

February 4, 2020

The Honorable Phil Mendelson
The Honorable Kenyan McDuffie
The Council of the District of Columbia
The John A. Wilson Building
1350 Pennsylvania Ave NW
Washington, DC 20002

Re: Hearing on B23-495, the Healthy Beverage Choices Amendment Act

Dear Chair Mendelson and Chair Pro Temp McDuffie –

On behalf of the Board of Directors of the Medical Society of the District of Columbia (MSDC) and its over 3,000 members, we encourage the Council, either through the Committee on Business and Economic Development or through another means, to hold a hearing on B23-495, the Healthy Beverage Choices Amendment Act, with the intent to solicit feedback on improving the legislation and, when certain important issues are addressed, act to pass the legislation into law.

As the nonprofit membership association composed of physicians on the District and DC area, we see every day the impact of poor nutrition and the unequal resources available to residents to live a healthier lifestyle. We applaud Councilmember Cheh and the co-introducers of B23-495 for looking to address one aspect of public health – excessively sugary beverages – that have been identified as a realistic way to improve public health. Indeed, the science is strong that sugar in beverages is directly linked to negative health outcomes.^{i,ii}

However, there are aspects of the legislation that would either unintentionally undermine the intent of the legislation or cause a shift in behavior that runs counter to the intent of the legislation. For these reasons, we support a hearing on the bill with the aim to improve and pass the bill.

First, the exemption for milk beverages introduces a loophole that allows sugar-laden children’s beverages to avoid the excise tax. Line 62 grants an exemption to a beverage where “milk is the primary ingredient”. However, in many stores, there are flavored milk products where the sugar content may be equal to soda or a sugar-infused fruit juice. Because the label says “milk”, most consumers are unaware of the health consequences and are more likely to purchase this for children than another beverage. Ironically, milk alternatives such as almond milk or soy milk would be taxed despite a potentially lower sugar content than milk.

Indeed, there is even science that milk may not be as healthy a beverage as assumed for some people. In two Harvard studies (the Physicians Health Study and the Health Professionals Follow-up Study^{iii,iv}), dairy product consumption elevated prostate cancer risk by 34 and 60 percent, respectively. In a conversation about healthy beverages, inclusive conversations about what constitutes “healthy” would be useful to create good public policy in this area.

This introduces a larger issue with the legislation that the bill alone could not cover but a public hearing would. Excessive soda or sugar consumption is undeniably a public health risk, yet sugar consumption is an issue larger than simply what people drink. Indeed, in the cities where soda excise taxes are the highest, rates of cardiovascular disease and diabetes have not correspondingly dropped. This suggests that poor diet is not limited just to beverages, and while addressing what people drink is an important part of public health it cannot be isolated as a single solution. Instead, the Council should consider the economics and benefits of a public health

legislation around diet involving both food and beverage and exploring what role government would play in this process.

Finally, while our society represents physicians, we would be remiss in not identifying a socio-economic implication of this legislation. The bill would potentially disadvantage retailers located near the Maryland and Virginia border. If a District resident knows sugary beverage prices are cheaper across the state border, they may change their economic activity to buy from retailers in the other state. Theoretically the Healthy Beverage Choices Fund would create an education campaign to create awareness of buying decisions, but the fund could be underfunded with significant changes to purchasing activity in the District.

These are some of the important details prompted by the legislation that behooves the Council to examine how best to encourage healthier lifestyles in its residents. MSDC supports the intent of B23-495 but looks forward to helping the Council explore ways to improve the intent.

We look forward to continuing working with the Council on ways to make the District “the best place to practice medicine” and please contact our office with any questions.

Sincerely,

Robert Hay Jr.
Executive Vice President

ⁱ McCarthy M. Soda tax brings sharp fall in sugary drink consumption in Californian city. *The BMJ*. 2016; 355.

ⁱⁱ Zhong Y, Auchincloss AH, Lee BK, Kanter GP. The Short Term Impacts of the Philadelphia Beverage Tax on Beverage Consumption. *Am J Prev Med* 2018;55:1 .

ⁱⁱⁱ. Chan JM, Stampfer MJ, Ma J, Gann PH, Gaziano JM, Giovannucci EL. Dairy products, calcium, and prostate cancer risk in the Physicians’ Health Study. *Am J Clin Nutr*. 2001;74:549-54.

^{iv}. Giovannucci E, Rimm EB, Wolk A, et al. Calcium and fructose intake in relation to risk of prostate cancer. *Cancer Res*. 1998;58:442-7.