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LEGISLATIVE ACTION ALERT

Bill that would abolish the soda tax advances in Pa. House – PA HB 2241

Updated May 1; Posted May 1

By [Jan Murphy](#)

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Legislation that aims to [put a stop to municipalities imposing a tax on food and beverages and food/beverage containers](#) as a revenue source won approval of the House Commerce Committee on Tuesday.

The [bill](#), sponsored by Rep. Mark Mustio, R-Allegheny County, passed the committee by a mostly party-line [17-9 vote](#). Along with pre-empting any community from imposing a tax of this sort, it also would abolish the so-called soda tax in Philadelphia that took effect on Jan. 1, 2017, and adds 1.5 cents per ounce of a sweetened beverage purchased in the city.

Mike Dunn, a spokesman for the Philadelphia mayor's office, said this legislation raises grave concerns about pre-empting local governments from taking action to respond to their residents' needs.

"This is a dangerous precedent to set, especially at a time when voters are showing their support for more local control matters," Dunn said. "The City of Philadelphia is focused on enacting local solutions to our most pressing challenges. The passage of this legislation would remove our ability to continue to do that." Mustio said earlier that he sees the Philadelphia soda tax as a revenue grab that adds to working families' grocery bill, threatens economic competitiveness, and costs jobs.

A spokesman for an anti-tax coalition said passage of this bill would safeguard the jobs of more than 280,000 people employed in the agriculture and food industries in the state. But most of the Democrats on the committee sided with Rep. Curtis Thomas, D-Philadelphia, who defended the tax's role in raising money to pay for critical programs in Philadelphia. Dunn further said all the progress made on several fronts would be lost with the elimination of this revenue source.

If this bill becomes law, Dunn said, "thousands of young Philadelphia children will be without the quality pre-K that can provide them the solid educational foundation necessary to succeed. Thousands of Philadelphia students would be without the community school supports that would have ensured they received mental, behavioral, and physical health services necessary for them to succeed in school. And all Philadelphia residents would be deprived of the benefits that improved parks, recreation centers and libraries would provide to their quality of life."

A spokesman for Philadelphians for a Fair Future, a group that supports the soda tax, called it "a classic example of government overreach." We have state legislators trying to pre-empt local government in Philadelphia," said that group's spokesman Kevin Feeley. "The irony here is the Republicans are supposed to support local control. What's worse, in this case, the bill makes no provisions for replacing the \$80 million a year that the tax raises for education programs in the city."

Thomas, the ranking Democrat on the committee, offered several amendments to stall the elimination of the tax but was unsuccessful at every turn. He also proposed one that would allow Philadelphia to put a question on the ballot asking voters if the tax should be eliminated.

Committee Chairman Brian Ellis, R-Butler County, pointed out Philadelphia voters didn't have the opportunity to have a vote on whether they wanted a soda tax in the first place. Besides, he added he suspects a referendum "would have the same result as" the legislation proposes in abolishing the tax.

A May 15 state Supreme Court hearing is scheduled on the legality of the tax. Thomas said he was confident the court would expedite its decision on the matter when asking for delaying committee action.

But Ellis, who like other Republican lawmakers still [smarting from the state Supreme Court decision on redistricting](#), said, "Certainly I understand there's a court decision coming at some point but with all due respect... I don't trust the court at this point. I think this is an important first step in the process as the discussion will continue on the House floor and into the Senate and then ultimately rest with the governor before year's end."

MEMORANDUM

Posted: December 6, 2017 08:27 AM

From: [Representative Mark Mustio](#)

To: All House members

Subject: Soda Tax Preemption Legislation

In the near future, I will introduce legislation to preempt local taxation of sweetened beverages in the Commonwealth of Pennsylvania. The legislation will be designed to prohibit any municipality from levying such a tax while also invalidating the current soda tax in Philadelphia.

While there is no question that the goals of funding Pre-K and rebuilding city assets in Philadelphia are laudable and should be pursued, it is my belief that the beverage tax levy has proven to be an extreme burden on retailers, especially grocery and convenience stores in the city. Over the past two decades, Philadelphia has gone from having one of the worst "food desert" problems in the nation to being a true leader in providing fresh foods to some of the poorest neighborhoods. The imposition of this unfair tax is threatening those efforts in a very real way, with some grocery stores reporting as much as a 20% drop in overall revenue since its inception. To avoid the tax, supermarket customers are purchasing their food and beverages right over city borders. In the grocery industry, a revenue drop of this magnitude is very difficult to overcome. If the tax stays in place, it is not inconceivable that stores may begin to close, which would be a tragedy for people living in those neighborhoods.

In addition, it has already become clear that the soda tax revenues have not hit the city's estimates, and probably will not achieve the goals that were intended. It is incumbent upon Philadelphia elected officials to go back to the table and come up with real, predictable, and fair funding for pre-K programs and capital improvements. Singling out one economic sector with an unfair tax that is twenty-four times higher than the tax on beer is, at best, nonsensical. It is critical that we help the city maintain access to fresh foods and groceries, while also protecting the thousands of jobs in the industry.

