



Committee: HHS
Committee Review: Completed
Staff: Christine Wellons, Legislative Attorney
Purpose: Final action – vote expected
Keywords: #HealthyMeals #HealthyKids

AGENDA ITEM #10A
March 1, 2022
Action

SUBJECT

Bill 1-22, Eating and Drinking Establishments – Healthy Meals for Children

Lead Sponsors: Councilmember Rice

Co-Sponsors: Council President Alborno and Councilmembers Jawando, Navarro, and Hucker

EXPECTED ATTENDEES

N/A

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Roll call vote on whether to enact Expedited Bill 45-21 with amendments, as recommended unanimously by the Health and Human Services (HHS) Committee

DESCRIPTION/ISSUE

Bill 1-22 would:

- (1) require children's meals offered by food service facilities to include certain healthy food and beverage options; and
- (2) generally amend the law regarding eating and drinking establishments.

SUMMARY OF KEY DISCUSSION POINTS:

The HHS Committee voted (3-0) to recommend the enactment of Bill 1-22 with amendments to:

- (1) make the bill effective 1 year after it becomes law;
- (2) permit $\frac{1}{4}$ cup, instead of $\frac{1}{2}$ cup, of unfried fruits or vegetables to qualify as a component of a healthy meal under the bill;
- (3) add the following to the list of default healthy beverages under the bill: sparkling water; and 8 ounces or less, with no added sweeteners, of 100% juice (or a mixture of 100% juice with water or sparkling water).

This report contains:

| | |
|---------------------------------------------------|------------|
| Staff Report | Pages 1-10 |
| Bill 1-22 | © 1 |
| LRR | © 5 |
| Racial Equity and Social Justice Impact Statement | © 6 |
| NAACP Montgomery County Branch Press Release | © 8 |
| Economic Impact Statement | © 10 |
| Fiscal Impact Statement | © 15 |
| Public Testimony | |

| | |
|------------------------------------|------|
| Phil Cronin | © 17 |
| Dr. Yolanda Hancock | © 18 |
| Erika Ventura Castellon | © 19 |
| Ellen Valentino | © 20 |
| Willie Flowers | © 21 |
| Shawn McIntosh | © 22 |
| Sara Ribakove | © 23 |
| Stuart Berlow | © 25 |
| Lynette Tolson Somers | © 28 |
| African American Health Program | © 30 |
| Melvin R. Thompson | © 31 |
| Prince George's County Legislation | © 38 |

F:\LAW\BILLS\2201 Healthy Meals for Kinds\Action Cover Sheet.Docx

Alternative format requests for people with disabilities. If you need assistance accessing this report you may [submit alternative format requests](#) to the ADA Compliance Manager. The ADA Compliance Manager can also be reached at 240-777-6197 (TTY 240-777-6196) or at adacompliance@montgomerycountymd.gov

MEMORANDUM

February 24, 2022

TO: County Council
,
FROM: Christine Wellons, Legislative Attorney
SUBJECT: Bill 1-22, Eating and Drinking Establishments – Healthy Meals for Children
PURPOSE: Action – roll call vote expected

The Health and Human Services (HHS) Committee voted (3-0) to recommend the enactment of Bill 1-22 with amendments.

Bill 1-22, Eating and Drinking Establishments – Healthy Meals for Children sponsored by Lead Sponsor Councilmember Rice with Co-Sponsors Council President Alborno and Councilmembers Jawando, Navarro and Hucker, was introduced on January 11, 2022. A public hearing occurred on February 1, 2022. A Health and Human Services Committee Worksession was held on February 17, 2022.¹

Bill 1-22 would:

- (1) require children's meals offered by food service facilities to include certain healthy food and beverage options; and
- (2) generally amend the law regarding eating and drinking establishments.

BACKGROUND AND PURPOSE

The lead sponsor's office provided the following information regarding the rationale behind Bill 1-22:

- Child obesity rates continue to rise with long-term health and quality of life consequences. The trend is concerning especially during the pandemic as obese children are more at risk of severe illness from a COVID infection.
- Obese children are at least twice as likely as nonobese children to become obese adults.
- Sugar-sweetened beverages or sugary drinks are leading sources of added sugars in the American diet and are associated with an increased risk of type 2 diabetes, heart disease, obesity and other chronic diseases.

¹#HealthyMeals; #HealthyKids

The lead sponsor has provided the following additional background information regarding legislation and programs similar to Bill 1-22:

- Prince George’s County enacted similar kids’ meal & beverage legislation.
- Delaware and Baltimore have passed legislation on healthy default beverages.
- The American Heart Association supports this legislation.
- The National Restaurant Association has launched [Kids Livewell](#) in an industry effort to help promote more healthful eating for children and incorporates similar standards as in Bill 1-22.

BILL DESCRIPTION

Under Bill 1-22, any food service facility that offers for sale a children’s meal would be required to offer at least one “healthy children’s meal” as an option. The “healthy children’s meal” would consist of two or more of the following:

- ½ cup or more of unfried fruit or unfried vegetables, excluding juice, condiments, or spreads;
- a whole grain product that:
 - contains, by weight, 51% or more of whole grain ingredients; or
 - lists whole grain as the first ingredient in its ingredient list required by the U.S. Food and Drug Administration; or
- A lean protein consisting of:
 - one ounce or more of meat, seafood, nuts, seeds, beans, or peas;
 - one egg;
 - ½ cup of nonfat or 1% milk or low-fat yogurt, or 1 ounce of reduced fat cheese; or
 - a plant-based, nondairy alternative that:
 - contains the same amount of protein as, or more protein than, an item under this paragraph; and
 - is fortified with calcium and Vitamin D.

The bill also would require that any food service facility that offers for sale a children’s meal with a beverage must offer as the default beverage one or more of the following options:

- water, with no added natural or artificial sweeteners, flavors or carbonation;
- 8 ounces or less of unflavored nonfat or 1% milk, or a non-dairy equivalent with no added natural or artificial sweeteners; or
- 6 ounces or less of 100% fruit or vegetable juice, or a combination of 100% fruit and vegetable juice, with no added natural or artificial sweeteners.

The bill would preserve consumer choice; it would not prevent a customer from requesting, or a food service facility from selling, a food or beverage that does not qualify as a “healthy children’s meal” or a “default beverage”.

The requirements of the bill would be enforced by the Director of the Department of Health and Human Services. A violation of the requirements would constitute a Class A violation. The Director also would be required to create and disseminate written informational resources and signage that summarizes, in multiple languages including Spanish, the requirements of the bill.

SUMMARY OF THE PUBLIC HEARING

The Council held a public hearing on Bill 1-22 on February 1, 2022. The Council received testimony both for and against the bill. Proponents of the bill noted the following:

- “By establishing specific guidelines for children’s meals and beverages, this policy facilitates the healthy choice being the easy choice and provides healthier options for busy parents like myself to chose from....” (Pediatrician, ©18).
- “In practice, we see and provide nursing care to patients that live with obesity across different age groups. Obesity is a risk for poor health and a cascade of other illnesses... This bill is an example of a way that we can mitigate the potentially damaging effects of obesity that impact children during different development stages....” (National Association of Hispanic Nurses, DC Metro Chapter, ©19).
- “Passing this bill is an important step to help mitigated the negative effects of disease and sickness in African American and other marginalized communities because of unhealthy food options....” (NAACP Maryland State Conference, ©21).
- “The bill will improve health for children by making it easier for kids and their families to make the healthy choice when eating out. The bill could be strengthened by requiring 2 healthy meals on kids’ meal menus....” (Sugar Free Kids Maryland, ©22).
- “Designating particular foods and beverages as children’s menu items or bundling them together as children’s meals are powerful forms of marketing. This marketing helps to establish norms for children, affecting their preferences and lifelong eating patterns....” (Center for Science in the Public Interest, ©23).
- “The American Heart Association supports Bill 1-22, which would be among the most comprehensive healthy kids’ meals policies in the nation, making it easier for parents and kids to make heathy choices, and maintaining Montgomery County as a national leader in the fight to promote health equity, reduce health disparities, and ensure everyone has better access to healthier food and beverages. However, we recommend strengthening the policy to ensure all bundled kids’ meals are healthy, or at minimum at least 2 meals on the menu. Limiting menu options to only one healthy choice may still leave too much junk on kids’ menus.” (American Hearth Ass’n, ©25).
- “Bill 1-22 seeks to provide healthier options for children when they enjoy what are commonly called “kids’ meals” in area restaurants. Whereas a customer may request and receive a sugary beverage, the default option would be the healthier beverages outlined in the ordinance. This is a positive step toward educating young people - and their parents - about the health risks associated with the consumption of high-calorie and nutrient-poor foods, particularly sugar-added beverages.” (American Diabetes Association, ©28).

- “...Blacks experience high incidence rates and poor health outcomes for many common chronic health conditions than whites and other populations. In addition, according to the CDC, children, who do not consume a healthy diet on a regular basis, have a prevalence for higher rates of absenteeism, tardiness and low grades. According to a study published in the Journal of the American Medical Association, ‘67% of calories consumed by children and adolescents in 2018 came from ultra-processed foods (e.g., pizza, fries, deli meats, cakes, etc.), a jump from 61% in 1999’....” (African American Health Program, ©30).

Other speakers made the following points and requested certain amendments:

- “The language in the legislation around default drinks should be amended to allow for sparkling water; 8oz servings of juice; and, a combination of water, fruit and vegetable juice.” (MD-DE-D.C. Beverage Association, ©20).
- The Restaurant Association of Maryland opposes the bill as introduced, and has requested amendments to: (1) extend the implementation period of the bill; (2) strike nutritional criteria under the definition of “healthy children’s meal”; and (3) make certain alterations regarding required beverage and meal options. (©31).
- Also note: several proponents of the bill suggested amendments to require 2 healthy meal options instead of 1, as discussed above.

SUMMARY OF HHS COMMITTEE WORKSESSION

Participating in the worksession were Mr. Beil, Department of Health and Human Services (DHHS); Mr. Thompson, Restaurant Association of Maryland; Mr. Berlow, American Heart Association; Ms. Valentino, MD-DE-DC Beverage Association; Ms. Williams, African American Health Program and NAACP; and Ms. Ribakove, Center for Science in the Public Interest.

The Committee discussed the following issues and adopted several amendments to Bill 1-22, as described below.

1. Whether to Phase-In the Requirements of the Bill Over a Longer Time Period

In the Economic Impact Statement for Bill 1-21, the Office of Legislative Oversight (OLO) noted: “Given the current challenges restaurants face due to omicron, Councilmembers may want to consider whether to phase in the requirements of Bill 1-22 and delay their enforcement in a manner like Prince George’s County’s Healthy Kids’ Meals Policy.” The Restaurant Association of Maryland specifically has asked for a longer phase-in period.

As introduced, Bill 1-21 would provide for a 6-month pre-implementation period. The requirements of the bill would become effective 6 months after the bill becomes law. Prince George’s County, on the other hand, has adopted a longer phase-in period spanning five years. Under the Prince George’s County law, a food service facility must: (1) offer a default healthy drink in years 1-2; (2) offer a healthy side in years 2-3; and (3) offer at least one “Healthy

Children’s Meal” in years 3-4 and thereafter. Enforcement does not begin under the Prince George’s County law until year five.

The Restaurant Association of Maryland has requested that Bill 1-22 have an effective date of January 1, 2023 for default beverages, and a January 1, 2024 effective date for the healthy meal option requirement. The rationale cited by the Association is: “This amendment recognizes and compensates for the operational challenges that most restaurants are still experiencing while trying to navigate the road to recovery from the ongoing COVID pandemic, amid continuing supply chain challenges, rising food/product costs, labor shortages, and challenges associated with the additional restrictions on foodservice disposables that recently took effect in the County.”

After discussion, the Committee adopted (3-0) the following amendment, supported by the Lead Sponsor Councilmember Rice, to make the bill effective one year after it becomes law.

Amend line 67 as follows.

Sec. 2. Effective Date. This Act must take effect ~~[[6 months]]~~ 1 year after it becomes law.

2. Whether to Require At Least Two Healthy Meals Instead of One

Two organizations, the American Heart Association and Sugar Free Kids Maryland, have requested that the bill be strengthened to require food service establishments to offer at least two healthy meal options, instead of one.

Adding two healthy meals would increase nutritious options for families. On the other hand, requiring two healthy meals would increase the economic impact upon food service facilities. Prince George’s County, in its comparable legislation, requires only one healthy meal.

After discussion, the Committee declined to amend the bill to increase the healthy food requirement from one to two meals.

3. Whether to Alter Specific Healthy Meal Options

Under the bill as introduced, a “healthy children’s meal” must meet certain nutritional standards, and it must include two or more specific options. In terms of nutritional requirements, the healthy children’s meal must contain no more than:

- (1) 600 calories;
- (2) 700 milligrams of sodium;
- (3) 35% of calories from total sugars;
- (4) 35% of calories from fat;

- (5) 10% of calories from saturated fat; and
- (6) 0.5 grams of trans fat.

In addition, the healthy children's meal provided by the restaurant must include two or more of the following options:

- (1) $\frac{1}{2}$ cup or more of unfried fruit or unfried vegetables, excluding juice, condiments, or spreads;
- (2) a whole grain product that:
 - (A) contains, by weight, 51% or more of whole grain ingredients; or
 - (B) lists whole grain as the first ingredient in its ingredient list required by the U.S. Food and Drug Administration; or
- (3) A lean protein consisting of:
 - (A) one ounce or more of meat, seafood, nuts, seeds, beans, or peas;
 - (B) one egg;
 - (C) $\frac{1}{2}$ cup of nonfat or 1% milk or low-fat yogurt, or 1 ounce of reduced fat cheese; or
 - (D) a plant-based, nondairy alternative that:
 - (i) contains the same amount of protein as, or more protein than, an item under this paragraph; and
 - (ii) is fortified with calcium and Vitamin D.

The Restaurant Association of Maryland has requested that the nutritional requirement of the meal (*i.e.*, the limitations on calories, fat, sodium, and sugars) be deleted from the bill. The reasoning for the deletion would be that small independent restaurants do not have the resources to accurately determine nutritional values, and that existing federal and County law require the disclosure of nutritional values only for chain restaurants with 20 or more locations.

In addition, the Restaurant Association has asked – with regard to the healthy meal options – that $\frac{1}{4}$ cup of unfried fruit or vegetables be substituted for $\frac{1}{2}$ cup, and that 100% fruit juice be permitted as one of the meal options. The Association has explained that – (1) restaurants often use prepackaged fruit or vegetable servings, which generally consist of less than $\frac{1}{2}$ cup; and (2) “[t]he USDA’s school meals program and Dietary Guidelines for Americans count 100% fruit juice as a fruit serving.”

Council staff notes that in Prince George's County, nutritional requirements for healthy children's meals apply to all food service facilities, not just chain restaurants. In addition, Prince George's County uses a standard of ½ cup of unfried fruits or vegetables, excluding juice.

Lead Sponsor Councilmember Rice explained he does not support deleting the nutritional requirements or allowing juice as a meal option. However, in recognition of the fact that prepackaged servings are sometimes less than ½ cup, Councilmember Rice supported changing the requirement of at least ½ cup of unfried fruit or vegetables to ¼ cup.

After discussion, the Committee recommended (3-0) the following amendment.

Amend lines 29-32 as follows.

(c) Healthy children's meals – options. The healthy children's meal required under subsection (b) must include two or more of the following options:

(1) ~~[[½]] ¼ cup or more of unfried fruit or unfried vegetables, excluding juice, condiments, or spreads;~~

* * *

4. Whether to Alter Default Beverage Requirements

Under Bill 1-22, the default beverage for a healthy children's meal would be –

- (1) water, with no added natural or artificial sweeteners, flavors or carbonation;
- (2) 8 ounces or less of unflavored nonfat or 1% milk, or a non-dairy equivalent with no added natural or artificial sweeteners; or
- (3) 6 ounces or less of 100% fruit or vegetable juice, or a combination of 100% fruit and vegetable juice, with no added natural or artificial sweeteners.

Prince George's County has a similar default beverage requirement. However, there are some differences in that Prince George's County: (1) permits sparkling water and flavored water; (2) limits the fruit or vegetable juice option to 8 ounces, instead of 6; (3) permits flavored milk; and (4) allows for fruit or vegetable juice mixed with water or carbonated water, as long as there are no added sweeteners. The Restaurant Association has requested that the default beverage requirements under Bill 1-22 be amended to align with the requirements in Prince George's County.

The Lead Sponsor, Councilmember Rice, supported allowing juice options of up to 8 ounces, as opposed to 6 ounces, to provide additional flexibility. He also supported allowing carbonated water in addition to plain water and allowing 100% fruit juice mixed with water or

sparkling water. However, Councilmember Rice opposed permitting flavored milk as a default beverage, considering the high sugar content of the flavorings.

The Committee (3-0) agreed with the Lead Sponsor's suggestions and adopted the following amendment.

Amend lines 48-57 as follows.

- (d) Children's beverages – healthy default beverage required. A food service facility that offers for sale a children's meal with a beverage must include as the default beverage one or more of the following options:
- (1) water or sparkling water, with no added natural or artificial sweeteners[[, flavors or carbonation]];
 - (2) 8 ounces or less of unflavored nonfat or 1% milk, or a non-dairy equivalent with no added natural or artificial sweeteners; or
 - (3) [[6]] 8 ounces or less of the following, with no added natural or artificial sweeteners:
 - (A) 100% fruit or vegetable juice[[, or]];
 - (B) a combination of 100% fruit and vegetable juice [[with no added natural or artificial sweeteners,]]; or
 - (C) a combination of 100% fruit or vegetable juice with water or sparkling water.

5. Education and Enforcement

Bill 1-22 would require the Department of Health and Human Services (DHHS) to create and disseminate written educational materials, including signage, regarding the bill's requirements. The materials would have to be provided in multiple languages, including Spanish. DHHS discussed that it will have sufficient time to implement the educational outreach requirement. The healthy meal requirements will be incorporated into the DHHS inspection process, and is not anticipated to have a fiscal impact on the County.

Next Step: Council action on whether to enact Bill 1-22 with amendments, as recommended by the HHS Committee.

| This packet contains: | <u>Circle #</u> |
|---------------------------------------------------|-----------------|
| Bill 1-22 | 1 |
| LRR | 5 |
| Racial Equity and Social Justice Impact Statement | 6 |
| NAACP Montgomery County Branch Press Release | 8 |
| Economic Impact Statement | 10 |
| Fiscal Impact Statement | 15 |
| Public Testimony | |
| Phil Cronin | 17 |
| Dr. Yolanda Hancock | 18 |
| Erika Ventura Castellon | 19 |
| Ellen Valentino | 20 |
| Willie Flowers | 21 |
| Shawn McIntosh | 22 |
| Sara Ribakove | 23 |
| Stuart Berlow | 25 |
| Lynette Tolson Somers | 28 |
| African American Health Program | 30 |
| Melvin R. Thompson | 31 |
| Prince George's County Legislation | 38 |

Bill No. 1-22
Concerning: Eating and Drinking
Establishments - Healthy Meals for
Children
Revised: 2/22/2022 Draft No. 5
Introduced: _____
Expires: _____
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Rice
Co-Sponsors: Council President Albonoz and Councilmembers Jawando, Navarro, and Hucker

AN ACT to:

- (1) require children's meals offered by food service facilities to include certain healthy food and beverage options; and
- (2) generally amend the law regarding eating and drinking establishments.

By adding

Montgomery County Code
Chapter 15, Eating and Drinking Establishments
Section 15-15C

| | |
|------------------------------|------------------------------------------------------------|
| Boldface | <i>Heading or defined term.</i> |
| <u>Underlining</u> | <i>Added to existing law by original bill.</i> |
| [Single boldface brackets] | <i>Deleted from existing law by original bill.</i> |
| <u>Double underlining</u> | <i>Added by amendment.</i> |
| [[Double boldface brackets]] | <i>Deleted from existing law or the bill by amendment.</i> |
| * * * | <i>Existing law unaffected by bill.</i> |

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec 1. Section 15-15C is added as follows:**

2 **Sec. 15-15C. Healthy Meals for Children.**

3 (a) Definitions. In this Section, the following terms have the meanings

4 indicated.

5 Children's meal means a combination of food items, or a combination of

6 food items and a beverage, that a food service facility:

7 (1) offers for sale as a unit; and

8 (2) includes on its children's menu, or otherwise offers for

9 consumption primarily by children.

10 Children's meal does not include a combination of food items, or a

11 combination of food items and a beverage, prepackaged and offered for

12 sale by an entity other than a food service facility.

13 Default beverage means a beverage that a food service facility provides

14 automatically with a children's meal, unless the customer requests a

15 different beverage.

16 Healthy children's meal means a children's meal that contains no more

17 than:

18 (1) 600 calories;

19 (2) 700 milligrams of sodium;

20 (3) 35% of calories from total sugars;

21 (4) 35% of calories from fat;

22 (5) 10% of calories from saturated fat; and

23 (6) 0.5 grams of trans fat.

24 Lean protein means a serving of protein that contains 10% or less in

25 saturated fat.

(b) Children's meals – healthy option required. A food service facility that offers for sale a children's meal must offer for sale at least one healthy children's meal.

(c) Healthy children's meals – options. The healthy children's meal required under subsection (b) must include two or more of the following options:

(1) [[1/2]] 1/4 cup or more of unfried fruit or unfried vegetables, excluding juice, condiments, or spreads;

(2) a whole grain product that:

(A) contains, by weight, 51% or more of whole grain ingredients; or

(B) lists whole grain as the first ingredient in its ingredient list required by the U.S. Food and Drug Administration; or

(3) A lean protein consisting of:

(A) one ounce or more of meat, seafood, nuts, seeds, beans, or peas;

(B) one egg;

(C) 1/2 cup of nonfat or 1% milk or low-fat yogurt, or 1 ounce of reduced fat cheese; or

(D) a plant-based, nondairy alternative that:

(i) contains the same amount of protein as, or more protein than, an item under this paragraph; and

(ii) is fortified with calcium and Vitamin D.

(d) Children's beverages – healthy default beverage required. A food service facility that offers for sale a children's meal with a beverage must include as the default beverage one or more of the following options:

(1) water or sparkling water, with no added natural or artificial sweeteners[[, flavors or carbonation]];

(2) 8 ounces or less of unflavored nonfat or 1% milk, or a non-dairy equivalent with no added natural or artificial sweeteners; or

(3) [[6]] 8 ounces or less of the following, with no added natural or artificial sweeteners:

(A) 100% fruit or vegetable juice[[, or]];

(B) a combination of 100% fruit and vegetable juice [[with no added natural or artificial sweeteners,]]; or

(C) a combination of 100% fruit or vegetable juice with water or sparkling water.

(e) *Preservation of consumer choice.* This Section must not be construed to prohibit a customer from purchasing, or a food service facility from selling, a children's meal that:

(1) is not a healthy children's meal; or

(2) does not contain the foods or beverages listed under subsections (c) and (d).

(f) *Educational outreach.* The Director must create and disseminate written informational resources and signage that summarizes, in multiple languages including Spanish, the requirements of this Section.

Sec. 2. Effective Date. This Act must take effect [[6 months]] 1 year after it becomes law.

LEGISLATIVE REQUEST REPORT

Bill 1-22

Eating and Drinking Establishments – Healthy Meals for Kids

| | |
|-------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| DESCRIPTION: | Bill 1-22 would require children's meals offered by food services facilities to include healthy food and beverage options and would create criteria to define the healthy options. |
| PROBLEM: | |
| GOALS AND OBJECTIVES: | To improve access to healthy meals for children at food services facilities |
| COORDINATION: | |
| FISCAL IMPACT: | Office of Management and Budget |
| ECONOMIC IMPACT: | Office of Legislative Oversight |
| RESJ IMPACT STATEMENT: | Office of Legislative Oversight |
| EVALUATION: | To be done. |
| EXPERIENCE ELSEWHERE: | To be researched. |
| SOURCE OF INFORMATION: | Christine Wellons, Legislative Attorney |
| APPLICATION WITHIN MUNICIPALITIES: | Required for businesses within the County |
| PENALTIES: | Class A violation |

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

BILL 1-22: EATING AND DRINKING ESTABLISHMENTS — HEALTHY MEALS FOR CHILDREN

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that Bill 1-22 will have little to no impact on racial equity or social justice in the County as its potential public health benefits for reducing health disparities will likely be offset by its disparate impact on people of color-owned businesses concentrated in the food industry.

PURPOSE OF RESJ IMPACT STATEMENTS

The purpose of racial equity and social justice (RESJ) impact statements is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.¹ Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.²

PURPOSE OF BILL 1-22

The purpose of Bill 1-22 is to require food service facilities in the County to offer healthy food and beverage options for children to improve public health by reducing childhood and adult obesity rates.³ Any food service facility that offers children's meals for sale would also have to offer a "healthy children's meal" that includes a half a cup or more of an unfried fruit or vegetable, a whole grain product, and lean protein and default beverage of water, milk (dairy or plant-based) or fruit or vegetable juice.⁴ The Department of Health and Human Services will enforce compliance with the bill and publicize it in multiple languages, including Spanish.⁵ Bill 1-22 was introduced to the Council on January 11, 2022.⁶

ANTICIPATED RESJ IMPACTS

OLO does not anticipate that Bill 1-22 will impact RESJ in the County as the benefit of narrowing racial and ethnic disparities in obesity rates could likely be offset by increasing costs among businesses of color concentrated in the food industry. More specifically, available data suggests that children of color could disproportionately benefit from healthy children's meals because they experience higher rates of obesity. According to the 2018 Youth Risk Behavior Survey:⁷

- 19 percent of White middle school students in the County considered themselves slightly or very overweight compared to 27 percent of Black and 31 percent of Latinx students;
- 19 percent of White high school students in the County also considered themselves slightly or very overweight compared to 24 percent of Black and 35 percent of Latinx students; and
- 4 percent of White high school students in the County were obese compared to 11 percent of Black and 15 percent of Latinx students.

RESJ Impact Statement

Bill 1-22

If eating out fosters higher obesity rates among Black and Latinx children, increasing the availability of healthy meal options could narrow the obesity gap by race and ethnicity. Yet, available data also suggests that a healthy meal mandate could disproportionately harm minority businesses because they are concentrated in the food sector.

- Nationally, the top minority-owned industry with paid employees was the accommodations and food services industry. Accommodations and food sector businesses accounted for 18 percent of minority business enterprises (MBE's) compared to 7 percent of White-owned businesses in 2012.⁸
- In 2012 and 2017, 13 percent of Latinx-owned businesses and 24 percent of Asian-owned businesses were in the accommodations and food service sector.⁹
- Accommodations and food service businesses also accounted for the largest MBE sector in Maryland, comprising 4,012 businesses in 2012.¹⁰

Increasing the cost of local minority-owned businesses could widen existing racial disparities in entrepreneurship: People of color-owned 43 percent of businesses in Montgomery County in 2012 but their businesses accounted for less than four percent of total business revenue.¹¹ As such, OLO anticipates that the potential public health benefits of Bill 1-22 in narrowing health disparities by race and ethnicity would be offset by the higher cost of implementing the bill among people of color-owned businesses concentrated in the food sector. In turn, OLO anticipates Bill 1-22 will have little to no net impact on racial equity and social justice in the County.

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging, analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

OLO staffer Elaine Bonner-Tompkins, Senior Legislative Analyst, drafted this RESJ impact statement.

¹ Definition of racial equity and social justice adopted from "Applying a Racial Equity Lens into Federal Nutrition Programs" by

² Ibid

³ Montgomery County Council, Bill 1-22, Eating and Drinking Establishments – Healthy Meals for Children, Introduced January 11, 2022

⁴ Ibid

⁵ Ibid

⁶ Ibid

⁷ Summary Tables, 2018 Youth Risk Behavior Survey Results, Maryland High School and Middle School Surveys, Montgomery County

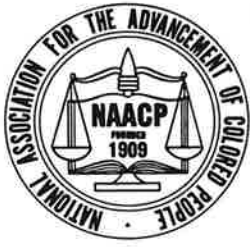
⁸ The Contribution of Minority Business Enterprises to the U.S. Economy, Office of Policy Analysis and Development, Minority Development Agency, U.S. Department of Commerce

⁹ Ibid and Annual Business Survey Release Provides Data on Minority- and Women-Owned Businesses, U.S. Census Bureau, May 19, 2020

¹⁰ Ibid

¹¹ Jupiter Independent Research Group, Racial Equity Profile, Office of Legislative Oversight Report 2019-7, July 15, 2019

**NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE
MONTGOMERY COUNTY, MARYLAND BRANCH**



P.O. BOX 2165
ROCKVILLE, MARYLAND 20847-2165

January 24, 2022
For Immediate Release

My name is Linda M. Plummer and I am president of the Montgomery County NAACP. I am submitting this statement in support of Council Bill 1-22 on behalf of the Montgomery County Branch of the NAACP.

Under Bill 1-22, any food service facility that offers a children's meal for sale would be required to offer at least one "healthy children's meal" as an option. The bill would not prevent a customer from requesting, or a food service facility from selling, a food or beverage that does not qualify as a "healthy children's meal." In short, this bill does not prevent restaurants from serving other meals to children. This bill only requires restaurants to provide the kind of information that allows parents to make the best healthy choices for their children.

Some people may claim that there is no need for this kind of information. But we know that almost 14 million children — 24 percent of the U.S. population ages 2 to 17 — are obese. An additional 8.6 million children are at risk for obesity. Obese children often remain obese in adulthood. And while we should never shame anyone for their choices, we should acknowledge that obesity is a risk factor for four of the 10 leading causes of death in the U.S. — coronary heart disease, type II diabetes, stroke, and cancer.

According to the Robert Wood Johnson Foundation, almost 18% of children in Maryland between the ages of 10 and 17 are obese. That means that Maryland has the tenth highest childhood obesity rate in the nation.

I am happy to note that Montgomery County fares better than the rest of Maryland. We have an 8.6% obesity rate for high school students. While Montgomery County rates are better than the rest of the state, we must acknowledge that Black and Brown students have a higher rate of obesity than their White and Asian counterparts. In Montgomery County, Latinos have the highest rate of obesity, at 15.3%, followed by Black Americans at 10.9%.

The important job of teaching healthy eating habits to children must be a responsibility we all share. Our children receive messages about healthy eating in school and at home. We know that messages must be consistent and reinforced. We know that unhealthy eating habits can lead to a lifetime of health concerns that drive and reinforce the health disparities in this county. And for those of us who have family members who have coronary heart disease, type II diabetes, stroke,

and cancer, we know the suffering that these conditions cause. This bill would merely join with the efforts this county currently takes to decrease those health conditions that rob so many of our residents of the kind of healthy lives they deserve.

This bill does not seek to impose a mandate on restaurants or commercial food establishments. It simply seeks a menu option to help parents pick the best alternative for their children. This bill simply asks restaurants to be a part of a community that cares about the health and well-being of its children.

It takes a village to raise healthy children. And our village must include each of us—the government and the private sector. We must work together to assure that our children have the healthy options they deserve. We must assure that parents have the information they need to select healthy options.

Thank you for the opportunity to testify. The Montgomery County NAACP stands ready to work with you to assure the passage of this measure.

Contact information:

1-888-649-5991
Naacpmont7@aol.com

Economic Impact Statement

Office of Legislative Oversight

Bill 1-22

Eating and Drinking Establishments – Healthy Meals for Children

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that enacting Bill 1-22 would have a negative impact on economic conditions in the County. By requiring food service facilities that offer children’s meals to include certain healthy food and beverage options, the change in law likely would increase net operating costs for certain businesses, with the potential to decrease business income. Moreover, OLO expects certain food service facilities to pass on a portion of the cost of implementing the health children’s meals regulation to customers, thereby potentially increasing household expenses for customers. Finally, the Bill could weaken the competitiveness of the food service sector in the County by establishing a regulation that would take full effect in six months after becoming law, whereas Prince George’s County is phasing in a similar policy over four years.

BACKGROUND

Bill Description

The goal of Bill 1-22 is “[t]o improve access to healthy meals for children at food service facilities,” with the ultimate aim of reducing childhood obesity in the County.¹ The Bill would attempt to achieve these goals by requiring “children’s meals offered by food service facilities to include certain healthy food and beverage options.”² The Bill would also require the Director of the Department of Health and Human Services to create and disseminate written informational resources and signage in multiple languages that summarizes the Bill’s requirements. If enacted, the requirements would take effect six months after they become law.³ Any violations of the requirements would constitute a Class A Violation.⁴

Primary Economic Stakeholders

The Bill would affect certain food service facilities, defined in the Code of Montgomery County Regulations (COMCOR) as “[a]ny enterprise that prepares, serves, or sells food or drink for human consumption, on or off the premises, with or without charge.”⁵ Exempt from the Bill’s requirements would be food service facilities that do not offer children’s meals

¹ Legislative Request Report, Bill 1-22; and Wellons to County Council, Memorandum, January 6, 2022.

² Bill 1-22.

³ Ibid.

⁴ Class A Violations carry a maximum criminal penalty of a \$1000 fine and 6-month jail term, and a maximum civil penalty of \$500 for an initial offense and \$750 for a repeat offense. Montgomery County Code, Sec. 1-19.

⁵ According to COMCOR, 15.00.01, “A food service facility includes the following types of facilities: 1. a restaurant, coffee shop, cafeteria, short order cafe, luncheonette, tavern, sandwich stand, soda fountain, retail market, or retail bakery outlet; or 2. a food operation in an industry, institution, hospital, club, school, camp, church, catering kitchen, commissary, or a similar place in which

Economic Impact Statement

Office of Legislative Oversight

and those that offer only prepackaged children's meals. Thus, the primary economic stakeholders of the change in law would be:

- **food service facilities** that currently provide prepared children's meals which do not meet the requirements of "healthy children's meals," as well as facilities in the future that otherwise would provide such children's meals in the absence of the change in law; and
- **customers** of these facilities.

INFORMATION SOURCES, METHODOLOGIES, AND ASSUMPTIONS

Per Section 2-81B of the Montgomery County Code, the purpose of this Economic Impact Statement is to assess Bill 1-22's impacts on County-based private organizations and residents in terms of the Council's priority economic indicators.⁶ In subsequent sections of this statement, OLO focuses on the Bill's potential impacts on operating costs, household and business incomes, and competitiveness of the primary economic stakeholders previously identified. Excluded from this analysis are the Bill's potential impacts on demand for food service facilities, food distributors and other economic stakeholders, whether the change in law would mitigate the long-term economic impacts of obesity, and other factors.⁷

To assess Bill 1-22's impacts on the Council's priority indicators focused on here, OLO performs a qualitative assessment based on correspondence with an owner of local restaurant and a representative of the restaurant industry, as well as a brief comparison between the Bill and Prince George's Healthy Kids' Meals Policy. Note that OLO reached out to other industry stakeholders but did not hear back from them.

VARIABLES

The primary variables that would affect the economic impacts of enacting Bill 1-22 are the following:

- total net increase in food and beverage costs to food service facilities;
- total net increase in labor costs;
- total net cost of software and consultation support to comply with healthy children's menu requirements; and
- percentage of costs passed onto customers.

food or drink is prepared for sale or for service on or off the premises. A food service facility does not include: 1. a kitchen in a private home where food is prepared at no charge for residents or guests in the home, for guests at a private social gathering or for members of a nonprofit organization, but not served to the public; or 2. a facility that is owned or operated by and inspected by the Federal government."

⁶ Montgomery County Code, [Sec. 2-81B](#).

⁷ For more on the negative economic externalities from obesity, see Hammond and Levine, "The Economic Impact of Obesity in the United States."

Economic Impact Statement

Office of Legislative Oversight

IMPACTS

WORKFORCE ■ TAXATION POLICY ■ PROPERTY VALUES ■ INCOMES ■ OPERATING COSTS ■ PRIVATE SECTOR CAPITAL INVESTMENT ■ ECONOMIC DEVELOPMENT ■ COMPETITIVENESS

Businesses, Non-Profits, Other Private Organizations

OLO anticipates that enacting Bill 1-22 would have negative impacts on certain private organizations in the County in terms of operating costs and potentially other priority indicators of the Council.

OLO expects the Bill to increase net operating costs for some food service facilities that currently provide prepared children's meals which do not meet the requirements of healthy children's meals. Certain facilities likely would incur costs from purchasing additional food and beverage items from distributors, increasing labor costs associated with apportioning foods (e.g., one ounce or more of meat), and purchasing software and/or hiring nutrition consultants to help calculate the nutrient values. Holding all else, net increases in operating costs would reduce net business income.

However, certain facilities may attempt to mitigate increased operating costs by passing them down to customers, reducing their inventories of food and beverage items that would not qualify as "healthy children's meals," and/or removing altogether children's meals from their menus. Ultimately, OLO anticipates that there would be variation in terms of the Bill's net impact on individual food service facilities' operating costs and business incomes.

Even if the impacts on net operating costs of food service facilities are not significant, the Bill could also weaken the competitiveness of the food service sector in the County by adding another regulation that the food service industry needs to comply with. As of November 2021, Prince George's County was the only state or local jurisdiction in the Washington DC Metropolitan area to have enacted a restaurant children's meals policy (Council Bill 071-2020).⁸ According to the Center for Science in the Public Interest's description of the Bill,

"The legislation follows a tiered approach. In years 1-2 and thereafter healthy default beverages (water, nonfat or 1% milk, 100% juice) are required. In years 2-3 and thereafter a healthy default side...is required. In years 3-4 and thereafter at least one kids' meal on the menu will meet expert nutrition standards."

Enforcement of the legislation will not begin until year five. In comparison, all requirements of Bill 1-22 would take effect six months after it becomes law. Enacting the Bill may decrease the competitiveness of the County as a place for entrepreneurs to open new food service facilities.

Beyond these potential impacts, OLO does not expect the Bill to affect food service facilities, nor other private organizations, in terms of the Council's other priority indicators.

⁸ Center for Science in the Public Interest, State and Local Restaurant Kids' Meals Policies.

Economic Impact Statement

Office of Legislative Oversight

Residents

OLO anticipates that enacting Bill 1-22 would have negative impacts on certain residents in the County in terms of income. As previously stated, certain food service facilities may pass on the costs of implementing the healthy children's meal policy in the form of higher prices. Moreover, it is worth noting that if certain food service facilities remove children's meals from their menus, some customers may pay more from ordering adult-sized meals for their children. Holding all else, affected customers would experience a net household income loss.

Beyond this potential impact, OLO does not expect the Bill to affect residents in terms of the Council's other priority indicators.

DISCUSSION ITEMS

Given the current challenges restaurants face due to omicron,⁹ Councilmembers may want to consider whether to phase in the requirements of Bill 1-22 and delay their enforcement in a manner like Prince George's County's Healthy Kids' Meals Policy.

WORKS CITED

Center for Science in the Public Interest. [State and Local Restaurant Kids' Meals Policies](#). November 2021.

COMCOR. [15.00.01 Food Service Facilities](#).

Diaz, Alicia. "[Omicron Is Threatening the Survival of U.S. Restaurants](#)." Bloomberg. January 14, 2022.

Hammond, Ross A. and Ruth Levine. "[The Economic Impact of Obesity in the United States](#)." Diabetes, Metabolic Syndrome and Obesity: Targets and Therapy (2010).

Montgomery County Code. [Sec. 1-19, Fines and Penalties](#).

Montgomery County Code. [Sec. 2-81B, Economic Impact Statements](#).

Montgomery County Council. [Bill 1-22, Eating and Drinking Establishments – Healthy Meals for Children](#). Introduced on January 11, 2022.

Wellons, Christine to County Council. [Memorandum](#). Bill 1-22, Eating and Drinking Establishments – Healthy Meals for Children. January 6, 2022.

⁹ Alicia Diaz, "Omicron Is Threatening the Survival of U.S. Restaurants."

Economic Impact Statement

Office of Legislative Oversight

CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the Bill under consideration

CONTRIBUTIONS

Stephen Roblin (OLO) prepared this report.

Fiscal Impact Statement
Bill 1-22 Eating and Drinking Establishments- Healthy
Meals for Children

1. Legislative Summary.

Bill 1-22 requires any food service facility that serves meals to children, including a healthy children's meal option, and establishes criteria the meal must meet along with beverages offered to children.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Include source of information, assumptions, and methodologies used.

Bill 1-22 is not expected to impact County revenues or expenditures.

3. Revenue and expenditure estimates covering at least the next six fiscal years.

Bill 1-22 is not expected to impact County revenues or expenditures over the six-year period.

4. An actuarial analysis through the entire amortization period for each Bill that would affect retiree pension or group insurance costs.

Bill 1-22 is not expected to impact retiree pension or group insurance costs.

5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

Bill 1-22 is not expected to impact the County's IT or ERP systems.

6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

This Bill does not authorize future spending.

7. An estimate of the staff time needed to implement the bill.

The Bill requires the Director of the Department of Health and Human Services to create and disseminate written informational resources and signage that summarizes, in multiple languages including Spanish, the requirements of the Bill. It is estimated to take staff 40 hours to research, create, and translate informational resources and signage. Identification and dissemination of those food service facilities affected may add approximately three minutes to each inspection.

8. An explanation of how the addition of new staff responsibilities would affect other duties.

Initial additional responsibility to check for children's meals along with education may add approximately three minutes to each inspection and will result in fewer mandated inspections completed, however, the Department of Health and Human Services estimates that these changes will not increase staff responsibilities once fully implemented.

9. An estimate of costs when an additional appropriation is needed.

See the response to Question 2.

10. A description of any variable that could affect revenue and cost estimates.

The Department of Health and Human Services would be impacted by enactment of this Bill if it resulted in complaint-based investigation of violations.

11. Ranges of revenue or expenditures that are uncertain or difficult to project.

See the response to Question 10.

12. If a Bill is likely to have no fiscal impact, why that is the case.

The impact is minimal to create and disseminate written informational resources, as well as identify the food service facilities affected.

13. Other fiscal impacts or comments.

Not applicable.

14. The following contributed to and concurred with this analysis:

- Jason Rundell, Department of Health and Human Services
- Clark Beil, Sr., Department of Health and Human Services
- Kenneth Welch, Department of Health and Human Services
- James Bridgers Jr., Ph.D. MBA, Department of Health and Human Services
- Lindsay Lucas, Office of Management and Budget



Jennifer R. Bryant, Director
Office of Management and Budget

2/09/22

Date



**Testimony regarding Bill 1-22, Eating and Drinking Establishments – Healthy Meals for Children
February 1, 2022**

As the Council considers legislation establishing nutrition and beverage standards in children's meals, McDonald's is pleased to share its own work to help increase families' access to balanced options, particularly as it relates to our iconic Happy Meal. Starting in 2012, we automatically included Apple Slices in every Happy Meal and since then, we've continued to evolve the available menu items (see below). As a result of these changes, McDonald's USA Happy Meal offerings meet nearly all criteria established by Bill 1-22. We look forward to working with the Council to craft a workable and effective children's meals policy for Montgomery County.

In 2013, McDonald's joined forces with the Alliance for a Healthier Generation on a set of commitments to help increase families' access to fruit, vegetables, low-fat dairy and water in 20 major markets by the end of 2020. The Alliance for a Healthier Generation works to reduce the prevalence of childhood obesity and to empower kids to develop lifelong, balanced habits. In 2019, we announced that a majority of the 20 major markets met the commitments, including the US. The first of those commitments was to feature only water, milk and juice on Happy Meal menu boards and in ads directed to children. As such, soda was removed from the Happy Meal section of U.S. menu boards in 2013.

In 2016, McDonald's USA announced its popular Chicken McNuggets, and a Happy Meal entrée choice, contained no artificial preservatives. McDonald's USA's Chicken McNuggets contain, no artificial flavors, no added colors from artificial sources and are made with white meat chicken.

In December 2017, McDonald's USA completed the transition to Honest Kids® Appley Ever After® organic juice drink, which has less calories and half the total sugar than the prior 100% apple juice served in the U.S. This apple juice drink consists of 100% juice and water (diluted) and other ingredients.

In February 2018, McDonald's announced five *new* Global Happy Meal Goals with the Alliance for a Healthier Generation, including a goal establishing Global Happy Meal Nutrition Criteria.

In September 2018, McDonald's USA announced its seven classic burgers, including the hamburger—an entrée option in the Happy Meal, have no artificial preservatives, no artificial flavors and no added colors from artificial sources. The pickle contains an artificial preservative, and customers are able to skip it if they prefer.

In the Fall of 2018, bottled water was added to U.S. Happy Meal menu boards as a beverage option.

As of March 2020, a reformulated Reduced Sugar* Low Fat Chocolate Milks is available in restaurants and with Happy Meals. (*14g of sugar vs. avg. 22g at leading Quick Service Restaurants). McDonald's USA also offers a 1% low fat milk jug.

Contact: Phil Cronin, Government Relations Manager at philip.cronin@us.mcd.com or 410.949.7418

Testimony to Support Bill 1-22

I am Dr. Yolandra Hancock, a pediatrician, a public health advocate, and most importantly, a mother. I want to thank Councilmember Rice for his dedication to the children of Montgomery County by sponsoring this critical piece of legislation. As we have navigated through this pandemic, our children have paid the ultimate price. Over ten million have acquired COVID-19, nearly 36,000 have been hospitalized, and 807 children that we know of have lost their lives. For those either hospitalized or dying from COVID, a study in the journal Pediatrics demonstrated that leading chronic diseases associated with severity of COVID infections included obesity, diabetes, and cardiovascular disease, with children of color disproportionately impacted by both COVID and chronic diseases where they make up over 50% of COVID-19 hospitalizations and over 60% of COVID-19 related deaths. Clearly, something must be done. When the risk of getting severely ill from and/or dying from COVID is intricately tied to diet-related diseases, now is the time to take swift action. Passing Bill 1-22 does just that. By establishing specific guidelines for children's meals and beverages, this policy facilitates the healthy choice being the easy choice and provides healthier options for busy parents like myself to choose from. According to the CDC, over 33% of our children eat fast food on a given day. As a pediatrician, I would love this number to be lower but, as a working mother, I fully understand the demands on families' time and the necessary convenience of eating out. It is our collective responsibility, as parents, policy makers, and community members, inclusive of small and large food establishments, to create the healthiest environment possible so that each of our children can reach their full health potential as we come out of this pandemic. It will be argued that this legislation puts additional burden on food establishments recovering from the pandemic. I would counter by asking, what price is too much to protect our children's health as they recover? Please vote in favor of Bill 1-22. Thank you.

References:

1. <https://www.cdc.gov/nchs/data/databriefs/db375-h.pdf>
2. <https://publications.aap.org/pediatrics/article/149/1/e2021053418/183463/Risk-Factors-for-Severe-COVID-19-in-Children?searchresult=1>
3. <https://www.aap.org/en/pages/2019-novel-coronavirus-covid-19-infections/children-and-covid-19-state-level-data-report/>
4. <https://publications.aap.org/pediatrics/article/148/5/e2021052273/181338/Deaths-in-Children-and-Adolescents-Associated-With?searchresult=1>



February 1, 2022

Dear Montgomery County Council,

We write to you as one of the leading organizations that represent Hispanic nurses known as the National Association of Hispanic Nurses, DC Metro Chapter. As nurses, we work diligently to provide care for our community members in different settings. Nurses often times provide care to patients and families during vulnerable states. In practice, we see and provide nursing care to patients that live with obesity across different age groups. Obesity is a risk for poor health and a cascade of other illnesses. However, we understand the value of prevention and preventative care in our healthcare system. This bill is an example of a way that we can mitigate the potentially damaging effects of obesity that impact children during different development stages. According to the CDC in 2018, rates of obesity were as follows according to the different age categories:

- 13.4% among 2 to 5 years old
- 20.3% among 6 to 11 years old
- 21.2% among 12 to 19 years old

We cannot ignore the prevalence of obesity nor its detrimental effects in our children and community. Children who have obesity more likely to have other conditions such as: high blood pressure, high cholesterol, diabetes, liver disease, sleep apnea, asthma, anxiety, and depression—to name a few (CDC, 2021).

Therefore, we believe that this bill in Montgomery County is a feasible approach to ensure that when families eat out, there is a healthy option available for children that contains a food item from each of the food groups (fruits, grains, vegetables, protein, and dairy). In nursing practice, we respect our patients' autonomy or the right to make a personal choice regarding their medical care, but this right/value translates to everyday life as well. Everyone has a right to make a choice, but we can most certainly help "make the healthy choice, the easy choice" by passing this bill.

Thank you so much.

Erika Ventura Castellon, BSN, RN

President

National Association of Hispanic Nurses, DC Metro Chapter



Maryland's local beverage companies recognize that parents are more than capable of making the food and beverage choices that are best for their families. When it comes to their youngest children, we have repeatedly heard from parents that they believe that water, milk or juice are the best options. However, they also want to be able to select another beverage available on the menu, such as a soft drink, if they choose.

The language in the legislation around default drinks should be amended to allow for sparkling water; 8oz servings of juice; and, a combination of water, fruit and vegetable juice.

Specifically,

- Water – Water, sparkling water or flavored water, with no added natural or artificial sweeteners; and/or
- Milk – Flavored or unflavored nonfat or low-fat (1 percent) dairy milk or non-dairy beverage that is nutritionally equivalent to fluid milk (i.e. soy milk) in a serving size of 8 ounces or less; and/or
- Juice – 100 percent fruit or vegetable juice, or fruit and/or vegetable juice combined with water or carbonated water, with no added natural or artificial sweeteners, in a serving size of 8 ounces or less.

Thank you. We look forward to the workgroup for further discussion.

Ellen Valentino
On behalf of MD-DE-DC Beverage Assn.
1410-693-2226

MARYLAND • DELAWARE • DISTRICT OF COLUMBIA BEVERAGE ASSOCIATION
P.O. Box 711 • Annapolis, MD 21404
410-990-9502



Printed on Recycled Paper





NAACP

Maryland

STATE CONFERENCE

Testimony of the NAACP Maryland State Conference

Willie Flowers, President

Montgomery County Council Bill-1-22

HHS Committee

February 1, 2022

CHAIRMAN RICE AND COMMITTEE,

MY NAME IS WILLIE FLOWERS PRESIDENT OF THE NAACP MARYLAND STATE CONFERENCE AND I AM HERE TO TESTIFY IN FAVOR OF BILL 1-22 OR THE EATING & DRINKING ESTABLISHMENTS - HEALTHY MEALS FOR CHILDREN.

THE NAACP STANDS WITH THE COALITION OF GRASSROOTS ORGANIZATIONS IN MONTGOMERY COUNTY ON THIS LEGISLATION. PASSING THIS BILL IS AN IMPORTANT STEP TO HELP MITIGATE THE NEGATIVE EFFECTS OF DISEASE AND SICKNESS IN AFRICAN AMERICAN AND OTHER MARGINALIZED COMMUNITIES BECAUSE OF UNHEALTHY FOOD OPTIONS.

THE BILL GIVES DIRECTION TO RESTAURANTS AND FASTFOOD SPOTS TO BECOME A PART OF A MOVEMENT TO ASSURE FOOD OPTIONS AND NOT TRADITIONAL OPTIONS THAT ADVANCE OBESITY AND OTHER NEGATIVE HEALTH OUTCOMES IN CHILDREN.

IN MARCIA CHATELAIN'S BOOK CALLED FRANCHISE - THE GOLDEN ARCHES IN BLACK AMERICA - SHE GOES INTO MUCH DETAIL ABOUT THE TRAIL OF PAIN THE BLACK AND BROWN COMMUNITIES ENDURE BECAUSE OF THE NEGLECT OF NOT JUST PLANNING DESIGNS BUT ALSO THE NEGATIVE HEALTH OUTCOMES THAT FOLLOW FOOD OPTIONS THAT ARE NOT NUTRIENT RICH AND ADVANCE OPTIMAL HEALTH.

WE HAVE KNOWN FOR YEARS ABOUT THE STEPS THAT CORPORATE ADVERTISING HAS HAD ON THE HEALTH OUTCOMES OF FAMILIES AND COMMUNITIES. WELL, BILL 1-22 GIVES RESTAURANTS A SIMPLE WAY OF SHOWCASING THEIR HEALTHY OPTIONS TO FAMILIES MOVING FORWARD. THIS WILL BRING VALUE TO THE CUSTOMER AND WILL MAINTAIN FAITH IN ANY EATERY AS A POSITIVE COMMUNITY STEWARD.

THE NAACP MARYLAND STATE CONFERENCE STANDS IN SUPPORT OF THE LOCAL MONTGOMERY COUNTY BRANCH AND THEIR COALITION IN THE PASSAGE OF BILL 1-22. THANK YOU FOR THE OPPORTUNITY TO TESTIFY.



**Testimony of Sugar Free Kids Maryland
Shawn McIntosh, Executive Director
Montgomery County Council
Bill 1-22, Eating and Drinking Establishments – Healthy Meals for
Children
February 1, 2022
Position: Support**

Sugar Free Kids Maryland strongly supports Bill 1-22 to improve the health of Montgomery County children by promoting nutritious drink and food options at county restaurants. As a coalition of nearly 250 member organizations committed to the reduction of sugar consumption in order to reduce the prevalence of chronic disease, tooth decay and unhealthy weight in children and families, Sugar Free Kids Maryland recognizes the important role healthier restaurant kids' meals can play in reinforcing healthy eating habits.

Montgomery County children are experiencing far too many health problems before they enter adulthood. 20% of Montgomery County high school students are either overweight or obese. Children who are unable to maintain a healthy weight also experience chronic illnesses such as heart disease and type 2 diabetes at young ages. These conditions, without action, hold dire consequences for the entire generation. The habits they build as young people determine their health outcome as adults.

Overconsumption of sugary drinks and unhealthy foods is a health equity issue. Blacks, Latinos, American Indians and people of color disproportionately experience nutrition-related chronic diseases. These inequities are even more pressing in the era of COVID-19, as we see the virus taking a disproportionate toll on populations with a high burden of chronic disease. (Public Health Law Center, 2020)

Bill 1-22 will make water, milk, sparkling water and sweetener-free flavored water the default beverage options for all restaurant kids' meals in the county and will require at least one full meal to limit calories, fat, salt and sugar. The bill will improve health for children by making it easier for kids and their families to make the healthy choice when eating out. The bill could be strengthened by requiring 2 healthy meals on kids' meal menus.

Sugar Free Kids Maryland urges the Council to support Bill 1-22 to put Montgomery County children on the right path to developing healthy lifestyles. In doing so, you will lead the nation in making sure that children have access to both healthy food and drink options when eating out.

**Testimony of the Center for Science in the Public Interest
Sara Ribakove, Senior Policy Associate
Montgomery County Council
Bill 1-22: Eating and Drinking Establishments – Healthy Meals for Children
February 1, 2022**

The Center for Science in the Public Interest (CSPI) supports Bill 1-22. The bill will support the health of Montgomery County children. If passed, Montgomery County will become the second locality in the nation to pass comprehensive kids' meal legislation. Bill 1-22 ensures that healthier beverages like water, unflavored low-fat milk, and 100% juice and fresh fruit and vegetables are front and center on kids' menus. The bill also guarantees that at least one kids' meal combination on the menu meets expert nutrition standards.

When children eat out, they typically consume more calories, added sugars, and sugary drinks and fewer fruits, vegetables, and whole grains than when they eat at home.¹ Sugary drinks are often automatically included with children's meals, adding unnecessary calories with little or no nutritional benefit.²

Designating particular foods and beverages as children's menu items or bundling them together as children's meals are powerful forms of marketing. This marketing helps to establish norms for children, affecting their preferences and lifelong eating patterns.³

According to the most recent report of the Dietary Guidelines for Americans (DGA) advisory committee, consistent scientific evidence demonstrates that diets higher in vegetables, fruits, whole grains and lean meats, and lower in sugar-sweetened drinks, are associated with beneficial outcomes for obesity and associated chronic diseases, including heart disease, type 2 diabetes, and some cancers.⁴ It is critical to optimize diet quality during childhood while children are still forming dietary habits because diet quality tends to decrease with age.⁵

Other states and localities have also turned to public policy to improve restaurant children's meals in their communities. The states of California, Delaware, Hawaii, and Illinois and localities including Baltimore, Cleveland, and Philadelphia, have passed bills that make healthier beverages the automatic option with kids' meals.⁶ In 2020, Prince George's County became the first locality in the country to pass legislation that ensures at least one kids' meal combination meets expert nutrition standards.

Healthier children's meals can reduce sugary drink consumption, encourage children to form healthy eating habits, and support parents' efforts to feed their children well. CSPI urges the Montgomery County Council to join this growing movement by voting in support of Bill 1-22. Thank you in advance for your support of this legislation.

¹ Powell LM, Nguyen BT. Fast-food and Full-service Restaurant Consumption among Children and Adolescents. *Arch Pediatr Adolesc Med.* 2012;167(1):14-20.

² Harris JL, et al. *Fast Food FACTS 2013: Measuring Progress in Nutrition and Marketing to Children and Teens.* Yale Rudd Center for Food Policy & Obesity, 2013. fastfoodmarketing.org/media/FastFoodFACTS_Report.pdf

³ Kraak V, Gootman J, McGinnis JM. *Food Marketing to Children and Youth: Threat or Opportunity?* Institute of Medicine. 2006. https://zodml.org/sites/default/files/Food_Marketing_to_Children_and_Youth_Threat_or_Opportunity.pdf.

⁴ Dietary Guidelines Advisory Committee 2020. Scientific Report of the 2020 Dietary Guidelines Advisory Committee: Advisory Report to the Secretary of Agriculture and the Secretary of Health and Human Services. U.S. Department of Agriculture, Agricultural Research Service, Washington, DC.

⁵ Dietary Guidelines Advisory Committee 2020. Scientific Report of the 2020 Dietary Guidelines Advisory Committee: Advisory Report to the Secretary of Agriculture and the Secretary of Health and Human Services. U.S. Department of Agriculture, Agricultural Research Service, Washington, DC.

⁶ Center for Science in the Public Interest. Chart: State and Local Restaurant Kids' Meal Policies, 2021. <https://cspinet.org/resource/chart-state-and-local-restaurant-kids-meal-policies>



**Testimony of the American Heart Association
Stuart Berlow, State Government Relations Director
Montgomery County Council
Bill 1-22, Eating and Drinking Establishments - Healthy Meals for Children
February 1, 2022**

The American Heart Association supports Bill 1-22, which would be among the most comprehensive healthy kids' meals policies in the nation, making it easier for parents and kids to make healthy choices, and maintaining Montgomery County as a national leader in the fight to promote health equity, reduce health disparities, and ensure everyone has better access to healthier food and beverages.

However, we recommend strengthening the policy to ensure all bundled kids' meals are healthy, or at minimum at least 2 meals on the menu. Limiting menu options to only one healthy choice may still leave too much junk on kids' menus.

Risk Factors in Montgomery County

This is so important given the risk factors faced by too many children in the county:

- 20% of teens in Montgomery County are overweight or obeseⁱ
 - 30% of Latinx teens and 26% of African American teens are overweight or obese, compared to only 12% of white teens

Sadly, these risk factors and negative outcomes extend to adulthood as well:

- Over 1,200 Montgomery County residents died from heart disease in 2016ⁱⁱ
- Almost 300 residents died from stroke
 - Black residents have the highest rates of heart disease and strokeⁱⁱⁱ
- 53% of adults in Montgomery County are overweight or obese
- 25% of adults in the county have high blood pressure.^{iv}
- 67% of county adults don't eat enough fruit and vegetables.^v

A Commonsense Health Policy

Passage and implementation of Bill 1-22 would be another piece of the puzzle to reverse these trends and give parents and kids healthier choices, by ensuring that beverages on kids' meals menus include an automatic option for a healthy drink like water, milk, or 100% fruit juice, and that food items on the children's menu limit sugar, sodium, fat, and calories. It would only apply to bundled restaurant children's meals.

This is a commonsense approach to help all residents make healthier choices. Importantly, **nothing in this law would prevent parents from purchasing less healthy items for a child.** This policy would simply make the healthy choice the easy choice.

The science is clear that reducing consumption of less healthy food and drinks can lessen the risk for unhealthy weight, heart disease, diabetes, and other diet-related

conditions – which are more prevalent among communities of color in the county and around the country. Yes, **this is an issue of health equity and social justice**. Everyone should have access to healthy food and be able to make healthier choices.

The Evidence and Rationale is Clear

This policy is so necessary, since the research tells us:

- When kids eat out, they consume more calories, sugar, fat, and sodium than when eating at home and **over 1/3 of kids consume fast food each day**.^{vi}
 - On days when they eat from fast food restaurants, children consume an extra 126 calories and adolescents an extra 309 calories.
 - Eating at full-service restaurants is associated with increases of 160 calories per day for children and 267 calories for adolescents.
- Among US children aged 2-18, 35% of daily calories from added sugars and solid fats comes from fast food restaurants.
 - Sugary drinks, dairy-based desserts, French fries, and pizza are the top contributors of these empty calories.
- Many **kids are consuming 10 times the recommended amount of added sugar**.
 - The American Heart Association recommends children consume no more than one eight-ounce sugary drink each week.^{vii}
 - Kids consume 30 gallons of sugary drinks each year on average, enough to fill a bathtub!^{viii}
- In addition to weight gain, **excess consumption of added sugars, especially from sugary drinks, raises the risk of heart disease, high blood pressure, type 2 diabetes, and tooth decay**^{ix}
 - Increasing sugary drink consumption by one serving per day increases the risk of hypertension by 8% and the risk of heart disease by 17%
 - Each additional serving of sugary drinks per day increases the risk of type 2 diabetes by 13-18%. Over 10 years, about two million type 2 diabetes cases in the US are attributable to consumption of sugary beverages.
- **Sugary drinks like sports drinks, energy drinks, and soda are the leading source of added sugar in the American diet, and communities of color are disproportionately targeted in marketing**, resulting in significant health disparities and health inequities.^x
- Black and Latinx teens see more ads for fast food than any other category of junk food and drinks^{xi}

- Fast food and other restaurants accounted for 50% of Black-targeted TV ad spending in 2017.
- Fast food and other restaurants accounted for 49% of Spanish-language TV ad spending in 2017.
- 91% of parents reported purchasing meals for their child in the past week at one of the four largest fast-food restaurants, on average twice per week.^{xii}
 - However, nearly all **parents said they would purchase fast food for their child more often because of a restaurant's healthier kids' meal policy.**

Montgomery can lead the nation

The data and health benefits provide clear rationale for this family friendly public health policy. Additionally, **Montgomery can join our neighbors in Prince George's as the national standard by implementing one of the most comprehensive and impactful kids' meals policies in the country.** Several states and cities including Baltimore, Philadelphia, New York City, and Delaware have taken smaller steps by making healthy drinks the default on kids' meals menus, but we can and must do more.^{xiii}

Strengthening, passing and implementing Bill 1-22 will show the rest of the country that the Montgomery County Council is putting kids first and creating a more equitable community that allows everyone to make healthier choices through a comprehensive children's meals policy that covers both food and beverages.

As is so often the case, this Council has the opportunity to lead the nation and put the health and wellbeing of our kids above all else. The American Heart Association encourages the Council to strengthen and pass Bill 1-22, ensure all kids' meals are healthier, and make the healthy choice the easy choice in Montgomery County.

ⁱ <https://www.montgomerycountymd.gov/HHS/Resources/Files/Reports/PopHealthReportFINAL.pdf>

ⁱⁱ https://health.maryland.gov/vsa/Documents/2016_Annual_Report.pdf

ⁱⁱⁱ <http://www.healthymontgomery.org/index.php?module=Indicators&controller=index&action=view&indicatorId=56&localeId=1259>

^{iv} <https://www.montgomerycountymd.gov/HHS/Resources/Files/Reports/PopHealthReportFINAL.pdf>

^v <https://mocofoodcouncil.org/wp-content/uploads/2015/08/MoCo-Food-Access-Report-2015.pdf>

^{vi} <https://voicesforhealthykids.org/assets/resources/healthy-kids-meals-9.28.2020.pdf>

^{vii} <https://voicesforhealthykids.org/assets/img/Fast-Facts/sugary-drink-fast-facts-january-2020.pdf>

^{viii} <https://newsroom.heart.org/news/american-academy-of-pediatrics-and-american-heart-association-endorse-suite-of-policies-to-reduce-kids-consumption-of-sugary-drinks>

^{ix} <https://voicesforhealthykids.org/assets/resources/sugary-drink-fast-facts-9.28.2020.pdf>

^x http://uconnruddcenter.org/files/Pdfs/Sugary_Drink_FACTS_Full%20Report.pdf

^{xi} <http://uconnruddcenter.org/files/Pdfs/TargetedMarketingReport2019.pdf>

^{xii} <http://www.uconnruddcenter.org/healthierkidsmeals>

^{xiii} https://cspinet.org/sites/default/files/attachment/CSPI_chart_local_kids_meal_policies_November_2021.pdf



Montgomery County Council
Bill 1-22, Eating and Drinking Establishments – Healthy Meals for Children

Proponent Testimony

Lynette Tolson Somers
Director, State Government Affairs
American Diabetes Association
Montgomery County Council
February 1, 2022

President Alborno, Chairman Rice, and Members of the Montgomery County Council:

My name is Lynette Tolson Somers and I am the Director of State Government Affairs for the American Diabetes Association (ADA), the nation's leading voluntary health organization fighting to bend the curve on the diabetes epidemic.

The healthy children's meal and default drinks policy outlined in Bill 1-22 clearly aligns with ADA's mission to prevent and cure diabetes and to improve the lives of all people affected by diabetes.

Diabetes is an epidemic in the United States. According to the Centers for Disease Control and Prevention (CDC), over 34 million Americans have diabetes¹ and face its devastating consequences - and what's true nationwide is also true in Maryland. Approximately 10.8% of the state's adult population have diabetes and more than 33% have prediabetes.²

These statistics are devastating, to be sure, but the increased incidence of diabetes in our children is truly alarming. According to the ADA's *Standards of Medical Care in Diabetes*, the global standard for the management and treatment of diabetes, type 2 diabetes in youth has increased over the past 20 years, and recent estimates suggest an incidence of 5,000 new cases each year.³ Researchers have projected that the prevalence of diabetes in those under 20 years of age could quadruple between 2010 and 2050.⁴

The beverages children consume in Montgomery County today could shape the reality of type 2 diabetes for decades to come. Overweight and obesity are principal risk factors for type 2

¹ <https://www.cdc.gov/diabetes/pdfs/data/statistics/national-diabetes-statistics-report.pdf>

² http://main.diabetes.org/dorg/docs/state-fact-sheets/ADV_2020_State_Fact_sheets_MD.pdf

³ https://care.diabetesjournals.org/content/diacare/suppl/2019/12/20/43.Supplement_1.DC1/Standards_of_Care_2020.pdf

⁴ Ibid.

Lynette Tolson Somers
Director, State Government Affairs
1-800-676-4065 Ext. 2455
ltolson@diabetes.org

1-800-DIABETES (342-2383)

diabetes.org
@AmDiabetesAssn



Connected **for Life**

diabetes and evidence suggest that obesity in childhood can persist later in life.^{5 6} A joint American Academy of Pediatrics/American Heart Association policy statement summarizes the issue well: “Excess consumption of added sugars, especially from sugary drinks, contributes to the high prevalence of childhood and adolescent obesity, especially among children and adolescents who are socioeconomically vulnerable.”⁷

Sugary beverages are among the leading sources of added sugar in Americans’ diet. And among youth aged 6-18 who overconsume added sugars, sugary beverages are by far the leading source.⁸

Bill 1-22 seeks to provide healthier options for children when they enjoy what are commonly called “kids’ meals” in area restaurants. Whereas a customer may request and receive a sugary beverage, the default option would be the healthier beverages outlined in the ordinance. This is a positive step toward educating young people - and their parents - about the health risks associated with the consumption of high-calorie and nutrient-poor foods, particularly sugar-added beverages.

The ADA also recognizes that type 2 diabetes disproportionately impacts youth of ethnic and racial minorities. The *Standards* recommend that nutrition for youth with type 2 diabetes, like all children, should focus on healthy eating patterns and reducing caloric intake.⁹

The ADA urges support for the Health Meals for Children bill and commends Council Member Rice and the Montgomery County Council for making the health of our greatest asset, our children, of paramount importance.

Thank you.

⁵ Simmonds M, Llewellyn A, Owen CG, Woolcott N. Predicting adult obesity from childhood obesity: a systematic review and meta-analysis. *Obes Rev.* 2016 Feb;17(2):95-107.

⁶ Gordon-Larsen P, The NS, Adair LS. Longitudinal trends in obesity in the United States from adolescence to the third decade of life. *Obesity.* 2010;18(9):1801—80

⁷ Muth ND, Dietz WH, Magge SN, Johnson RK; AMERICAN ACADEMY OF PEDIATRICS SECTION ON OBESITY; COMMITTEE ON NUTRITION; AMERICAN HEART ASSOCIATION. Public Policies to Reduce Sugary Drink Consumption in Children and Adolescents. *Pediatrics.* 2019 Apr;143(4).

⁸ Bowman SA, Clemens JC, Friday JE, Schroeder N, LaComb RP. Added Sugars in American Children’s Diet: What We Eat in America, NHANES 2015-2016. USDA Agricultural Research Service. December 2019.

⁹ https://care.diabetesjournals.org/content/diacare/suppl/2019/12/20/43.Supplement_1.DC1/Standards_of_Care_2020.pdf

Lynette Tolson Somers
Director, State Government Affairs
1-800-676-4065 Ext. 2455
ltolson@diabetes.org

1-800-DIABETES (342-2383)

January 24, 2022

Dear Council President Alborno, Council Vice President Glass, and Councilmember Rice:

The African American Health Program supports Montgomery County Council's Bill 1-22, Eating and Drinking Establishments – Healthy Meals for Children.

Children develop eating patterns early in life. Children with poor diets are prone to developing long-term health problems (e.g., obesity, type 2 diabetes, cancer, heart diseases, etc.) later in life. This is a concern since Blacks experience high incidence rates and poor health outcomes for many common chronic health conditions than whites and other populations. In addition, according to the CDC, children, who do not consume a healthy diet on a regular basis, have a prevalence for higher rates of absenteeism, tardiness and low grades. According to a study published in the Journal of the American Medical Association, "67% of calories consumed by children and adolescents in 2018 came from ultra-processed foods (e.g., pizza, fries, deli meats, cakes, etc.), a jump from 61% in 1999".

When children consume highly processed foods, saturated fats and added sugar on a regular basis, this can lead to many negative health effects. Proper diet and nutrition help our children live a healthy life, avoid obesity and chronic diseases and help to improve a child's learning potential, as well as academic performance. Foods that help prevent disease appear to also help with weight control. An excellent way to ensure that a child can eat healthier is by having healthy meal options, which can have a positive impact on a child's healthy growth and development into adulthood.

We urge the Montgomery County Council to approve Bill 1-22 which will help children, especially Black children, have a healthy start to their life with proper nutrition.

Sincerely,

The African American Health Program-Executive Committee

February 7, 2022

CB 1-22 - Eating and Drinking Establishments - Healthy Meals for Children

Position: Oppose as Currently Drafted; Amendments Requested

Dear Councilmembers:

Since the introduction of Council Bill 1-22, we have done additional research on this issue and checked on the availability of related food/beverage products in the marketplace. We have also received feedback from restaurants and industry nutritionists about this legislation.

Although we oppose this bill as introduced, we respectfully request the following amendments to help make this legislation more workable for County restaurants that offer children's meals (see requested amendments attached):

1. **Amendment #1 strikes the nutritional criteria specified in the bill on page 2, lines 16 through 25.**

Rationale:

Independent restaurants (local restaurants not associated with a corporate chain/brand) do not have access to the resources needed to calculate the specific nutrition values of their menu items. It can cost thousands to purchase the necessary software, or hire a company, to accurately calculate the nutritional values for even a limited number of menu items. Moreover, independent restaurants do not have the expertise of nutritionists or registered dietitians on staff to ensure that children's meals are compliant with these strict nutrition criteria, which is also necessary when ingredients change due to product availability.

It is significantly more feasible for independent restaurants to meet food group criteria (specified on page 3 of the bill) than specific nutrition criteria.

NOTE: *Federal menu labeling law requiring calorie information on menus, and additional nutrition information for menu items to be available upon request, applies only to restaurants and similar retail food establishments that are part of a chain with 20 or more locations. Montgomery County's menu labeling requirement (Montgomery County Code – Chapter 15) also applies only to eating or drinking establishments that are part of a chain with at least 20 locations. It would be overly onerous on independent restaurants to expend resources to calculate specific nutritional values to meet a children's meal requirement, given that they are not subject to federal and county menu labeling requirements for such information.*

2. **Amendment #2 replaces the ½ cup of unfried fruit or unfried vegetables on page 3, line 31 with ¼ cup instead.**

Rationale:

Restaurants often use pre-packaged fruit products to reduce the amount of food waste generated by unused product and to extend the shelf-life. Pre-packaged fruit products (e.g., apple slices, child-sized fruit cups, apple sauce cups or pouches) are most commonly available in sizes less than ½ cup. For children ages 4 to 8, ¼ cup of apple slices contributes about 25% of the daily recommended amount of fruit noted by the USDA MyPlate. For children ages 9 to 13, ¼ cup of apple slices contributes over 15% of the daily recommended amount of fruit noted by USDA MyPlate.

3. **Amendment #3 strikes the word “juice” from the fruit exclusions on page 3, line 32.**

Rationale:

The USDA’s school meals program and Dietary Guidelines for Americans count 100% fruit juice as a fruit serving. According to the Dietary Guidelines for Americans, 100% juice has no added sugar and can fit into a balanced diet that provides important nutrients for children.

4. **Amendment #4 expands the default beverage water options on page 4, lines 51 and 52 of the bill to include water, sparkling water or flavored water with no added natural or artificial sweeteners, and removes the restrictions on flavors and carbonation.**

Rationale:

This is standard language regarding allowable water options in many laws/ordinances regarding default beverages for children’s meals. It is also the same language used in the default beverage requirements for children’s meals in Baltimore City and Prince George’s County.

5. **Amendment #5 strikes the “unflavored” and “with no added natural or artificial sweeteners” restrictions on page 4, lines 53 and 54 to allow for flavored non-fat or 1% milk, or a non-dairy equivalent.**

Rationale:

The 2020-2025 Dietary Guidelines Advisory Committee found that 79% of those ages 9 to 13 that participate in the National School Lunch Program are not meeting the recommended intake of dairy foods. The USDA recently issued a [final rule](#) (published in the 2/7/2022 Federal Register) to allow school systems the option of offering flavored low-fat milk (1%) in the National School Lunch Program as a potential solution to improve milk consumption. This final rule will be in effect for at least two years.

In the final rule, USDA states that “Milk is a popular item among children and is an important source of calcium, vitamin D, and potassium—nutrients under consumed by the U.S. population. Flavored milk has received high palatability ratings from children and has been shown to encourage milk consumption among school-aged children. Studies indicate that children drink more flavored milk than unflavored milk, and that flavored milk served in the school meal programs is wasted less than unflavored milk.”

Low-fat and fat-free flavored and unflavored milk (in a maximum serving size of 8 ounces) are among the approved beverages for Montgomery County Public Schools.

6. **Amendment #6 on page 4, lines 55 through 57 replaces the 6-ounce limitation with 8 ounces instead, and also allows for 100% fruit and/or vegetable juice combined with water or carbonated water with no added natural or artificial sweeteners.**

Rationale:

Limiting the serving size of juice and juice/water combinations to 6 ounces creates an unnecessary burden because it would prohibit restaurants from using other commonly available and affordable serving sizes (i.e., 6.75 ounces and 8 ounces). Many juice boxes and pouches are available in 6.75 ounces. And juice bottles are commonly available in 8 ounces. No other state or local law limits such beverages to 6 ounces for children's meals. Similar laws enacted in Baltimore City and Prince George's County also allow 8-ounce serving sizes for such beverages, and Montgomery County should be consistent.

Combining 100% fruit juice with water or carbonated water is a way to create an even lower-calorie juice option with less total sugar and without any added sugar. This is consistent with nearly every children's meal default beverage policy we have seen across the country.

7. **Amendment #7 establishes an effective date of January 1, 2023 for the default beverages requirement; and January 1, 2024 for the healthy children's meal food group options requirement.**

Rationale:

This amendment recognizes and compensates for the operational challenges that most restaurants are still experiencing while trying to navigate the road to recovery from the ongoing COVID pandemic, amid continuing supply chain challenges, rising food/product costs, labor shortages, and challenges associated with the additional restrictions on foodservice disposables that recently took effect in the County.

The Prince George's County healthy children's meal law (passed in November 2020) is phased in over 4 years.

Thank you for your consideration of these appropriate and reasonable amendments.

Sincerely,



Melvin R. Thompson
Senior Vice-President

attachment

Bill No. 1-22
Concerning: Eating and Drinking
Establishments - Healthy Meals for
Children
Revised: 12/17/2021 Draft No. 3
Introduced: _____
Expires: _____
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Rice
Co-Sponsors: Council President Albonoz and Councilmember Jawando

AN ACT to:

- (1) require children's meals offered by food service facilities to include certain healthy food and beverage options; and
- (2) generally amend the law regarding eating and drinking establishments.

By adding

Montgomery County Code
Chapter 15, Eating and Drinking Establishments
Section 15-15C

Boldface
Underlining
[Single boldface brackets]
Double underlining
[[Double boldface brackets]]
* * *

Heading or defined term.
Added to existing law by original bill.
Deleted from existing law by original bill.
Added by amendment.
Deleted from existing law or the bill by amendment.
Existing law unaffected by bill.

The County Council for Montgomery County, Maryland approves the following Act:

Sec 1. Section 15-15C is added as follows:

Sec. 15-15C. Healthy Meals for Children.

(a) Definitions. In this Section, the following terms have the meanings indicated.

Children's meal means a combination of food items, or a combination of food items and a beverage, that a food service facility:

(1) offers for sale as a unit; and

(2) includes on its children's menu, or otherwise offers for consumption primarily by children.

Children's meal does not include a combination of food items, or a combination of food items and a beverage, prepackaged and offered for sale by an entity other than a food service facility.

Default beverage means a beverage that a food service facility provides automatically with a children's meal, unless the customer requests a different beverage.

Healthy children's meal means a children's meal that contains no more than:

(1) 600 calories;

(2) 700 milligrams of sodium;

(3) 35% of calories from total sugars;

(4) 35% of calories from fat;

(5) 10% of calories from saturated fat; and

(6) 0.5 grams of trans fat.

Lean protein means a serving of protein that contains 10% or less in saturated fat.]

- (b) Children's meals – healthy option required. A food service facility that offers for sale a children's meal must offer for sale at least one healthy children's meal.
- (c) Healthy children's meals – options. The healthy children's meal required under subsection (b) must include two or more of the following options:
- (1) ~~1/2~~ 1/4 cup or more of unfried fruit or unfried vegetables, excluding ~~[juice,]~~ condiments, or spreads;
 - (2) a whole grain product that:
 - (A) contains, by weight, 51% or more of whole grain ingredients; or
 - (B) lists whole grain as the first ingredient in its ingredient list required by the U.S. Food and Drug Administration; or
 - (3) A lean protein consisting of:
 - (A) one ounce or more of meat, seafood, nuts, seeds, beans, or peas;
 - (B) one egg;
 - (C) 1/2 cup of nonfat or 1% milk or low-fat yogurt, or 1 ounce of reduced fat cheese; or
 - (D) a plant-based, nondairy alternative that:
 - (i) contains the same amount of protein as, or more protein than, an item under this paragraph; and
 - (ii) is fortified with calcium and Vitamin D.
- (d) Children's beverages – healthy default beverage required. A food service facility that offers for sale a children's meal with a beverage must include as the default beverage one or more of the following options:

(1) water, ~~sparkling water, or flavored water~~ with no added natural or artificial sweeteners ~~[, flavors or carbonation]~~;

(2) 8 ounces or less of ~~[unflavored]~~ nonfat or 1% milk, or a non-dairy equivalent ~~[with no added natural or artificial sweeteners]~~; or

(3) ~~[6]~~ 8 ounces or less of 100% fruit or vegetable juice, ~~[or]~~ a

combination of 100% fruit and vegetable juice, ~~or 100% fruit and/or vegetable juice combined with water or carbonated water~~ with no added natural or artificial sweeteners.

(e) *Preservation of consumer choice.* This Section must not be construed to prohibit a customer from purchasing, or a food service facility from selling, a children's meal that:

(1) is not a healthy children's meal; or

(2) does not contain the foods or beverages listed under subsections (c) and (d).

(f) *Educational outreach.* The Director must create and disseminate written informational resources and signage that summarizes, in multiple languages including Spanish, the requirements of this Section.

Sec. 2. Effective ~~[Date]~~ Dates. ~~[This Act must take effect 6 months after it becomes law] The healthy default beverage requirement of this Act takes effect January 1, 2023. The healthy children's meal requirement of this Act takes effect January 1, 2024.~~

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2020 Legislative Session

Bill No. CB-71-2020

Chapter No. 67

Proposed and Presented by Council Members Harrison, Glaros, Streeter, Taveras, Davis,
Dernoga, Hawkins, Franklin and Anderson-Walker

Introduced by Council Members Harrison, Glaros, Streeter, Taveras, Davis,
Dernoga, Hawkins, Franklin, Anderson-Walker and Turner

Date of Introduction October 20, 2020

BILL

AN ACT concerning

Healthy Children's Meals and Beverages

For the purpose of providing legislative intent and findings; defining children's meal at a food service facility; defining a food service facility; defining covered establishments; defining default beverages; defining independent food service facilities; establishing nutrition requirements for children's meals; establishing default beverages for children's meals; providing for certain qualifications, enforcement and penalties as it generally relates to healthy children's meals and beverages.

BY adding:

SUBTITLE 12. HEALTH.

Sections 12-215, 12-216, 12-217, and 12-218

The Prince George's County Code

(2019 Edition).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Sections 12-215, 12-216, 12-217, and 12-218 of the Prince George's County Code be and the same are hereby added:

SUBTITLE 12. HEALTH.

DIVISION 12. HEALTHY CHILDREN'S MEAL REQUIREMENTS.

Sec. 12-215. Legislative Purpose and Intent.

It is hereby declared by the County Council of Prince George's County, Maryland that in

1 order to foster healthy environments where families live, learn, work, and play in Prince
 2 George's County, it must engage in the promotion of healthy lifestyles through innovative
 3 approaches. The 2017 Prince George's County Health Report found that over 30% of high
 4 school students in the county were either overweight or obese, exceeding the state's prevalence
 5 at 26.4%. The 2020 RAND Corporation Report to the Prince George's County Board of Health
 6 found that Latino high school students have the highest rate of overweight and obesity in the
 7 County. Obese children are at least twice as likely as nonobese children to become obese adults.
 8 Sugar-sweetened beverages or sugary drinks are leading sources of added sugars in the American
 9 diet and are associated with an increased risk of type 2 diabetes, heart disease, obesity and other
 10 chronic diseases. The County Council finds that consuming such drinks, including fruit drinks
 11 with added sugar, sports drinks, energy drinks, and soda pose a real health risk to children.

12 The American Heart Association recommends that children over the age of 2 have no more
 13 than one 8-ounce sugary drink a week. Yet children today are consuming as much as 10 times
 14 that amount with nearly two-thirds of children living in the U.S. consume at least one sugary
 15 drink daily. This equates to an average of 30 gallons of sugary drinks per year. Children in low-
 16 income families consume 2½ times more sugary drinks than their peers in higher-income
 17 families this may be due, in part, to some of the marketing initiatives by the beverage industry.
 18 People living in the U.S. consume about 34 pounds of added sugar every year just from sugary
 19 drinks. Every year, 40,000 cardiovascular deaths in the U.S. are attributed to overconsumption
 20 of sugary drinks.

21 The County Council finds that diet-related health conditions have serious economic costs.
 22 The medical burden of obesity in the United States is approximately \$147 billion annually, or
 23 almost 10 percent of all medical spending. Roughly one-half of these costs are paid through
 24 Medicare and Medicaid, which means that taxpayers are responsible for much of the bill.
 25 Medicare and Medicaid spending would be reduced by 8.5 percent and 11.8 percent,
 26 respectively, in the absence of obesity-related spending. A 2016 study commissioned by
 27 MedChi, the Maryland State Medical Society, showed that Medicaid annual spending per
 28 enrollee with diabetes (\$24,387) is more than double the spending per enrollee without diabetes
 29 (\$10,880).

30 In 2017, The National Association of Black County Officials passed a resolution of
 31 measures in order to reduce the rising rates of chronic diseases and obesity. Nationwide,

1 American children eat 19 percent of their calories at fast food and other restaurants. Children eat
 2 almost twice as many calories when they eat a meal at a restaurant as they do when they eat at
 3 home.

4 A 2013 study that examined the nutritional quality of children's meals sold at 18 of the
 5 most profitable fast food restaurant chains in the United States found that only three percent of
 6 the 3,494 meal combinations assessed met the expert nutrition standards for children's meals.
 7 The beverage industry spends millions each year in targeted marketing to communities of color,
 8 such that African-American children and teens see more than twice as many television ads for
 9 sugary-drinks than their white peers, lower income neighborhoods have more outdoor ads for
 10 sugary drinks than either lower-income or higher-income white neighborhoods, and 80% of
 11 food-related ads viewed by Latino children and teens on Spanish-language TV were for sugary
 12 drinks, snacks, and candy. Many restaurants and beverage companies have taken steps to help
 13 citizens address obesity by introducing lower and no-calorie options, displaying calorie
 14 information, encouraging citizens to drink more water, removing full-calorie beverages from
 15 schools, and reducing calories from many of their products.

16 The Prince George's County Council is the Legislative Branch of Prince George's County
 17 Government and sits as the Board of Health to govern and guide County health policy. The
 18 County Council as the Board of Health is authorized to develop solutions to public health issues
 19 that can manifest in the form of legislation or policies promulgated by the County Council for the
 20 protection and promotion of public health.

21 The purpose of this statute is to support parents' efforts to feed their children healthfully by
 22 ensuring healthy meals are readily available to children in restaurants and that offering healthier
 23 children's meals will improve the overall health and well-being of children and families living in
 24 Prince George's County.

25 **Sec. 12-216. Definitions.**

26 (a) **Child Friendly Restaurant** means any Covered Food Service Facility offering
 27 Healthy Children's Meals.

28 (b) (1) **Children's Meal** means a combination of food items and beverage that is:

29 (A) prepared by and offered for purchase at a food service facility as a unit at
 30 a single price; and

31 (B) represented to be or otherwise primarily intended for consumption by a

1 child.

2 (2) It shall not include a combination of food items that has been prepackaged by
 3 or at a facility other than the food service facility offering the prepackaged combination for
 4 purchase.

5 (c) **Covered Food Service Facility** means any food service facility as defined by
 6 Section 12-104(a)(7) of the County Code.

7 (d) **Default Beverage** means the beverage automatically included as part of a children's
 8 meal, absent a specific request by the purchaser of the children's meal for an alternative
 9 beverage.

10 (e) **Default Healthy Side** means the healthiest side option available as part of a
 11 Healthy Children's Meal.

12 (f) **Healthy Children's Meal** is a Children's Meal that contains not more than: 550
 13 calories; 700 milligrams of sodium; 10 percent of calories from saturated fat; 15 grams of added
 14 sugars; and 0 grams of trans fat; that includes at least a half (½) cup of non-fried fruit or non-
 15 fried vegetables (excluding white potatoes, juices, condiments, and spreads) including:

16 (1) Servings in the specified amounts from at least two of the following five food
 17 groups, at least one of the two food groups must be a fruit or vegetable:

18 (A) Fruit: greater or equal to a half (½) cup (100% juice cannot be used as a
 19 fruit substitute);

20 (B) Vegetable: greater or equal to a half (½) cup;

21 (C) Non/low-fat dairy: greater or equal to one (1) cup;

22 (D) Meat or meat alternate: includes meat, poultry, seafood, eggs, legumes
 23 (beans and peas), soy products, and nuts and seeds: greater or equal to one (1) ounce.

24 (E) Whole grains: a half (½) serving must provide greater or equal to eight (8)
 25 grams of whole grains and meet at least one of the following:

26 (i) First ingredient a whole grain; or

27 (ii) greater or equal to fifty percent (50%) whole grains by weight of
 28 product; or

29 (iii) fifty percent 50% whole grains by weight of grains.

30 (2) Healthy Drink; where, if a children's meal includes a beverage, that beverage shall
 31 be one of the following:

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

(B) nonfat or one percent milk or a nondairy milk alternative containing no more than 130 calories per container or serving as offered for sale; or

(C) 100 percent fruit and/or vegetable juice or fruit and/or vegetable juice combined with water or carbonated water, with no added sweeteners in a serving size of not more than eight ounces.

Sec. 12-217. Nutrition Requirements for Children's Meals

(a) In a multi-year tiered approach, each Covered Food Service Facility that sells children's meals shall:

(1) Offer the Healthy Drink as the default beverage as defined by Section 12-216(f)(2) in Years 1-2 and thereafter.

(2) Offer the Default Healthy Side in all Children's Meals in Years 2-3 and thereafter.

(3) Offer at least one children's meal that is a Healthy Children's Meal as defined by Section 12-216(f) in Years 3-4 and thereafter.

(4) Beginning in Year 5 and thereafter, enforcement will commence.

(b) Children's Beverage Requirement

(1) Each Covered Food Service Facility shall make the default beverage for children's meals a Healthy Drink option as defined in Section 12-216(f)(2), and the options provided there shall be displayed on menu boards.

Sec. 12-218. Qualifications, Enforcement and Penalties

(a) Nothing in this Section prohibits a Covered Food Service Facility's ability to sell, or a customer's ability to purchase, a substitute or alternative beverage instead of the default beverage offered with a children's meal, if requested by the purchaser of the children's meal.

(b) The Health Department, in conjunction with the Department of Permits and Inspections, and Enforcement shall administer and enforce this chapter. These departments may issue rules and regulations as necessary to carry out the purposes of this chapter consistent with existing enforcement, recordkeeping and fine structures, and the State

1 Regulations adopted in Subtitle 12, Subdivision 1 as amended by Subdivision 2 of the
2 County Code in all manner of enforcement except as provided in Subsection (d)(3)(A) of
3 this Section.

4 * * * * *

5 SECTION 3. BE IT FURTHER ENACTED that the provisions of this Act are hereby
6 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,
7 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of
8 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining
9 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this
10 Act, since the same would have been enacted without the incorporation in this Act of any such
11 invalid or unconstitutional word, phrase, clause, sentence, paragraph, subparagraph, subsection,
12 or section.

13 SECTION 4. BE IT FURTHER ENACTED that this Act shall take effect 6 months after it
14 becomes law.

Adopted this 17th day of November , 2020.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Todd M. Turner
Council Chair

ATTEST:

Donna J. Brown
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Angela D. Alsobrooks
County Executive

KEY:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.

Asterisks *** indicate intervening existing Code provisions that remain unchanged.