



Committee: HHS
Committee Review: At a future date
Staff: Christine Wellons, Legislative Attorney
Purpose: To receive testimony – no vote expected
Keywords: #HealthyMeals #HealthyKids

AGENDA ITEM #6
 February 1, 2022
Public Hearing

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

Public Speakers

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- To receive testimony – no vote expected

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

- N/A

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MEMORANDUM

January 27, 2022

TO: County Council

FROM: Christine Wellons, Legislative Attorney

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

PURPOSE: Public Hearing – No Council vote required

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 is scheduled for February 1, 2022 at 1:30 p.m. A worksession of the HHS Committee will be scheduled for a later date.¹

Bill 1-22 would:

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

BACKGROUND AND PURPOSE

The lead sponsor’s office has 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.

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.

¹#HealthyMeals; #HealthyKids

- 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.

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Bill No. 1-22
Concerning: Eating and Drinking
Establishments - Healthy Meals for
Children
Revised: 1/10/2022 Draft No. 4
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.

- 26 (b) Children’s meals – healthy option required. A food service facility that
 27 offers for sale a children’s meal must offer for sale at least one healthy
 28 children’s meal.
- 29 (c) Healthy children’s meals – options. The healthy children’s meal required
 30 under subsection (b) must include two or more of the following options:
- 31 (1) ½ cup or more of unfried fruit or unfried vegetables, excluding
 32 juice, condiments, or spreads;
- 33 (2) a whole grain product that:
- 34 (A) contains, by weight, 51% or more of whole grain
 35 ingredients; or
- 36 (B) lists whole grain as the first ingredient in its ingredient list
 37 required by the U.S. Food and Drug Administration; or
- 38 (3) A lean protein consisting of:
- 39 (A) one ounce or more of meat, seafood, nuts, seeds, beans, or
 40 peas;
- 41 (B) one egg;
- 42 (C) ½ cup of nonfat or 1% milk or low-fat yogurt, or 1 ounce
 43 of reduced fat cheese; or
- 44 (D) a plant-based, nondairy alternative that:
- 45 (i) contains the same amount of protein as, or more
 46 protein than, an item under this paragraph; and
- 47 (ii) is fortified with calcium and Vitamin D.
- 48 (d) Children’s beverages – healthy default beverage required. A food
 49 service facility that offers for sale a children’s meal with a beverage must
 50 include as the default beverage one or more of the following options:

51 (1) water, with no added natural or artificial sweeteners, flavors or
 52 carbonation;

53 (2) 8 ounces or less of unflavored nonfat or 1% milk, or a non-dairy
 54 equivalent with no added natural or artificial sweeteners; or

55 (3) 6 ounces or less of 100% fruit or vegetable juice, or a combination
 56 of 100% fruit and vegetable juice, with no added natural or
 57 artificial sweeteners.

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

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

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

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

67 **Sec. 2. Effective Date.** This Act must take effect 6 months 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:	TBD
ECONOMIC IMPACT:	TBD
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

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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:

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