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## THE COUNCIL

# COMMITTEE REPORT OF THE HUMAN SERVICES Division

*Jeffrey Baker, Legislative Director*

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**COMMITTEE ON HEALTH**

*Hon. Mark Levine, Chair*

#### December\_14, 2021

**Proposed Int. No. 1326-B:** By Council Members Levine, Cornegy, Kallos, Rosenthal, Ampry-Samuel, Ayala, Cumbo, Powers, Lander, Brannan, Chin, D. Diaz, Van Bramer, Reynoso, Salamanca, Miller, Levin, Gibson, Brooks-Powers, Koo, Vallone, Cabrera, Ulrich

**Title:** A Local Law to amend the administrative code of the city of New York, in relation to requiring added sugar notifications in chain restaurants

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**Administrative Code:** Adds a new section 17-199.18.

**Res. No. 638:** By Council Member Eugene

**Title:** Resolution calling on the New York State Department of Health to create stand-alone, self-contained isolation centers or units for the treatment of patients with infectious disease due to epidemic, including highly contagious and airborne diseases

**Introduction**

On December 14, 2021, the Committee on Health, chaired by Council Member Mark Levine, will consider Proposed Introduction Number 1326-B (Int. 1326), a Local Law to amend the administrative code of the city of New York, in relation to requiring added sugar notifications in chain restaurants. Int. 1326 was originally heard by this Committee in February 2019. Among those invited to testify were representatives from the New York City Department of Health and Mental Hygiene (DOHMH), advocates, and other interested parties. The Committee will also consider Resolution Number 638, calling on the New York State Department of Health to create stand-alone, self-contained isolation centers or units for the treatment of patients with infectious disease due to epidemic, including highly contagious and airborne diseases.

**Background**

**Diabetes, Obesity and Prepared Foods**

*Diabetes*

Diabetes is a disease involving a hormone called insulin, which is released by the pancreas to guide the body in storing and using the sugar and fat from ingested food.[[1]](#footnote-1) Diabetes causes a production of too much or too little insulin, which causes the blood glucose (sugar) levels to rise higher or lower than normal.[[2]](#footnote-2) Type 2 diabetes is the most common form of diabetes and occurs when the body’s cells become resistant to the action of insulin, and the pancreas is unable to make sufficient insulin to overcome this resistance, causing sugar to build up in the bloodstream.[[3]](#footnote-3) Although not all causes of diabetes are known, Type 2 diabetes is caused by genetic and environmental factors, and is most closely linked with obesity and being overweight.[[4]](#footnote-4)  
 In the United States, it is estimated that more than 100 million Americans have diabetes or prediabetes.[[5]](#footnote-5) Approximately 1 in 4, or 7.2 million, adults are living with diabetes, and an additional 84.1 million have prediabetes, which can lead to Type 2 diabetes within five years if not treated.[[6]](#footnote-6) In New York City, an estimated 987,000 New Yorkers have diabetes, many without knowledge of their condition.[[7]](#footnote-7) Diabetes in New York is also economically, racially, and ethnically determined, with black, Hispanic, and Asian New Yorkers being twice as likely as white New Yorkers to have diabetes, as of 2013.[[8]](#footnote-8) Diabetes disproportionately affects high-poverty communities in New York City, where the neighborhoods with the highest prevalence of diabetes were Fordham-Bronx Park (14.6%), East New York (14.4%) and Williamsburg-Bushwick (13.9%) in Brooklyn, Northeast Bronx (13.9%), and the South Bronx (13.9%), and the neighborhoods with the lowest prevalence of diabetes were Upper East Side-Gramercy and Chelsea-Village in Manhattan (4.4% and 4.1%).[[9]](#footnote-9) As of 2013, diabetes was almost 70% more common in high-poverty neighborhoods than in low-poverty neighborhoods.[[10]](#footnote-10) Interestingly, racial and ethnic disparities in diabetes persist across levels of household poverty, where white New Yorkers had the lowest prevalence of diabetes among the wealthiest New Yorkers and had a lower prevalence than both blacks and Hispanics among the poorest.

*Obesity*

Obesity rates in the United States have been climbing nationwide for decades and have led to massive increases in the prevalence of Type 2 diabetes, heart disease, and certain types of cancer.[[11]](#footnote-11) Among children, 1 in 5 school age children and young people (6 to 19 years) has obesity.[[12]](#footnote-12) Obese children and adolescents are more likely to become obese adults and even young children can develop chronic health conditions and diseases, including asthma, sleep apnea, bone and joint problems, Type 2 diabetes, and risk factors for heart disease.[[13]](#footnote-13)

According to DOHMH, more than half of adult New Yorkers are overweight (34%) or obese (22%), while almost half of all elementary school children and Head Start children are currently at an unhealthy weight.[[14]](#footnote-14) In New York City, 1 in 5 kindergarten students and 1 in 4 Head Start children is obese. New York City has made strides in starting to reverse this trend by improving the food environment, making public spaces more amenable to physical activity, increasing the availability of tap water, and discouraging the drinking of sugar-sweetened beverages.[[15]](#footnote-15) However, obesity rates among NYC students is still too high, with over 20 percent of children categorized as obese and even more defined as overweight.[[16]](#footnote-16)

*Prepared foods*

Prepared food is a growing and problematic part of New Yorkers’ diets, particularly among children, making up approximately 25 percent of a child’s daily calories, on average.[[17]](#footnote-17) Consumption of restaurant foods has been linked with increased caloric intake, poor nutrition, and higher risk for being overweight and obese.[[18]](#footnote-18) Eating out has also been shown to influence the future food preferences and eating habits of children.[[19]](#footnote-19)

Research has found that food marketing influences children’s food preferences, food choices, diets, and health.[[20]](#footnote-20) For restaurants, including toys with children’s meals is the leading form of food marketing directed at children by expenditure.[[21]](#footnote-21) In 2009, fast food restaurants sold slightly more than 1 billion children’s meals with toys to children ages 12 and under.[[22]](#footnote-22) Restaurant toys or premiums are often tied to movie characters, cartoon characters and celebrities and studies have shown this practice affects children’s food choices and preferences.[[23]](#footnote-23)

In 2013, McDonald’s, the largest fast food retailer in the world, committed to healthy substitutes for fries and soda in its children’s meal and has included nutrition information in children’s promotional material.[[24]](#footnote-24) In recent years, some restaurants have made improvements to their children’s meals and even removed toys altogether, while others have done little.[[25]](#footnote-25) According to a 2013 study, the vast majority of restaurant children’s meals do not meet nutrition standards created by the National Restaurant Association.[[26]](#footnote-26)

**Current Research and Programs to Impact Purchasing Choices**

In 2010, Santa Clara County in California became the first jurisdiction in the United States to regulate the nutritional content of restaurant children’s meals that provided a toy or other incentive item “linked with” the meal.[[27]](#footnote-27) A study published in 2012 in the American Journal of Preventative Medicine found the regulation “appear[ed] to have positively influenced marketing of healthful menu items and toys…but did not affect the number of healthful food items offered.”[[28]](#footnote-28)

In 2011, San Francisco became the first city to regulate the nutritional content of restaurant children’s meals with toys or other incentive items.[[29]](#footnote-29) That law prohibits the distribution of a free toy or other incentive item with a meal that fails to meet certain nutrition standards. A study published in 2014 in Preventing Chronic Disease found that, among the restaurants studied, the only effect of the law was to induce them to charge 10 cents for the toy or other incentive item.[[30]](#footnote-30) Restaurants did not change their menus to comply with the ordinance.

In 2016, New York City Council held a hearing on Introduction Number 442, sponsored by Council Member Kallos, a Local Law to amend the administrative code of the city of New York, in relation to setting nutritional standards for distributing incentive items aimed at children. **Legislative Analysis: Proposed Int. No. 1326-B**

This bill would require the Department of Health and Mental Hygiene (DOHMH) to issue a rule designating an icon to be displayed in a clear and conspicuous manner on (i) menus or menu boards adjacent to the listed prepackaged food items and (ii) prepackaged food items on display, that exceed a specified level of added sugars, including, but not limited to, 100 percent or more of the daily value for added sugars. Such rule would also provide a factual warning statement about high added sugars intake. No later than 1 year after the issuance of such rule, chain restaurants (those with 15 or more restaurants) in New York City must post such icon on or next to a prepackaged food item on display, or next to a prepackaged food item listed on the menu or menu board, and post such warning statement at the point of purchase. Failure to do so would result in financial penalties of $200-500. Finally, this bill would require DOHMH to conduct public outreach to educate restaurants about the requirements of this local law.

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Proposed Int. No. 1326-B

By Council Members Levine, Cornegy, Kallos, Rosenthal, Ampry-Samuel, Ayala, Cumbo, Powers, Lander, Brannan, Chin, D. Diaz, Van Bramer, Reynoso, Salamanca, Miller, Levin, Gibson, Brooks-Powers, Koo, Vallone, Cabrera and Ulrich

A Local Law to amend the administrative code of the city of New York, in relation to requiring added sugar notifications in chain restaurants

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 17 of the administrative code of the city of New York is amended by adding a new section 17-199.18 to read as follows:

§ 17-199.18 Added sugar notifications. a. Definitions. For the purposes of this section, the following terms have the following meanings:

Added sugars. The term “added sugars” has the same meaning as used in title 21, section 101.9 (c)(6)(iii) of the code of federal regulations, or any successor regulations.

Covered establishment. The term “covered establishment” means any food service establishment inspected pursuant to the restaurant grading program established pursuant to subdivision a of section 81.51 of the New York city health code that is part of a chain with 15 or more locations doing business under the same name and offering for sale substantially the same food items.

Daily value. The term “daily value” means the daily reference value established in title 21, section 101.9 (c)(9) of the code of federal regulations, or any successor regulations.

Food service establishment. The term “food service establishment” has the same meaning as in section 81.03 of the New York city health code.

Icon. The term “icon” means a graphic or illustrated image, with or without accompanying text.

Menu or menu board. The term “menu or menu board” has the same meaning as in section 81.49 of the New York city health code.

Prepackaged food item. The term “prepackaged food item” means a food item that is packaged by the manufacturer and required to have a nutrition facts label pursuant to title 21, part 101 of the code of federal regulations, or any successor regulations.

Prepackaged item on display. The term “prepackaged item on display” means a prepackaged food item that is visible to the customer before the customer makes a selection.

b. Warning statement. The department shall issue a rule designating an icon to be displayed in a clear and conspicuous manner on (i) menus or menu boards adjacent to the listed prepackaged food items and (ii) prepackaged food items on display, that exceed a specified level of added sugars, including, but not limited to, 100 percent or more of the daily value for added sugars, as determined by the federal food and drug administration, or exceed another amount specified in rules of the department. Such rule shall also provide a factual warning statement about high added sugars intake.

c. No later than one year after the department issues the rule required pursuant to subdivision b of this section, a covered establishment that offers one or more prepackaged food items or prepackaged items on display shall, in accordance with rules promulgated by the department:

1. Post a clearly visible icon on or near the prepackaged item on display;

2. Post a clearly visible icon on the menu or menu board next to the prepackaged food item wherever such item appears; and

3. Post the factual warning statement required pursuant to subdivision b of this section prominently and conspicuously at the point of purchase.

d. Any covered establishment that violates any of the provisions of this section shall be liable for a civil penalty of not less than $200 nor more than $500 for a violation thereof.

e. No later than three months after the department issues the rule required by subdivision b of this section, the department shall conduct public outreach to educate covered establishments about the requirements of this local law.

f. Nothing in this local law prohibits the department from requiring an icon or warning statement regarding additional foods, ingredients, or nutrients of concern.

§ 2. This local law takes effect no later than one year after the expiration of the declaration of the local state of emergency for COVID-19 declared in emergency executive order number 98 of Mayor Bill de Blasio, dated March 12, 2020, including any subsequent extensions.

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Res. No. 638

..Title

Resolution calling on the New York State Department of Health to create stand-alone, self-contained isolation centers or units for the treatment of patients with infectious disease due to epidemic, including highly contagious and airborne diseases

..Body

By Council Member Eugene

Whereas, During the Ebola epidemic in 2014, New York State designated 8 hospitals to treat Ebola virus cases, but only Manhattan’s Bellevue Hospital isolation unit was fully operational when the first Ebola case hit the State; and

Whereas, Bellevue’s quarantine unit was developed in the 1990s when tuberculosis cases were suddenly on the rise and has special anterooms, as well as ventilation and plumbing that run separately from the rest of the hospital’s systems; and

Whereas, While Bellevue’s unit is a great resource for the City, it only has space for 4 patients; and

Whereas, Each of the 8 hospitals in the State designated to treat Ebola virus cases only had space for 2 to 4 patients; and

Whereas, The State was monitoring the spread of Ebola in other parts of the world and had months to make preparations, yet facilities were still not prepared when Ebola struck New York; and

Whereas, New York can follow the example of the National Institutes of Health’s Special Clinical Studies Unit at the Clinical Research Center in Bethesda and use its isolation units as research laboratories when not filled with patients; and

Whereas, The State may not have time to prepare for the next outbreak of an infectious disease and should ensure that facilities are in place that can contain such an outbreak; now, therefore, be it

Resolved, That the Council of the City of New York calls on the New York State Department of Health to create stand-alone, self-contained isolation centers or units for the treatment of patients with infectious disease due to epidemic, including highly contagious and airborne diseases.

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LS# 1881

2/27/18

1. “Diabetes Overview,” WebMD, *available at* <https://www.webmd.com/diabetes/default.htm>. [↑](#footnote-ref-1)
2. *Id*. [↑](#footnote-ref-2)
3. “Diabetes,” Mayo Clinic, *available at* <https://www.mayoclinic.org/diseases-conditions/diabetes/symptoms-causes/syc-20371444>. [↑](#footnote-ref-3)
4. *Id*. [↑](#footnote-ref-4)
5. # “New CDC Report: More than 100 million Americans have diabetes or prediabetes,” CDC, *available at* <https://www.cdc.gov/media/releases/2017/p0718-diabetes-report.html>.

   [↑](#footnote-ref-5)
6. *Id*. [↑](#footnote-ref-6)
7. “Type 2 Diabetes,” DOHMH, *available at* <https://www1.nyc.gov/site/doh/health/health-topics/diabetes.page>. [↑](#footnote-ref-7)
8. “Diabetes in New York City,” EPI Data Brief, DOHMH, Apr. 2013, *available at* <https://www1.nyc.gov/assets/doh/downloads/pdf/epi/databrief26.pdf>. [↑](#footnote-ref-8)
9. *Id*. [↑](#footnote-ref-9)
10. *Id*. [↑](#footnote-ref-10)
11. “Adult Obesity Facts,” Centers for Disease Control and Prevention (CDC), *available at* <https://www.cdc.gov/obesity/data/adult.html>. [↑](#footnote-ref-11)
12. “Childhood Obesity Facts,” CDC Healthy Schools, *available at* <https://www.cdc.gov/healthyschools/obesity/facts.htm>. [↑](#footnote-ref-12)
13. *Id.* [↑](#footnote-ref-13)
14. “Obesity,” DOHMH, *available at* <https://www1.nyc.gov/site/doh/health/health-topics/obesity.page>. [↑](#footnote-ref-14)
15. NYC Obesity Task Force, “Reversing the Epidemic: The New York City Obesity Task Force Plan to Prevent and Control Obesity,” NYC Obesity Task Force, May 31, 2012, *available at* <http://www.nyc.gov/html/om/pdf/2012/otf_report.pdf>. [↑](#footnote-ref-15)
16. Sophia E. Day, et al. “Severe Obesity Among Children in New York City Public Elementary and Middle Schools, School Years 2006–07 Through 2010–11,” Preventing Chronic Disease, July 10, 2014, *available at* <http://www.cdc.gov/pcd/issues/2014/13_0439.htm>. [↑](#footnote-ref-16)
17. Otten JJ, “Food Marketing: Using Toys to Market Children’s Meals,” Healthy Eating Research, 2014, *available at* <http://healthyeatingresearch.org/wp-content/uploads/2014/07/her_marketing_toys_AUGUST_14.pdf>. [↑](#footnote-ref-17)
18. Koplan J, Liverman CT, Kraak VI, editors. Institute of Medicine Committee on Prevention of Obesity in Children and Youth. Preventing Childhood Obesity: Health in the Balance. National Academies Press (2005), *available at* <http://www.nap.edu/catalog/11015/preventing-childhood-obesity-health-in-the-balance>; Larson N, Neumark-Sztainer D, Laska MN, Story M. Young adults and eating away from home: Associations with dietary intake patterns and weight status differ by choice of restaurant. J Acad Nutr Diet. (Nov 2011);111(11):1696-1703, *available at* <http://www.ncbi.nlm.nih.gov/pubmed/22027052>; Powell LM, Nguyen BT. Fast-food and full-service restaurant consumption among children and adolescents effect on energy, beverage, and nutrient intake. JAMA Pediatr. (Jan 2013);167(1):14-20, *available at* <http://www.ncbi.nlm.nih.gov/pubmed/23128151>. [↑](#footnote-ref-18)
19. *Id.* [↑](#footnote-ref-19)
20. Supra, note 7. [↑](#footnote-ref-20)
21. Leibowitz J RJ, Ramirez E, Brill J, Ohlhausen M. “A Review of Food Marketing to Children and Adolescents: Federal Trade Commission Follow-Up Report,” Dec. 2012, *available at* <https://www.ftc.gov/sites/default/files/documents/reports/review-food-marketing-children-and-adolescents-follow-report/121221foodmarketingreport.pdf>. [↑](#footnote-ref-21)
22. *Id.* [↑](#footnote-ref-22)
23. Supra, note 7. [↑](#footnote-ref-23)
24. Clinton Foundation Press Release, “Alliance for a Healthier Generation and McDonald’s Announce Groundbreaking CGI Commitment to Promote Balanced Food and Beverage Choices,” Sept. 26, 2013, *available at* <https://www.clintonfoundation.org/press-releases/alliance-healthier-generation-and-mcdonalds-announce-groundbreaking-cgi-commitment>. [↑](#footnote-ref-24)
25. Supra, note 7. [↑](#footnote-ref-25)
26. Center for Science in the Public Interest. Kids’ Meals II: Obesity and Poor Nutrition on the Menu, 2013, *available at* <https://cspinet.org/new/pdf/cspi-kids-meals-2013.pdf>. [↑](#footnote-ref-26)
27. Codified at Santa Clara County Code of Ordinances §§ A18-350–355. [↑](#footnote-ref-27)
28. Jennifer Otten, et. al, “Food Marketing to Children Through Toys,” American Journal of Preventive Medicine, Volume 42, Issue 1 (Jan. 2012). [↑](#footnote-ref-28)
29. The Health Food Incentives Ordinance, No. 290-10, San Francisco, CA. [↑](#footnote-ref-29)
30. Jennifer Otten, et. al., “Impact of San Francisco’s Toy Ordinance on Restaurants and Children’s Food Purchases, 2011-2012” Preventing Chronic Disease (2014). [↑](#footnote-ref-30)