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THE TAX LAWYER

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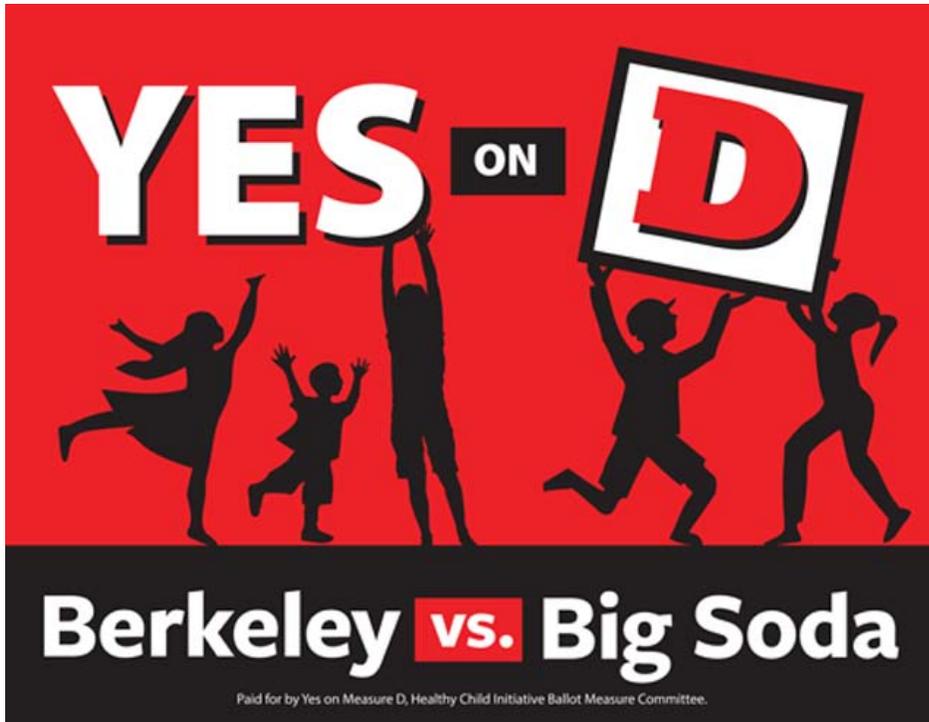
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# Death To The Soda Tax, Long Live The Soda Tax

We have our first *real* soda tax, and although it is only in Berkeley, the soda buzzards are gathering. The beverage industry reportedly spent about \$2.3 million in Berkeley and failed to stop the measure. More money was thrown at San Francisco, where a soda tax was defeated.

Some say famously liberal Berkeley is low hanging fruit. Yet it is still seen as a pivotal victory that could mean more soda taxes to come in more mainstream cities. Even in Berkeley, which has only 117,000 residents, the soda tax may soon be in court. After all, it is worth asking why sweetened tea should pay but not sweetened coffee drinks. Why should vitamin C fortified punch be taxed but not orange juice?

Even with its quirks, it may not be a bad idea. Some figures suggest that if the soda tax goes national, there will be huge health gains, perhaps preventing 100,000 cases of heart disease, 8,000 strokes and 26,000 deaths. Big Soda says its products do not make you sick. Soda taxes won't make people healthier, and they are just about money.



Larger and more influential San Francisco failed to pass its soda tax, perhaps in part due to the large dollars spent by industry groups to oppose it. But even outside the wavemaking of California, more soda taxes are probably on the way. Moderation isn't exactly an American strong suit, and some figures show that Americans are drinking more and more sugary beverages.

Fairly or not, sodas and similar drinks are painted as one of the big culprits in our nation's obesity problem. And we seem especially to care about children. Parental control might be good, but taxes seem even better, especially if the tax money is earmarked for public health. We can look to Mexico, with whom America shares more than a big stretch of border. We share a big waistline too.

70% of Mexico's adults and 30% of its children are said to be overweight or obese. Mexico could be overtaking the U.S., hardly an accolade. There is a corollary rise in chronic illnesses including adult-onset Type 2 diabetes. The latter effects an estimated 15% of Mexicans over age 20. The cost of weight-related illness to the country's public health system is said to exceed \$3 billion a year. But soda consumption in Mexico is especially bad, claiming the highest per-capita consumption in the world.

Some of what is plaguing Mexico's blossoming obesity problem is the great-tasting real sugar formula at the root of [the cult of Mexican Coca-Cola](#). The problem is deeper than any one beverage and any one food, but Mexican President Enrique Peña Nieto took a knife to the fat by [taxing](#)

[heavily sweetened soft drinks](#). Although Mr. Peña Nieto angered some big players, some say [Mexico's completely sensible anti-soda tax is working](#).

Who really pays? These are [sin taxes](#), excise taxes like those on alcohol, cigarettes and candy. Although they are imposed on producers or sellers, they are almost inevitably passed on to buyers. They differ from sales taxes mostly by being more targeted. Suspect services can be targeted too.

An example was the 10% tanning tax trumpeted in the U.S. It was projected to raise \$2.7 billion over 10 years from America's 20,000 indoor tanning salons. Yet projections may not prove true. All manner of studies are commissioned and debated too. Many are well-intentioned and may be rock-solid. Yet amid the rhetoric it can be hard to identify which are and which are not.

When New York's soda tax or soda ban was being debated, a study [published](#) in *Health Affairs* said experts estimated that a 15% cut in consuming sugared beverages among 25 to 64 year-olds would prevent staggering numbers of deaths and serious illnesses, saving billions in medical costs. It is difficult to pooh-pooh such figures, particularly when the stakes seem so high. Yet money talks in any language.

New York's anti-soda former Mayor [Michael Bloomberg](#) has taken a role in most Big Soda wars. And sometimes even the powerful Mr. Bloomberg fails. His ban on big sodas was ultimately defeated by the State's highest court. Taxes, it turns out, would have been far easier to swallow than a big soda ban.

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