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MEMORANDUM IN SUPPORT

LEGISLATIVE A.4424-B- by M. of A. Reyes – Agriculture Committee
REFERENCE S.213 – by Senator Myrie – passed

TITLE **AN ACT** to amend the agriculture and markets law, the general business law and the public health law, in relation to food and food product advertising

SUMMARY OF PROVISIONS

The bill, sponsored by Sen. Zellnor Myrie and Assembly Member Karines Reyes, aims to place regulations and restrictions on advertisements of unhealthy foods targeted at children. Section 1 lays out the public health risk to children posed by targeted advertisements of unhealthy food. Section 2 amends section 202-a of the agriculture and markets law, adding that courts can determine whether an advertisement was specifically targeted at children. Section 3 amends 350-a of the general business law by cataloguing how a court can go about determining whether an advertisement is unfair, untrue, or targeted at children. Section 4 provides legal protection for those who believe themselves to be injured as a result of a violation of the act. Section 5 amends section 2599-b of the public health law in order to include that public health programming can include information on access to and the nutritional value of locally grown foods.

REASONS FOR SUPPORT

New York City is dedicated to preventing chronic diseases. The Healthy NYC plan, announced by Mayor Adams in October, solidifies the City's commitment to reducing heart and diabetes-related deaths by 5% by 2030. Targeted advertising of unhealthy foods towards children undermines the City's efforts to promote public health. The following reasons highlight the merits of this proposal:

Access to Healthy Food Knowledge: The bill acknowledges that children are often less able than adults to resist temptations, false narratives and cues promoted in unhealthy food advertisements. With the launch of the City's Food Education Roadmap, New York City has demonstrated our commitment to ensuring that the youngest New Yorkers receive the education necessary to make informed, healthy decisions. This bill builds upon the efforts of the Food Education Roadmap to ensure that young people are able to develop a strong understanding of healthy foods.

Emphasis on Equity:

Racial and ethnic targeted marketing of unhealthy foods, particularly sugar-sweetened beverages (SSBs), pose a significant health concern for communities already disproportionately affected by chronic diseases, including heart and diabetes-related illnesses. This concerning trend was recently underscored by a CUNY Urban Food Policy Institute survey, which indicated residents of lower-income neighborhoods in New York are exposed to nearly twice the proportion of predatory food and beverage marketing messages compared to those in higher-income communities.¹

Moreover, a 2023 Food Retail Landscape Analysis conducted by Shop Healthy NYC in the South Bronx Highbridge neighborhood, where an estimated quarter of children in grades K through 8 are affected by obesity, revealed significantly more retail stores (e.g., bodegas, grocery stores, etc.) within the zip code displayed sugar-sweetened beverages (SSBs) or sugary drinks advertisements (69%) in comparison to water advertisements (3%). Notably, the analysis also indicated an absence of tobacco-related predatory advertisements in the area, which could be attributed to existing policies regulating tobacco advertising in the area.

This bill emphasizes the unjust distribution of predatory advertisements, which disproportionately targets neighborhoods predominantly inhabited by Black and Latino populations and aims to protect youth from inherently deceptive advertising.

The bill acknowledges that some populations, specifically those who do not speak the spoken language of an advertisement, are more vulnerable to being targeted by advertising. The bill ensures their protection.

Alignment with Public Health: Section 5 of the bill introduces advancements to existing programs designed to promote public health and nutrition education. Given that advertisements promote products in opposition to federal and local nutrition guidelines and given the introduction of Executive Order 9, which prohibits the advertisement of unhealthy food on city property, the proposed bill represents a step to align the messaging of agencies that protect our health and private advertisers.

New York City urges the Legislature to promptly and favorably consider the Food and Food Advertising Act. This legislation aligns with the City's commitment to promoting public health, ensuring equitable access to nutrition information, and aligning the messaging of advertisements with the New York City Food Standards.

Accordingly, the Mayor urges the earliest possible favorable consideration of this proposal by the Legislature.

Respectfully submitted,

CHRISTOPHER G. ELLIS, Jr.
Director

JD: 4/8/24