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SODA, DEATH AND TAXES

With treatment of chronic disease eating up health-care budgets, elected officials consider excise taxes to reduce consumption of harmful sugary beverages.

BY BRITTNEY SALINE

Wendy Nielsen

On Nov. 4, 2014, 76 percent of voters made Berkeley, California, the first U.S. city to pass a soda tax.

The tax is to be paid by distributors and is set at 1 cent per fluid ounce of sugar-sweetened beverages. The tax also applies to the sweeteners—such as syrup—used to produce those beverages, with the calculation based on largest possible production volume. Milk products, natural juices and baby formula are exempt.

After its implementation in March, the tax generated just shy of US$700,000 in revenue in its first six months, and $250,000 is earmarked for the Berkeley Unified School District's cooking and gardening program, which lost $1.9 million in federal grant money in 2013.

Berkeley City Councilmember Laurie Capitelli helped spearhead the measure. At first, he saw the tax as little more than a revenue source. Then he saw a YouTube presentation by Dr. Robert Lustig, pediatric endocrinologist at the University of California-San Francisco.

In his 2013 book "Fat Chance: Beating the Odds Against Sugar, Processed Food and Obesity," Lustig discussed findings from his 2013 study on the relationship between sugar and diabetes prevalence across 154 countries over a 10-year period, during which worldwide diabetes prevalence rose from 5.5 to 7 percent.

"Every additional 150 calories per person per day barely raised diabetes prevalence," Lustig wrote. "But if those 150 calories were instead from a can of soda, increase in diabetes prevalence rose sevenfold."

Soda, energy drinks and sports drinks account for 36 percent of added-sugar intake in Americans, according to the United States Department of Agriculture.

"The science is in, I believe, and so I pivoted from looking for sources of revenue to looking for ways to, in fact, reduce consumption of what I consider to be a toxic substance," Capitelli said.

As Americans get sicker—rates of both obesity and metabolic syndrome are pushing 35 percent in adults—Berkeley's landmark legislation leaves the rest of the country wondering: Could taxes reverse the trend?

Dollars Over Diabetes

Berkeley's tax—still known by the campaign name Measure D—is an excise tax. Unlike sales taxes paid by the consumer at the register, excise taxes are assessed before the point of purchase. The expectation is that distributors will increase prices for retailers, who then increase shelf price.

Colloquially referred to as "sin taxes" by some, excise taxes serve two purposes: raising revenue and discouraging consumption of harmful substances such as tobacco and alcohol.

Since 1969, cigarettes have been subject to excise taxes in all 50 U.S. states and the District of Columbia. In 2009, a federal tobacco tax increase raised the price of cigarettes by 22 percent, resulting in 3 million fewer smokers just two years later, according to Dr. William C. Roberts, executive director of the Baylor Heart and Vascular Institute. The hike generated more than $30 billion in three years, USA Today reported. Advocates for excise taxes on sugary drinks—such as the Institute of Medicine, the International Diabetes Foundation and the British Medical Association—hope for similar results. But more often than not, the soda industry impedes efforts, with lobbying groups backed by the American Beverage Association (ABA) spewing millions of dollars in the direction of lawmakers.

In 2009, for example, the ABA spent $19 million on lobbying efforts compared to the $700,000 it spent the year before, New York University professor Marion Nestle reported in "Soda Politics." The Coca-Cola Co. and PepsiCo Inc. inflated their spending by several million as well, bringing total industry lobbying for 2009 to $38 million.

"Why the sharp increase?" Nestle wrote. "Congress was considering a tax on sodas. The lobbying funds were well spent: Congress soon gave up on that idea."

Specifically, Congress was considering a soda tax to help fund health care. The ABA pushed back, arguing taxes wouldn't reduce consumption.

Sometimes money is as much about saving face as deflecting regulation. In 2010, Philadelphia Mayor Michael Nutter proposed a 2-cent-per-ounce sweetened-beverage tax, with $20 million of its projected annual revenue designated for nutrition and exercise programs. One year later, The Children's Hospital of Philadelphia was $10 million richer, thanks to the American Beverage Foundation for a Healthier America. Nutter tried a second time and failed, and Phillymag.com detailed the significant pressure lobbyists placed on elected officials when fighting the measure.

By August 2015, total soda-industry lobbying expenditures since 2009 had grown to almost $106 million, according to the Center for Science in the Public Interest. Meanwhile, proposals for sugary-beverage taxes fell flat nationally and in 22 U.S. cities, states or districts—even in places such as Telluride, Colorado, a historic mining town with a population of just over 2,000.

"No city contemplating a soda tax is too small or too poor to be the target of a massive and lavishly funded counteroffensive," Nestle wrote.

The Great Debate

A significant portion of Big Soda's lobbying fund is dedicated to spoon-feeding the public the soda industry's arguments against beverage taxes—primarily that they are regressive toward the poor and an instrument of the "nanny state," a term used to describe government policies perceived as overprotective.

Lustig dismissed the arguments.

"(Type 2) diabetes is a regressive disease because it affects the poor more," he said in a July interview with the CrossFit Journal.

A 2011 analysis in the International Journal of Epidemiology suggested a 40 percent greater incidence of Type 2 diabetes in low-income groups.

Besides, Lustig argued, we already live in a nanny state—and it's not the government that's doing the nannying.

"Unless you grow it yourself, you have only the access the food industry supplies to you…Ninety percent of the food produced in the United States is sold to you by a total of ten conglomerates," he wrote in "Fat Chance." The Coca-Cola Co. and PepsiCo Inc. are among the 10.

"You've already been told what to drink," Lustig said over the phone. "They say, 'Get the government out of my kitchen.' I don't want the government in my kitchen either unless there's a more dangerous force already there, which is what we have."

UCSF Medical Center

Dr. Robert Lustig

Furthermore, government intervention often directly benefits the soda industry. For example, corn subsidies keep the price of high-fructose corn syrup low, giving soda producers access to cheap sweeteners.

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—Dr. Robert Lustig

Marian Mabel

The beverage industry didn't go down quietly in Berkeley, but 76 percent of voters were unswayed by the campaign against Measure D.

Courtesy of Xavier Morales

In Berkeley, proponents of Measure D worked at the grassroots level to combat a Big Soda assault that cost millions.

Opponents of taxes also argue that diet-related illnesses are solely a matter of personal responsibility. But it's not that simple, according to John Cawley, an economics professor at Cornell University.

"The fact that someone's being really sedentary and consuming a lot of calories, that isn't just a private decision they're making," Cawley said. "It also has consequences for everybody else because we pay higher taxes to fund Medicaid (and) we pay higher health-insurance premiums."

In a chapter appearing in "Food and Addiction: A Comprehensive Handbook," Cawley reported that of the $85.7 billion spent on obesity-related medical costs in the U.S. in 2006, "$19.7 billion was paid by Medicare, $8.0 billion was paid by Medicaid, and $49.4 billion was paid by private sources such as health insurance. The costs covered by Medicare and Medicaid are ultimately paid by taxpayers."

A 2012 study estimating the effects of a penny-per-ounce tax on sugar-sweetened beverages took the math a bit further. The authors predicted that between 2010 and 2020, $82 billion in medical costs would be "attributable to excess sugar-sweetened beverage consumption," which the authors define as one beverage per week.

According to the Centers for Disease Control and Prevention, 86 percent of U.S. health-care costs relate to treating chronic disease; in 2013, taxpayers spent $1.1 trillion on these conditions.

The numbers, Cawley said, justify government action.

"Economics recognizes a rationale for government intervention … when there are market failures, which occur when the operation of private free markets fails to maximize social welfare," he wrote. "One market failure relevant for obesity is external costs: obese individuals do not bear the full cost of their condition."

The Resistance

Despite the costs, the soda industry remains committed to its fight against regulation, even paying community members—via public-relations agencies—to oppose the taxes, Nestle reported.

"This strategy permitted soda companies to appear as though they had nothing to do with promoting opposition to the tax and that actions against it instead arose spontaneously from the community," she wrote.

Berkeley was no exception, with ABA lobbying expenses exceeding $2.4 million.

So how did Measure D supporters, with their budget of approximately $300,000, defeat Big Soda? By pursuing a general tax instead of a specific tax and filling the cracks with community education.

According to California law, specific taxes must pass with a two-thirds majority vote, while general taxes require only a simple majority (at the same time as Measure D passed, San Francisco's 2014 specific soda-tax proposal failed despite a 55 percent majority vote). The catch is that revenue from general taxes goes into the city's general fund, where it might or might not be spent on health initiatives.

The risk was calculated, Capitelli said.

"We ultimately chose a general tax because we were fearful that there was going to be a tsunami of money, which in fact did pan out, from the soda industry," he said.

To ease Berkeley voters' fear that the revenue might be squandered on potholes, campaign leaders established a panel of experts with backgrounds in nutrition, education or health care to advise the city council on where the revenue should go.

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> —Xavier Morales

Courtesy of Cornell University

John Cawley

Courtesy of City of Berkeley

Laurie Capitelli

For Xavier Morales, executive director of the Latino Coalition for a Healthy California and a Measure D advocate, the proposal's success was all about education: canvassing the community and preparing residents for the soda industry's arguments in the months before the vote.

"The (soda industry's) subtle messaging is 'these are white people trying to tell you brown and black people what to drink,'" Morales said.

"It was an all-out ground war," he added. "We didn't win this by matching what they were trying to do with their money. The way we won this was basically just block by block, house to house, neighbor to neighbor."

Bandage or Cure?

It's one thing for a sugary-beverage tax to pass; it's another for it to reduce consumption.

With no U.S. precedent to study, researchers look to nations such as Finland, Hungary, France and Mexico, where sugar-sweetened-beverage taxes have cropped up beginning in 2011. Because these policies are so recent, little data is yet available to illustrate the effect of the tax on consumption.

Still, researchers from Banque de France found that six months after the implementation of France's sugary-beverage tax, set at 11 euro cents (12 cents) per 1.5 liters, the price of the tax was fully passed through to consumers, suggesting that a decrease in consumption would likely follow as consumers react to higher prices. And before Ireland repealed its decades-old soft-drink tax due to European Union tax-rate-harmonization efforts and decreasing revenue, researchers found an 11 percent decrease in consumption for each 10 percent increase in price.

Mexico's results are the most promising. Eleven months after the 1-peso-per-liter tax (about 7 cents per liter) was implemented in January 2014, a preliminary study detailed a 12 percent drop in soda sales, with the largest declines seen in low-income communities, the New York Times reported. And in a rare display of loyalty to health over industry, the Mexican Senate in October dismissed a proposal by the Chamber of Deputies to give a 50 percent tax cut to drinks containing less than 5 grams of sugar per 100 milliliters.

It's still too early to tell how these changes might affect health, but many researchers have used simulation and modeling studies to predict possible outcomes.

One 2015 study predicted that a national excise tax of 1 cent per ounce on sugar-sweetened beverages in the U.S. would prevent 576,000 cases of childhood obesity over a 10-year period. Another study estimated that a similar measure would prevent 2.4 million diabetes person-years, 95,000 coronary heart events, 8,000 strokes and 26,000 premature deaths, all the while saving more than $17 billion in medical costs. The effects were calculated even while assuming that 40 percent of calories saved from reducing soda intake would be compensated for with other calorie-dense foods.

Though the effects of beverage taxes are largely unknown, that hasn't stopped health advocates across the world from calling for them. A Russian lawmaker recently proposed a 15-ruble-per-liter (21 cent) tax on soda. In November, the Wall Street Journal reported that Indonesia is considering a tax on drinks with added sugar, and in July, the British Medical Association called for a 20 percent tax on sugar-sweetened beverages in Britain. Politico reports that soda taxes may be on the table in as many as 12 U.S. cities in 2016—including another attempt in San Francisco.

In November, Connecticut lawmaker Rosa DeLauro proposed a federal soda tax, something Cawley said might be more effective than city or statewide taxes due to the problem of cross-border shopping. Soda lovers in small jurisdictions can simply hop the border to get a cheaper fix. This was the case in Denmark, which repealed its soda tax of eight decades after losing revenue to surrounding countries in Europe. The size of the United States would make shopping outside the country far less likely if a national tax were in place, while shopping in another city or state wouldn't be out of the question if only some taxed soda.

"It definitely merits federal intervention," Cawley said.

Fate of the Future

As for Berkeley, the numbers are trickling in, with preliminary findings showing the tax has been fully passed on to retail prices in chain supermarkets and gas stations. Meanwhile, Morales focuses on educating the Berkeley community about the dangers of sugar-sweetened beverages and earmarking tax revenue for that purpose.

"For me, success is us lowering the rates of diabetes and other chronic diseases, and the way we do that is through nutrition education, through opportunities for greater physical activity, more infrastructure for tap water, and farm-to-table community gardening," he said.

Morales paused, reflecting on the wildfires that prompted California Governor Jerry Brown to declare a state of emergency in September.

"I really feel for the people who have been affected, but you know, about 20,000 people were displaced, and we're calling states of emergency on something like that," he said. "At what point are we going to start calling a state of emergency for diabetes?" ■

ABOUT THE AUTHOR

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