

LEGISLATIVE DIGEST

[Health Code - Sugar-Sweetened Beverage Warning for Advertisements]

Ordinance amending the Health Code to require advertisements for sugar-sweetened beverages to include a warning about the harmful health effects of consuming such beverages; and authorizing the Director of Health to impose penalties for noncompliance.

Existing Law

The Health Code includes legislation on matters of public health.

Amendments to Current Law

This ordinance amends the Health Code by adding Article 42 (Sugar-Sweetened Beverages), Division 1 (Sugar-Sweetened Beverage Ordinance) which requires an “Advertiser” who posts, or causes to be posted in San Francisco an advertisement that identify, promote, or market sugar-sweetened beverages for sale or use to include on the advertisement the following warning: “WARNING: Drinking beverages with added sugar(s) contributes to obesity, diabetes, and tooth decay. This is a message from the City and County of San Francisco.” The term “sugar-sweetened beverage” includes, with some specific exceptions, non-alcoholic beverages that have one or more caloric sweeteners and contains more than 25 calories per 12 ounces of beverage. The warning must occupy at least 20% of the area of the advertisement. The purpose of the warning is to inform the public of health impacts before purchases are made, thereby assisting the public to make a more informed choice about the consumption of the advertised beverage.

The warning must be placed on advertisements that are on paper, poster, billboards, in or on stadiums, transit shelters, arenas or any other structures, buses, cars, trains, pedicabs, or any other vehicles, or on walls or any other surface or materials. However, the preceding sentence notwithstanding, Division I does not apply to advertisements that are in newspapers, periodicals, magazines, advertisement circulars, or other publications, or on television, the internet, or other electronic media. The Division applies to advertisements posted one year after the effective date of the Division (the “Operative Date”). It does not apply to any action taken for an advertisement that was posted before the Operative Date. For example, an Advertiser may remove and relocate such an advertisement without adding the warning.

An “Advertiser” is any individual or entity that is in the business of manufacturing, distributing, or selling sugar-sweetened beverages, placing or installing advertisements, or providing space for advertisements, or its agents or contractors who assist in such business. However, “Advertiser” does not include employees of such individual or entity, but includes an individual acting as a sole proprietors.

The Director of Health may by regulation, following a publicly noticed hearing, modify the text of the warning based on medical and scientific information on health impacts, or set or modify the size of the text of the warning to ensure the warning is clear, legible and conspicuous, or modify the minimum area of advertisements that the warning must occupy. Any of these regulations will not be effective before one year after the date of adoption. The Director of Health also may, after a publicly noticed hearing, adopt rules or regulations for the implementation of Division I. The operative date of these rules or regulations are not required to be delayed by one year.

The Director of Health may assess administrative penalties against any Advertiser in violation of the ordinance. However, before the Director of Health may assess penalties against a retail seller of sugar-sweetened beverages for posting an advertisement in or on the seller's retail establishment in violation of the Division, the Director of Health must give the retailer a written notice of the noncompliance. If the retailer fails to correct the noncompliance within 30 days of receipt of the notice, the Director of Health may then assess penalties.

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