close second with \$15,200. Clarke and Green are among Nutter's chief rivals on Council, and both opposed the soda tax last year. Green said Friday that he had formed his opposition to the tax before meeting the Honickmans, but that he has developed a friendship and admiration for the family.

"They're involved in most of the civic issues that are important to the city of Philadelphia," Green said.

Clarke did not return messages Friday.

Nutter has also used his fund-raising ability to cement his relationships. Last year, he gave \$10,600 to Councilman William K. Greenlee three days before his budget address, in which he proposed the soda tax. Nutter doled out more than \$84,000 to Council candidates this year.

Nutter spokesman Mark McDonald declined to comment.

Last year's measure was promoted as an antiobesity measure that would cut consumption of sugary drinks and provide \$20 million annually in education and other health- and weight-conscious initiatives.

Council substituted a 10 percent property-tax increase and other measures in its place.

There is no antiobesity funding in this year's proposal. The administration received \$15 million in federal stimulus money last year to combat obesity by putting fresh food in stores, increasing biking and walking, and running public campaigns to reduce Philadelphians' sweet-drink intake.

In fact, the surge in political contributions to Council candidates is dwarfed by other steps taken by the industry to avoid a reappearance of the soda tax.

In March, the American Beverage Association, the national trade group, announced a \$10 million grant to Children's Hospital of Philadelphia. The grant was to support "clinical care, policy research, and outreach and prevention efforts relating to childhood obesity" over three years, according to the hospital.

Big beverage spent \$99 million on lobbying nationally in 2009 and 2010, up from \$38 million in 2007 and 2008. The beverage companies last year won repeal of a sugar tax in Washington state and defeated tax proposals in New York, New Mexico, and California.

Ceisler said the industry's contributions "pale in comparison to many industries and many PACS."

"I don't think . . . one can make the argument that political contributions are going to carry the day on this vote," he said. "There are political contributions, and there are political contributions."

But political cash can't hurt, said Ellen Mattleman Kaplan, vice president of the Committee of Seventy government-watchdog organization.

"When you have a campaign-finance system, it certainly diminishes the opportunity for pay-to-play, but *diminish* doesn't mean *evaporate*," Kaplan said. "Campaign contributions do matter, especially when you've got an issue this volatile."

## **City Council souring on Nutter plan to tax sweet drinks**

June 15, 2011|By Troy Graham, Jeff Shields, and Kristen A. Graham

*The Philadelphia Inquirer*

While Mayor Nutter was touring classrooms Tuesday and stumping for a soda tax to raise millions for city schools, Council members back at City Hall already were declaring his plan dead.

At least six of 17 members met in President Anna C. Verna's office Tuesday afternoon to discuss how to help the School District fill a \$629 million budget gap - but without hiking taxes.

"I do not believe we can get the votes for a tax increase," said Councilman Wilson Goode Jr.

Nutter nonetheless plans to continue the fight, taking his plea for a soda tax directly to the public with a live address on 6ABC at 7 p.m. Wednesday.

Nutter spokesman Mark McDonald discounted assertions that the battle was over. Most Council members "realize that something very substantial needs to be done," he said.

"These kinds of very difficult issues are very fluid," he said. "They tend to solidify at deadline, at the time something absolutely needs to be done."

That time is fast approaching - there are just two Council meetings left until the summer recess, although one more can be added June 30. Council must pass the municipal budget by then or the city won't be able to spend money.

Nutter has proposed two options to aid the schools - a 10 percent property-tax hike and a two-cents-per-ounce tax on soda and sugary drinks. He has been pushing the soda tax as the more likely option.

Council plans to reconvene a committee meeting Thursday to consider voting out a tax proposal. The soda tax may have to emerge from that meeting to have any chance of passage.

Many Council members, however, are making alternative plans.

"Both taxes are pretty much DOA," said Councilman James F. Kenney, usually a Nutter ally. "We'll try to do as much as we can to get as much help as we can for the district."

If Council can't be moved on the soda tax, it would mark another significant defeat for the mayor. Council has turned back several of his major proposals, including previous plans to close libraries, enact a soda tax last year, and end the DROP pension program this year.

Nutter is sticking to this strategy: The state is more likely to help if the city comes up with some of the funding.

State Sen. Vincent J. Hughes (D., Philadelphia), the highest-ranking Democrat on the Appropriations Committee, said he had spoken with Senate and House Republican leaders during the weekend.

"Each one of them said that there is only one guarantee in this situation - that if the city doesn't add any new money to the table, don't expect Harrisburg to add any new money," Hughes said.

The city must act fast, he said. The state's budget deadline is June 30, but Hughes said his colleagues were likely to pass the budget early.

"I do know we're running out of time here in Harrisburg," he said. "The next couple days will be a very important time for the city.

Schools Superintendent Arlene C. Ackerman has asked for the city to pitch in an additional \$102 million to help restore items in the district's \$2.7 billion budget, such as smaller class size, accelerated schools, early-childhood services, counselors, and nurses.

Not getting the money would be devastating for schools, the mayor said. He attempted to illustrate the consequences Tuesday during visits to five schools, a tour he dubbed "Vote for Students."

"I think Thursday is a real judgment day, a real decision day for children," the mayor said. "It all comes down to do you support children, or not?"

Bridesburg Elementary School, where 70 percent of the students live below the poverty line, stands to lose all of its art and music funding and more than half of its funding for programs for gifted and talented students in the next school year. The school also will have to do without many of the support staff who Principal Jim Serpiello said had enabled the school to meet state standards every year.

"For a small school, that's devastating," he said.

Kathy Deputy is the mother of a student in the special-education program, which is slated for a 5 percent cut. She said she worried what the cuts would mean for her boy, who has thrived.

"Without funding, how can our school survive?" she asked.

Nutter also went to Baldi Middle School in the Northeast, Logan Elementary School in Logan, the Girard Academic Music Program in South Philadelphia, and Powel Elementary School in West Philadelphia. Those schools also stand to lose big - Logan, for instance, would lose all of its funding for reduced class sizes and a third of its money for school nurses. Powel would lose the allocation for its English as a second language program.

Council members who met in Verna's office said they were exploring whether they could give the schools some of the city's \$51 million fund balance - its cash reserves - as well as possibly making other cuts to the city budget and directing the funds to the schools.

The Pennsylvania Intergovernmental Cooperation Authority, the state-appointed agency that oversees the city's five-year budget planning, has repeatedly warned against raiding the fund balance.

PICA Chairman Sam Katz said Council is left with few choices, all of them bad. He did not criticize Council for talking about tapping into the fund balance, but warned that it could come back to haunt the city.

"There could be a price to pay next year," he said. "It could come sooner than that."

City Finance Director Rob Dubow said taking \$30 million from the fund balance - as proposed by Councilman Bill Green - would require \$20 million in cuts, including eliminating a new class of police recruits and laying off 52 probation officers.

An additional \$10 million would have to come from other areas, "potentially including laying off police officers, deactivating fire companies, reducing facility hours at recreation centers, reducing homeless shelter beds, reducing positions at libraries or other cuts in core services," according to a memo Dubow shared with Council.

The city would have to provide that money to the schools every year, Dubow noted.

A similar standoff happened during last year's budget talks, when the Nutter administration proposed a \$64 million fund balance and Council reduced it to less than \$43 million. Nutter and Dubow promised cuts and followed through - starting the "rolling brownouts," or temporary closures, of fire companies and the cancellation of two police academy classes.

A coalition fighting the soda-tax proposal staged a rally at City Hall Tuesday, with delivery trucks circling the building and blaring their horns.

Five Council members lent their support, including Councilwoman Jannie Blackwell, the education committee chair and a former teacher.

The coalition of the soda industry, store owners, and Teamsters has argued that the tax would be a "job killer," with shoppers buying their soda outside the city.

Harold Honickman, owner of the Canada Dry Delaware Valley Bottling Co. in Pennsauken, has been a leading opponent.

"The problem is it's a discriminatory tax against the poor and the middle class," Honickman said.

The coalition helped defeat the mayor's attempt to pass a soda tax last year, when it was proposed as an antiobesity measure. Honickman said he met with the mayor three weeks before the May 17 primary election and was told that there would be no new taxes.

## **Mayor's beverage tax has only gotten flatter**

### **The schools deficit doesn't justify the regressive levy.**

June 15, 2011|Commentary by Jonathan A. Saidel

*The Philadelphia Inquirer*

My mother taught me that no means no, but Mayor Nutter apparently never learned that lesson. Just a year after the public and City Council roundly rejected his proposed tax on sugary beverages, he is revisiting this wrongheaded, regressive idea.

It became clear last year that Philadelphians have no taste whatsoever for Nutter's nanny-state tax on beverages such as soda, iced tea, fruit juice, chocolate milk, and sports drinks. Nutter couldn't even muster enough support on Council to put the tax to a vote.

While the public's distaste for the soda tax remains, Nutter's rationale for it has changed. Last year, it was all about improving public health. Now it's supposedly needed to help the beleaguered Philadelphia School District plug its gaping budget hole. (The mayor's other proposals for shoring up the district are not very attractive, either: another 10 percent increase in property taxes and higher parking fees in Center City and University City.)

Given the School District's well-documented record of bloated salaries, excessive expenses, and fiscal mismanagement, I know I'm not alone in questioning whether an additional city subsidy is really required. And it's upsetting that schoolchildren are being used as political pawns in this debate. This isn't about our children's future; it's about the present accountability of adults.

Coming from Northeast Philadelphia and a working-class background, I know the ill-considered soda tax would especially hurt the city's middle-class and poor families, a fact the mayor does not seem to grasp. At 2 cents an ounce, it could double the cost of sugar-sweetened drinks, causing many residents either to stop buying them or to travel to the suburbs to do so.

Many city stores would stop stocking these beverages, soda companies' sales would decline, and black markets would develop. And don't be surprised if city retailers apply the tax to all beverages - sugar-sweetened or not - to simplify their bookkeeping.

Beverage-industry statistics show that when soda prices rise 10 percent, sales drop 8 to 9 percent. Such reductions in soda sales would mean job losses. If Nutter somehow gets this tax approved, as many as 4,000 local jobs could be lost.

There are thousands of family-sustaining, middle-class, local jobs - in production, supply, distribution, and retail - that depend on the health of the beverage industry. The loss of any of

those jobs would only further erode the city's tax base. How would that help the city or the School District emerge from fiscal distress?

Finally, the proposed soda tax would be discriminatory. Taxing these particular products and this particular industry, while exempting many other products containing high levels of sugar or other potentially unhealthy ingredients, would be simply unfair. What would stop the city from singling out other foods - ice cream, candy, cookies, Popsicles, doughnuts - that officials deem to be less than healthy? It's a slippery slope toward a "Big Brother" society that none of us wants.

We Philadelphians already face one of the highest overall rates of taxation in the country, and the soda tax would be an additional burden on families that are already struggling to make ends meet. Mayor Nutter must recognize that no means no.

Jonathan A. Saidel is an attorney with Cohen, Placitella & Roth and a former city controller. He can be reached at [jsaidel@cprlaw.com](mailto:jsaidel@cprlaw.com).

## **Teens' soda consumption appears to be declining**

June 17, 2011|By Mike Stobbe, Associated Press

*The Philadelphia Inquirer*

ATLANTA - A new study shows one in four high school students drinks soda every day - a sign fewer teens are downing the sugary drinks.

The study also found teens drink water, milk, and fruit juices most often - a pleasant surprise, because researchers weren't certain that was the case.

"We were very pleased to see that," said the study's lead author, Nancy Bener of the Centers for Disease Control and Prevention.

Still, a quarter have at least one soda each day. And when other sugary drinks such as Gatorade are counted, the figure is closer to two-thirds of high school students downing a sweetened drink each day.

That's less than in the past. In the 1990s and early 2000s, more than three-quarters of teens were having a sugary drink each day, according to earlier research.

The CDC reported the figures Thursday, based on a national survey last year of more than 11,000 high school students. They appear in one of the federal agency's publications, the Morbidity and Mortality Weekly Report.

Consumption of sugary drinks is considered a big public-health problem and has been linked to the U.S. explosion in childhood obesity. One study of Massachusetts schoolchildren found that for each additional sweet drink per day, the odds of obesity increased 60 percent.

As a result, many schools have stopped selling soda or artificial juice to students.

CDC data suggest that the proportion of teens who drink soda each day dropped from 29 percent in 2009 to 24 percent in 2010, at least partly as a result.

"It looks like total consumption is going down," said Kelly Brownell, director of Yale University's Rudd Center for Food Policy and Obesity.

But the results of the new CDC study are still troubling, said Brownell, who has advocated for higher taxes on sodas.

"These beverages are the kinds of things that should be consumed once in a while as a treat - not every day," he said. "That's a lot of calories."

A 20-ounce Coke, for example, has 240 calories.

Brownell also said it was possible more than a quarter of teens were drinking soda, because many people underreport things they know they shouldn't be eating or drinking.

Bener agreed it's difficult to know if consumption of sugary drinks has been falling much, adding that schools are only half the battle.

"Getting them out of the schools doesn't solve the problem completely," said Bener, a CDC health scientist, "because a lot of these drinks are consumed in the home."

More detail: About 16 percent have a sweetened sports drink every day, and 17 percent drink some other sugary beverages, such as lemonade, sweetened tea, and flavored milk. Black students were more likely than whites or Hispanics to drink sugary beverages.

The study also found that 7 percent of high school students drink diet soda each day, 5 percent have energy drinks, and 15 percent have at least one coffee or tea.

#####