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**THE COUNCIL OF THE CITY OF NEW YORK**

**COMMITTEE REPORT OF THE HUMAN SERVICES DIVISION**

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**COMMITTEE ON HEALTH**

*Hon. Mark Levine, Chair*

**January 28, 2020**

**OVERSIGHT: BODY IMAGE & INCLUSIVITY**

**INTRODUCTION NO. 1485:** By Council Members Levine & Brannan

**TITLE:** A Local Law to amend the administrative code of the city of New York, in relation to restricting the sale of senna- and saffron-based products

**ADMINISTRATIVE CODE:** Amends Section 17-1901 of the Administrative Code

1. **INTRODUCTION**

On January 28, 2020, the Committee on Health, chaired by Council Member Mark Levine, will hold a hearing on Body Image & Inclusivity. During the hearing, the Committee will hear Introduction Number 1485 (Int. No. 1485), restricting the sale of senna- and saffron- based products. The Committee will discuss the impact of societal standards on body image, and the health impacts on a person struggling with their body image. Representatives from the New York City Department of Health and Mental Hygiene (DOHMH) and advocates have been invited to testify.

1. **BACKGROUND**

Body image is how a person sees themselves, including what a person believes about their appearance, how they feel about their body, and how they physically experience or feel their body.[[1]](#footnote-1) Poor body image can lead to disordered eating, including binge eating disorder, bulimia nervosa, and anorexia nervosa.[[2]](#footnote-2) There are entire industries designed to benefit from the stigmatization of people who are perceived as an unideal weight and from people feeling negative about their body. According to a 2018 Washington Post article, Americans spent more than $62 million on diet teas, or “detox teas,” which include detox/cleansing, laxative, and weight-loss teas, in retail outlets in the past year.[[3]](#footnote-3) Most detox teas have ingredients in common, including guarana, which some research suggests may contain up to four times the amount of caffeine in coffee, and laxatives such as senna or senna leaf, the same active ingredient in Senokot, which is approved as an over-the-counter medication by the Food and Drug Administration (FDA) for constipation.[[4]](#footnote-4)

The use of detox teas have been proliferated by social media and celebrity influencers, including Kylie Jenner, Cardi B, and Amber Rose.[[5]](#footnote-5) In fact, the hashtag “#teatox” garners over 870,000 posts on Instagram.[[6]](#footnote-6) There are numerous accounts of the impact of such marketing on young people, which can lead to disordered eating.[[7]](#footnote-7) Despite counter-marketing and the spread of information warning about the side effects of using detox teas, reality stars continue to receive large payouts for posting advertisements for detox tea companies.[[8]](#footnote-8) Celebrities such as the Kardashians can receive a six-figure sum for just one sponsored advertisement on social media.[[9]](#footnote-9)

In addition to teas, social media influencers also promote “skinny candies,” such as “appetite-suppressant” lollipops or meal-replacement shakes. These candies also list Satiereal – a saffron extract – as an ingredient which may induce appetite suppression.[[10]](#footnote-10) In 2018, Kim Kardashian posted (and then deleted) an Instagram advertisement where she promoted Flat Tummy Co. lollipops, and received immediate backlash for her “terrible and toxic influence,” particularly as she delivered this post during Mental Health Awareness week.[[11]](#footnote-11)

*Impact on Health & Mental Health*

Although they are popular, detox teas and skinny candies have many health concerns associated with them, and experts agree that they are unsafe and largely ineffective for weight loss.[[12]](#footnote-12) The ingredients in detox teas may interact with each other, as well as other medications, in a negative way.[[13]](#footnote-13) In 2015, the company Bootea found itself under criticism after its detox teas were linked to a string of accidental pregnancies because its “laxative effect” can stop the contraceptive pill from working.[[14]](#footnote-14) Additionally, stimulants such as caffeine can cause nausea, rapid heartbeat, and vomiting when ingested in large amounts, and senna has been linked to liver damage when consumed in high doses over long periods of time.[[15]](#footnote-15) There are also concerns over the regulation and oversight of detox teas. Detox teas are often regulated like dietary supplements, which permits looser oversight and regulations by the FDA when compared to FDA-approved medications.[[16]](#footnote-16) Therefore, consumers cannot always rely on the label for correct information about detox tea ingredients.[[17]](#footnote-17)

The use of detox teas can go hand-in-hand with the occurrence of eating disorders. According to the American Psychiatric Association (APA), “eating disorders are illnesses in which the people experience severe disturbances in their eating behaviors and related thoughts and emotions.”[[18]](#footnote-18) The three main types of eating disorders include anorexia nervosa, bulimia nervosa, and binge eating disorder.[[19]](#footnote-19) Individuals with anorexia nervosa and bulimia nervosa tend to be extremely critical of themselves and their bodies, and typically see themselves as overweight or having an undesirable weight even if they are at a healthy weight or are underweight.[[20]](#footnote-20) Fear of gaining weight can impact every facet of their lives, and, without treatment, those with eating disorders may experience malnutrition, heart problems, and other potentially fatal conditions.[[21]](#footnote-21) Binge eating disorder is characterized by recurrent binge eating episodes and, unlike bulimia nervosa, episodes are not necessarily followed by purging, excessive exercise, or fasting.[[22]](#footnote-22)

According to the National Association of Anorexia Nervosa and Associated Disorders (ANAD), at least 30 million people of all ages and genders suffer from an eating disorder in the United States.[[23]](#footnote-23) According to data from the National Institute of Mental Health, prevalence of bulimia nervosa is five times higher among adult females (0.5 percent) than adult males (0.1 percent), and the lifetime prevalence of anorexia nervosa was three times higher among adult females (0.9 percent) than adult males (0.3 percent).[[24]](#footnote-24) Eating disorders are more likely to affect adolescents, or individuals ages 13 to 18, particularly adolescent women.[[25]](#footnote-25) The lifetime prevalence of eating disorders was twice as likely for adolescent females (3.8 percent) than adolescent males (1.5 percent).[[26]](#footnote-26) A majority of adults with anorexia nervosa and bulimia nervosa were diagnosed with another disorder, including anxiety disorder, mood disorder, impulse control disorder, and substance use disorder.[[27]](#footnote-27) According to a 2012 study of eating disorders published in Current Psychiatry Reports, eating disorders have the highest mortality rate of any mental illness.[[28]](#footnote-28)

*The Need for Inclusive Research, Treatment, and Discussions*

Individuals note that the larger conversation around treatment lacks a social justice and inclusive lens.[[29]](#footnote-29) SJ Thompson, a writer with lived experience of seeking treatment for an eating disorder, notes, “from financial access to fatphobia, transphobia, racism, gender essentialism, the thin ideal, healthism, and more, when we don’t treat eating disorders as a social justice issue we leave the most marginalized, those suffering the most severely, out in the cold.”[[30]](#footnote-30) Since eating disorders have historically been associated with heterosexual, young, white, thin, cis-gender females, people who fall outside of these identities may struggle to get the treatment that they need, including people of color and people who are not thin.[[31]](#footnote-31)

Issues with body image, including eating disorders and fatphobia, impact everyone. Fatphobia can be extremely detrimental to one’s health and access to quality health care, with studies showing harmful effects of sizeism, including sizeism that can be experienced when seeking medical care, perpetrated by medical providers themselves.[[32]](#footnote-32) Sabrina Strings, author of *Fearing the Black Body: The Racial Origins of Fat Phobia*, found that fatphobia has a history rooted in racism.[[33]](#footnote-33) Her research found that, as a result of the trans-Atlantic slave trade and Protestantism, “by the early 19th century, particularly in the U.S., fatness was deemed evidence of immorality and racial inferiority.”[[34]](#footnote-34) Notably, the National Institute of Mental Health data on eating disorders does not include information on the transgender, gender non-conforming, and gender non-binary (TGNCNB) community, nor does it include information about race, disability, or other identifying characteristics. Although studies have found that Black and Latinx adolescents are more likely to exhibit bulimic behavior, people of color, especially Black people, are significantly less likely to receive help for their eating issues.[[35]](#footnote-35) Currently, there is very little research regarding body image and disordered eating for people living with disabilities, although we know that eating disorders impact everyone.[[36]](#footnote-36) Of course, all of these identities can be intersecting.

*The TGNCNB Community*

TGNCNB individuals are more likely to experience discrimination, marginalization, and poor physical and mental health outcomes, which can result in a variety of physical and mental health conditions.[[37]](#footnote-37) When surveyed by The National Center for Transgender Equality, TGNCNB respondents experienced serious psychological distress at a rate almost eight times the rate of the U.S. population.[[38]](#footnote-38) Additionally, one-third of respondents who saw a health care provider during the year prior to completing the survey had at least one negative experience related to being transgender, such as being verbally harassed, physically or sexually assaulted, or refused treatment, because of their gender identity.[[39]](#footnote-39) Nearly a quarter of respondents did not seek needed health care in the year prior to completing the survey due to fear of being mistreated as a transgender person, and 33 percent did not seek needed health care because they could not afford it.[[40]](#footnote-40)

While not all individuals in the TGNCNB community have gender dysphoria or a negative body image, those who do may have eating disorders that are connected to their relationship with their gender and their body.[[41]](#footnote-41) Individuals in the TGNCNB community may take steps to conform their body to their gender identity; for example, a person may want to be underweight or overweight to appear androgynous, or they may want to lose weight to eliminate their curves.[[42]](#footnote-42) A 2015 study found that college students who are transgender were four times more likely to report an eating disorder than their cisgender female counterparts.[[43]](#footnote-43) Similarly, a 2013 survey of high school youth found that students who are transgender were nearly three times as likely to restrict eating, almost nine times as likely to use diet pills, and seven times as likely to use laxatives compared to their cisgender peers.[[44]](#footnote-44)

1. **RECENT INITIATIVES**

*City Policy Initiatives Addressing Body Image*

While the City does not have a well-publicized campaign to address eating disorders and negative body image, there are several City initiatives that relate generally to mental illness treatment and healthy body image. For example, DOHMH’s NYC Well initiative offers 24/7 assistance via phone, tablet, computer, or texting, in multiple languages for the following services: suicide prevention and crisis counseling; peer support and short-term counseling; assistance scheduling appointments or accessing other mental health services; and follow-up to check that an individual has connected to care and that works for them.[[45]](#footnote-45) Individuals suffering from eating disorders or who have friends or family suffering are encouraged to reach out to NYC Well for connection to care and services.[[46]](#footnote-46) Additionally, DOHMH partners with community-based organizations and other nonprofits that offer services and assistance for individuals living with eating disorders.[[47]](#footnote-47) DOHMH also provides guides for healthy weight, healthy eating and drinking, fitness resources, and free aerobics, yoga, pilates, and Zumba classes throughout the city.[[48]](#footnote-48) Finally, some New York City schools also include eating disorders education as part of the curriculum.[[49]](#footnote-49)

*Attempts to regulate & control social media and influencers*

More recently, the federal government has attempted to curb deceptive social media advertising and bring more transparency to social media posts. The Federal Trade Commission (FTC) has issued guidelines concerning the use of endorsement and testimonials in advertising[[50]](#footnote-50) and concerning disclosures for social media users.[[51]](#footnote-51) Specifically, advertisers, endorsers, and influencers are required to disclose when they have a financial, employment, personal, or family relationship with a brand.[[52]](#footnote-52) These disclosures must be easy to see and understand, with clear messaging, such as “ad” printed under a post, for example.[[53]](#footnote-53) While these regulations have helped to clear away some prior deceptive practices online, there is still a long way to go in filtering incorrect or harmful information spread on the internet by influencers.

**Int. No. 1485**

The proposed legislation would prohibit the sale in New York City of products made with senna or Satiereal to persons under 18 years of age. Uses of such products that are approved by the FDA would not be covered by the prohibition.

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Int. No. 1485

By Council Members Levine and Brannan

A Local Law to amend the administrative code of the city of New York, in relation to restricting the sale of senna- and saffron-based products

Be it enacted by the Council as follows:

Section 1. Title 17 of the administrative code of the city of New York is amended by adding a new chapter 19 to read as follows:

CHAPTER 19

REGULATION OF SENNA AND SAFFRON PRODUCTS

                     § 17-1901 Definitions. As used in this chapter, the following terms have the following meanings:

                     Senna product. The term “senna product” means any product that is intended for human consumption that contains the leaves, flowers or fruit of the plants cassia acutifolia or cassia angustifolia, or extracts of the same. Such term includes any component, part or accessory of such product but does not include any marketing, sale or use of such product solely for a purpose affirmatively approved by the United States food and drug administration.

                     Saffron product.  The term “saffron product” means any product that is intended for human consumption which contains the extract of the crocus sativus plant. Such term includes any component, part or accessory of such product but does not include any marketing, sale or use of such product solely for a purpose affirmatively approved by the United States food and drug administration.

                     § 17-1902 Sale of senna products and saffron products to minors prohibited. a. Any person operating a place of business in which a senna product or saffron product is sold or offered for sale is prohibited from selling such product to individuals under 18 years of age. Sale of a senna product or saffron product in such places shall be made only to an individual who demonstrates, through a driver’s license or other photographic identification card issued by a government entity or educational institution, that the individual is at least 18 years of age. Such identification need not be required of any individual who reasonably appears to be at least 30 years of age, provided, however, that such appearance shall not constitute a defense in any proceeding alleging the sale of senna products or saffron products to an individual under 18 years of age.

                     § 17-1903 Penalties. a. Any person or entity who violates section 17-1902 shall be liable for a civil penalty of not more than $250 for the first violation, and not more than $500 for each additional violation found on that day; and not more than $750 for the second violation at the same place of business within a three-year period, and not more than $1,000 for each additional violation found on that day; and not more than $2,000 for the third and each subsequent violation at the same place of business within a three-year period.

§ 17-1904 Enforcement. The department, the department of consumer affairs and the department of finance have the power to enforce the provisions of this chapter. A proceeding to recover any civil penalty authorized pursuant to section 17-1903 shall be commenced by the service of a notice of violation returnable to the office of administrative trials and hearings or within any agency of the city of New York designated to conduct such proceedings. The notice of violation or copy thereof when filled in and served shall constitute notice of the violation charged. The department, the department of consumer affairs and the department of finance shall notify each other within 30 days of finding that a retail dealer has been found liable for any section of this chapter.

§ 17-1905 Rules. The commissioner of the department, the commissioner of consumer affairs and the commissioner of finance shall promulgate any rules as may be necessary for the purposes of carrying out the provisions of this chapter.

§ 2.  This local law takes effect 180 days after it becomes law, except that the department of health and mental hygiene may take such actions, including the promulgation of rules, as are necessary for the timely implementation of this local law, prior to such effective date.

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