

LEGISLATIVE DIGEST
(6/1/15 - Amended in Committee)

[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 I (Sugar-Sweetened Beverage Warning Ordinance) which requires an “Advertiser” who posts, or causes to be posted in San Francisco an advertisement that identifies, promotes, or markets a sugar-sweetened beverage 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, the ordinance does not apply to the following: (1) advertisements that are in newspapers, periodicals, magazines, advertisement circulars, or other publications, or on television, the internet, or other electronic media; (2) containers and packages; (3) menus or handwritten listings or representations of foods or beverages that may be served or ordered for consumption in a Retailer’s establishment; (4) any display or representation of, or other information about a sugar-sweetened beverage, including, without limitation, any logo, on a vehicle, if the vehicle is being used by any Person who is in the business of manufacturing, distributing, or selling the sugar-sweetened beverage in the performance of such business; (5) any logo that occupies an area that is less than 36 square inches and is unaccompanied by any display, representation, or other information identifying, promoting, or marketing a sugar-sweetened beverage; or any shelf tag or shelf label that states the retail

price, order code, description, or size of a product for sale. The terms “Retailer” and “Person” are defined in the ordinance. The ordinance applies to advertisements posted on or after the Operative Date of the ordinance, which is one year after the effective date of the ordinance. It does not apply to any action taken for (1) any sign, excluding any general advertising sign unless it satisfies (2) below, or any structure, or other part of a building permitted by the City before the Operative Date; (2) any general advertising sign permitted by the City before the Operative Date that includes an SSB Ad, if the SSB Ad has not been substantially changed for a period of 50 years or more before the Operative Date; or (3) any other SSB Ads created before December 31, 1985. For example, an Advertiser may remove and relocate such an advertisement without adding the warning. For each of the exceptions from application in (1) and (2), the Advertiser must, on the request of the Director of Health, provide to the Director information substantiating that the condition required by the subsection is satisfied.

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 individuals acting as 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 the ordinance. 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 Retailer of sugar-sweetened beverages for posting an advertisement in or on the Retailer’s 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. City departments must cooperate with the Director of Health in the enforcement of the ordinance.

Background Information

This legislative digest reflects amendments to the ordinance made on June 1, 2015.

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