**Model Ordinance: Healthy Beverages in Children’s Meals** **Model Ordinance**

 **Model Statute: Healthy Beverages in Children’s Meals**

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**Introduction**

Today, one-third of US children and adolescents are overweight or obese.[[1]](#endnote-1) Overweight children are at increased risk for serious health problems in adulthood, including heart disease, type 2 diabetes, asthma, and cancer.[[2]](#endnote-2) The costs of obesity are high. Annual health care costs from obesity are at least $190 billion[[3]](#endnote-3)—or 21% of total health care spending—and are expected to rise substantially.[[4]](#endnote-4) Roughly 40% of these costs are paid through Medicare and Medicaid, which means that taxpayers foot much of the bill.[[5]](#endnote-5)

Sugary drinks play a crucial role in the obesity epidemic. A 2010 study found that sugary drinks— including soda, energy and sports drinks, sweetened water, and fruit drinks—were the largest source of daily calories in the diets of US children ages 2-18. Soda alone was the third largest source.[[6]](#endnote-6) In addition, each extra serving of a sugar-sweetened beverage consumed per day increases a child’s chance of becoming obese by 60%.[[7]](#endnote-7) Sugary drinks are also linked to other health problems. Sugary drink consumption is associated with a greater risk of cardiovascular disease in adolescents;[[8]](#endnote-8) higher blood pressure in adolescents;[[9]](#endnote-9) dental caries (cavities);[[10]](#endnote-10) and inadequate intake of nutrients, including calcium, iron, folate, magnesium, and vitamin A.[[11]](#endnote-11) Finally, the disparities in obesity rates by income and race and ethnicity mirror sugary drink consumption. African Americans and Mexican Americans of both sexes and across most age groups report consuming more sugary drink calories than whites.[[12]](#endnote-12)

Restaurants play a central role in the diet of Americans. Children consume almost 20% of their daily calories at fast-food and other restaurants.[[13]](#endnote-13) Children and adolescents who eat at fast-food restaurants—as well as those who eat at full-service restaurants—consume more sugary drinks and soda and less milk.[[14]](#endnote-14)

Restaurants have traditionally offered soda as the default beverage in children’s meals. A default is the preselected option that people receive if they do not explicitly choose something else. Requiring restaurants to provide healthier beverages in children’s meals is an effective way to improve the nutritional quality of children’s meals. The Disney Corporation moved to this practice at its worldwide resorts and reported in 2008 that 68% of beverage orders at its US resorts included the default healthier option.[[15]](#endnote-15)

**Model Statute**

*Model Statute: Healthy Beverages in Children’s Meals* offers state governments a way to steer restaurants toward providing healthier options for children by requiring healthy beverages in children’s meals. The model statute requires default beverages in children’s meals to be water, nonfat or 1% milk, or 6-ounce servings of 100% juice. These beverage standards are based on *Recommendations for Healthier Beverages* from the Robert Wood Johnson Foundation’s Healthy Eating Research program*.*[[16]](#endnote-16) The model statute offers 2 options for states. Option 1 sets the specified healthy beverages as the only options in a children’s meal; consumers must separately order and pay for a different beverage if they want one. Option 2 sets the specified healthy beverages as the default option in children’s meals but allows consumers to specifically request another beverage without having to pay for it separately.

**Enacting the Statute**

When adopting new legislation, a state legislature determines where within the existing code of laws to place the new law. All states have laws setting health and safety standards for restaurants that are based on the US Food and Drug Administration’s *Food Code,*[[17]](#endnote-17) a federal model for food regulations. These retail food laws, located in state statutes or, in a few states, in regulations, set sanitation standards for personnel, food operations, and equipment and facilities and also provide for food establishment plan review, permit issuance, inspection, and enforcement.[[18]](#endnote-18) Because these laws require regular restaurant inspections, we recommend adding this legislation into the state’s existing retail food code.

The language in this model statute is designed to be tailored to the needs of an individual state. The text in *italics* provides different options or explains the type of information that needs to be inserted in the blank spaces in the statute. The comments provide additional information and explanation.

Model Statute: Healthy Beverages in Children’s Meals

Be it enacted by the Legislature of the State of *[\_\_\_\_\_\_\_\_\_\_\_\_\_\_]*:

**SECTION I.** **Findings.**

The [*Legislature*] hereby finds and declares as follows:

(a) Over the past several decades, the obesity rate in the United States has more than doubled. According to the Centers for Disease Control and Prevention, roughly 40% of American adults are obese.[[19]](#endnote-19) In [*insert name of state*], [*insert state’s obese adult population percentage here*] of adult residents are obese. About 1 in 5 children nationwide is obese.19 In [*insert name of state*], [*insert state’s obese youth population percentage here*] of children are obese. Obese children are at least twice as likely as non-obese children to become obese adults.[[20]](#endnote-20)

(b) Obese children and adults are at greater risk for numerous adverse health consequences, including type 2 diabetes, heart disease, stroke, high blood pressure, high cholesterol, certain cancers, asthma, low self-esteem, depression, and other debilitating diseases.[[21]](#endnote-21)

(c) Obesity-related health conditions have serious economic costs. Estimated annual health care costs from obesity in the United States are $190 billion[[22]](#endnote-22)—or 21% of total health care spending— and are expected to rise substantially.[[23]](#endnote-23) Roughly 40% of these costs are paid through Medicare and Medicaid, which means that taxpayers foot much of the bill.[[24]](#endnote-24) Obesity-related annual medical expenditures in [*insert name of state*] are estimated at [*insert state’s cost of obesity here*].[[25]](#endnote-25)

 (d) Sugary drinks play a crucial role in the obesity epidemic. Sugary drinks—including soda, energy and sports drinks, sweetened water, and fruit drinks—are the largest source of daily calories in the diet of US children ages 2-18.[[26]](#endnote-26) Each extra serving of a sugary drink consumed per day increases a child’s chance of becoming obese by 60%.[[27]](#endnote-27) Sugary drinks are also linked to other health problems, including a greater risk of cardiovascular disease in adolescents;[[28]](#endnote-28) higher blood pressure in adolescents;[[29]](#endnote-29) dental caries (cavities);[[30]](#endnote-30) and inadequate intake of nutrients, including calcium, iron, folate, magnesium, and vitamin A.[[31]](#endnote-31)

(e) Families in [*insert name of state*] have limited time to obtain and prepare healthy food, making dining out an appealing and often necessary option. Nationwide, US children eat 19% of their calories at fast-food and other types of restaurants.[[32]](#endnote-32) [*Add state statistics on eating out, if available*.] Children and adolescents who eat at fast-food restaurants—as well as those who eat at full-service restaurants—drink more sugary drinks and soda and less milk.[[33]](#endnote-33)

(f) Requiring restaurants to provide a healthy beverage as the default beverage automatically included in children’s meals is an effective way to improve the nutritional quality of children’s meals. The Walt Disney Company moved to this practice at its worldwide resorts and reported in 2008 that 68% of beverage orders at its US resorts included the default healthier option.[[34]](#endnote-34)

(g) By enacting this statute, [*state legislators*] intend to support parents’ efforts to feed their children healthfully by ensuring that healthy beverages are available to children in restaurants.

**COMMENT:** New state legislation sometimes includes factual “findings” that support the purposes of the legislation. The findings section is part of the statute and the legislative record, but it usually does not become codified in the code of laws. The findings contain factual information that supports the need for the law and explains its benefits. A state may select findings from this list to include in their legislation or may include different or additional findings that address the specific conditions in that particular state.

In addition to serving an educational purpose and building support for the ordinance, the findings can also serve a legal purpose. If the ordinance is challenged in court, the findings are an admissible record of the factual determinations made by the legislative body when considering the ordinance. Courts will generally defer to legislative determinations of factual issues, which often influence legal conclusions. Jurisdictions may include additional findings on local or regional conditions, outcomes, and issues that help make the case for the law.

**SECTION II.**

[*Article*/*Chapter*] [*number of article or chapter*] of the [*State*] Code is hereby amended to read as follows:

**Section \_\_\_1. Purpose.** The purpose of this [*article/chapter*] is to support children’s health by requiring that healthy beverages be included in children’s meals at restaurants.

**Section \_\_\_2. Definitions.** The following words and phrases, whenever used in this [*article/chapter*], shall have the meanings defined in this section:

(a) “Children’s Meal” means a combination of 1 or more food items and a beverage, sold together at a single price, primarily intended for consumption by children.

(b) “Default Beverage” means the beverage automatically included as part of a Children’s Meal *[, absent a specific request by the purchaser of the Children’s Meal for an alternative beverage]*.

**Comment:** As described in the Introduction, this model statute offers 2 options. Option 1 sets the specified healthy beverages as the only options in a children’s meal; consumers must separately order and pay for a different beverage. Option 2 sets the specified healthy beverages as the default options but allows consumers to specifically request that another beverage be included in the children’s meal at no extra cost. The phrase in italics in subsection (b) directly above should be included in the statute if the state selects Option 2.

(c) “Restaurant” means a retail food establishment that prepares, serves, and sells food directly to consumers.

**Comment:** The definition of “Restaurant” is adapted from the definition of a food establishment in the US Food and Drug Administration’s *Food Code,* a federal model for food regulations. States should use an existing definition from their state code.

**Section \_\_\_3. Beverages in Children’s Meals.**

(a) A Restaurant may not sell a Children’s Meal unless the Default Beverage is one of the following:

(1) Water, sparkling water, or flavored water, with no added natural or artificial sweeteners;

(2) Nonfat or 1% milk;

(3) A non-dairy milk alternative containing no more than 130 calories per container and/or serving as offered for sale; or

*[(4) 100% juice, with no added sweeteners, in a serving size of no more than 6 ounces.]*

**Comment**: The beverage standards are based on *Recommendations for Healthier Beverages* from the Robert Wood Johnson Foundation’s Healthy Eating Research project.[[35]](#endnote-35) Some states may decide not to include juice.

*[(b) Nothing in this section prohibits a Restaurant from selling, or a customer from purchasing, a beverage other than the Default Beverage included with a Children’s Meal, if the customer requests the substitute or alternative beverage.]*

**Comment**: The optional language in subsection (b) directly above should be included in the ordinance if the state selects Option 2, which sets the specified healthy beverages to be included in the default order but allows consumers to request that another beverage be included in the children’s meal.

**Section \_\_\_4. Enforcement.**

Enforcement of this [*article/chapter*] shall be made pursuant to *[add reference to the state’s retail food code].*

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