challenged in court and struck down by a judge, who called the regulation arbitrary in that it applied only to certain beverages in certain retail settings. The decision was appealed, but the lower court's decision was upheld.

See also EGG CREAMS; JEWISH; LOFT'S CANDY STORES; PEPSI-COLA; SELTZER; SODA "BAN"; SODA FOUNTAINS; and TEMPERANCE MOVEMENT.

Smith, Andrew F. *Drinking History: Fifteen Turning Points in the Making of American Beverages.* New York: Columbia University Press, 2012.

Stoddard, Bob. *Pepsi: 100 Years.* Los Angeles: General Pub. Group, 1999.

Andrew F. Smith

Soda "Ban"

The title of this article is a pejorative reference to New York City Mayor Michael Bloomberg's proposal in 2012 to restrict the size of sugar-sweetened beverages sold in specific restaurants and stores—those under city jurisdiction—to sixteen ounces or less. City officials called their proposal the Sugary Drink Portion Cap Rule and intended it to apply to drinks containing more than twenty-five sugar calories in eight ounces. Although customers could order as many sixteen-ounce servings as they wished, opponents quickly framed the proposal as a "ban."

The proposed rule logically followed a series of city campaigns aimed at encouraging New Yorkers to reduce consumption of sugary drinks as the first line of defense against obesity. Health Department posters and videos illustrated the amount of sugar in sodas, how soda sugars are converted to fat in the body, the number of miles that must be walked to compensate for soda calories, and the link between large soda portions and amputations resulting from type 2 diabetes. The city also tried—but failed—to obtain permission from the U.S. Department of Agriculture to restrict sales of sodas to participants in the Supplemental Nutrition Assistance Program (formerly food stamps).

City officials were convinced that the health risks associated with excessive soda consumption were well established, and they knew that soda sizes had increased in recent years. Just one sixteen-ounce soda contains the entire amount of sugar—fifty grams or twelve teaspoons—appropriate for an entire day.

Because sugar-sweetened beverages are highly profitable, and larger sizes even more so, the Cap Rule elicited fierce opposition. The soda industry trade group, the American Beverage Association (ABA), mounted a massive public relations campaign to convince New Yorkers that the "ban" was an expression of "nanny-state" politics and an infringement on freedom of choice. The ABA funded an ostensibly grassroots "front" organization to oppose the rule. It paid volunteers to collect signatures on opposing petitions; put signs on delivery trucks ("Don't let bureaucrats tell you what size beverage to buy"); ran advertisements on television, in movie theaters, and on airplane banners; and sent mailings to homes with instructions about how to protest.

The city argued that it had the authority to enact such public health measures if its mayor-appointed Board of Health agreed, which it did in September 2012. The rule was to go into effect six months later, which gave the ABA time to organize a coalition of community organizations to join it in petitioning the state Supreme Court to stop the Cap Rule or declare it unconstitutional. Indeed, the court blocked the rule one day before it was to go into effect, terming it "arbitrary and capricious" because it applied only to places under city jurisdiction (and, therefore,

NYC.gov poster showing the growing volume of beverage containers over time, illustrating the connection between larger soda sizes and type-2 diabetes. This campaign came under criticism when the "amputee" turned out to be Photoshopped from a stock photo. NYC.GOV not to grocery stores, bodegas, or convenience stores, which are under the jurisdiction of the New York State Department of Agriculture and Markets) and set no limits on refills.

The city appealed, but the State Appellate Court confirmed the injunction in July 2013. It ruled that the City Council, not the mayor's Board of Health, had the authority to pass such rules. In June 2014, the State Appeals Court agreed. Thus, what started out as a legal challenge to the Cap Rule ended up as a challenge to the question of whether the city's Board of Health has the authority to pass regulations designed to protect the health of its citizens.

Why had the mayor not gone to the City Council for approval? He knew that the majority of City Council members, who had been lobbied heavily—and sometimes supported—by soda companies, would oppose it. City officials believed that the Board of Health did have the necessary authority and would be an easier route.

Funding by soda companies explains some of the otherwise surprising opposition to the rule. While it is understandable that the National Restaurant Association and the New York State Association of Theater Owners would oppose the rule, it is less obvious why community groups such as the New York State chapter of the National Association for the Advancement of Colored People and the Hispanic Federation did so. Although they argued that the rule was discriminatory, paternalistic, and damaging to minority-owned small businesses, they for years had accepted generous donations from Coca-Cola and PepsiCo.

While the legal challenges were in progress, the city eventually organized an impressive collection of medical, public health, and minority community groups to support the rule, but these efforts came too late to counter public opposition. In retrospect, the rule might have survived challenges more easily if the city had organized widespread public support from the start by linking the measure to broader efforts to serve the health needs of low-income New Yorkers.

Despite this setback, reducing the size of sugary drinks has much traction. Soda sales are declining in the United States, and soda company officials are well aware that serving sizes must be reduced. Soon after the demise of the Cap Rule, the seven-and-one-half-ounce mini-cans became the most important driver of soda sales in North America.

See also BLOOMBERG, MICHAEL and PEPSI-COLA.

Confessore, Nicholas. "Minority Groups and Bottlers Team Up in Battles over Soda." *New York Times*, March 12, 2013.

Nestle, Marion. *Soda Politics: Taking on Big Soda (and Winning)*. New York: Oxford University Press, 2015.

New York City Department of Health and Mental Hygiene. "Sugary Drink Portion Cap Rule: Fact vs. Fiction." http://www.nyc.gov/html/doh/downloads/pdf/cdp/sugary-drink-facts.pdf.

Vartanian, Lenny R., Marlene B. Schwartz, and Kelly D. Brownell. "Effects of Soft Drink Consumption on Nutrition and Health: A Systematic Review and Meta-Analysis." *American Journal of Public Health* 97 (2007): 667–675.

Marion Nestle

Soda Fountains

"Soda fountain" refers to both the mechanism that dispenses soda water and the establishment where it is installed. In the pre–air conditioning and refrigeration age, the cold carbonated water that flowed from these machines was a true wonder. Thousands of soda fountains dotted New York City between the mid-nineteenth and twentieth centuries that quenched the thirsts of drinkers from every social stratum.

Naturally carbonated water has been used as a health tonic since ancient times. European scientists first developed the process of artificially carbonating water in the eighteenth century. Soda water continued to be a popular health drink commonly served in pharmacies. Early fountains were small countertop contraptions connected by tubes to a carbonating machine that was chilled with ice.

One of the first people to popularize soda water beyond its medical usage was Benjamin Silliman, a Yale chemistry professor who was inspired to spread mineral water to the masses after a trip to a Saratoga Springs spa in 1806. He first sold carbonated water to a New Haven apothecary, and then he set his sights on New York City, where in 1809 he opened the Tontine Coffeehouse on Wall Street and installed a fountain at the City Hotel. Both fountains were operated by a manual pump and did not always provide uniform carbonation. One of Silliman's later rivals was John Matthews, who developed and sold a sophisticated fountain in the 1830s that used sulfuric acid and marble chips that he originally