

## OVERVIEW OF COMMONSENSE CONSUMPTION ACT: A LEGAL STUDY

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### ABSTRACT

*After a major publicity stunt hostile to McDonald's in 2002, almost a total number of 26 states passed Common-sense Consumption Acts (CCA) which is also known as cheeseburger bills, which considerably restrict the liability of convenience food restaurants for related body weight consequences. Here's stated some evidence on the outcomes of this particular act using plausible extracellular variations in the setting up of CCA implementation amidst different states. In prearranged effects models, it has been observed that CCAs showed enlarged weight attempts and fruit and vegetable consumption in obese individuals. It has also been observed that CCAs have extended employment in the fast-food industry. Eventually, it is seen that CCAs predominantly enlarged the figure of retained McDonald's restaurants and lower the figure of franchised McDonald's chains in the state. All-inclusive, the outcome provides new corroboration framing a central projection of infraction and also it should make individuals care further and demonstrate industry particular tort ameliorating can significantly affect market outcomes.*

**Keywords:** Common-sense Consumption Act (CCA), Liability, Weight-Related Damages, Employment, The Fast Food Industry, Tort Reform, Market Outcomes.

### INTRODUCTION

The United States of America requires a well-being change. Since the information and insights appear irreversible and proceed to quicken within the off-base heading. Corpulence afflicts 36.5% of grown-ups in America and 17% of teens. Corpulence in adolescents has in addition deepened over the final three decades. An indeed bigger extent of Usanian, encompassing 64.5% is considered plump based on a Body Mass File calculation.<sup>1</sup> The Joined together state of affairs Specialist Common anticipated this poundage scourge back in 2003. It made him go so distant as pronouncing fear-based oppression less of a danger to our wellbeing than the weight epidemic. It is irrefutable that genuine well-being dangers are related to weight. Weight

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<sup>1</sup> Cynthia L. Ogden, 'Prevalence of obesity among adults and youth' (2015) 219 U.S. Department of Health and human service <<https://pubmed.ncbi.nlm.nih.gov/26633046>> accessed 12 May 2023

is connected to tall blood weight, coronary heart infection, a few cancers, sort 2 diabetes, osteoarthritis, moo quality of life, and indeed mental ailments such as clinical discouragement and anxiety<sup>2</sup>.

The issue goes past well-being; as it influences numerous angles of our economy as well. Around \$147–210 billion per year is going through on therapeutic costs related to grown-up weight alone (expanded from the \$93 billion assessed in 2003

Whereas the expanding plate of corpulence and other edible-connected well-being problems within the U.S. request change, the lawful roads for change are thin. Among these lawful impediments, and seemingly displaying the foremost challenge to well-being change advance, are within the umbrella of Common-sense CONSUMPTION Acts (CCAs). Twenty-four states have sanctioned different shapes of CCAs. In huge portion, these laws disallow people from looking for respectful risk for harm or passing when the obligation is based on the individual's well-being condition related to weight pick up or weight, or from the individual's long-term, intemperate utilization of food<sup>3</sup>. CCAs point to secure nourishment organizations, producers, dealers, exchange affiliations, animal makers, and retailers of nourishment items from obligations related to customer claims.

Where two claims have been recorded against nourishment organizations on the hypothesis that the organization was civilly at risk for health-related conditions emerging from the utilization of its nourishment items<sup>4</sup>. The offended parties were misplaced on both occasions. One set of offended parties recorded suit within the United States Area Court within the South Area of Modern York ("Pelman"). In this suit, two stout young people endeavored to sue McDonald's quick nourishment chain in a lesson activity case stating that utilization of McDonald's nourishment was the proximate cause of the plaintiffs' corpulence and related well-being problem. The judge denied course certification because the offended parties fizzled to fulfill the components required by the Government Rules of Respectful Procedure. The offended parties endeavored to record a corrected complaint, but the suit was expelled, this time with bias.

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<sup>2</sup> Catherine E. Ross, 'Overweight and depression ' (1994) 35(1) Journal of Health and Social Behavior <<https://doi.org/10.2307/2137335>> accessed 12 May 2023

<sup>3</sup> R.E. Roberts, 'Prospective Association between obesity and depression: evidence from the Alameda Country Study (2003) 27(4) International Journal of Obesity <<https://www.nature.com/articles/0802204>> accessed 12 May 2023

<sup>4</sup> Adam Benforado, 'Broken Scales: Obesity and Justice in America (2004) (53) Emory Law Journal <<https://digitalcommons.law.scu.edu/facpubs/61>> accessed 14 May 2023

The moment, a less well-known case was recorded within the United States Locale Court within the Western Area of Unused York ("S.F."). The offended parties declared a few makers carelessly planned tall glucose-Fructose Corn Syrup and fizzled to caution shoppers approximately the nearness of Tall Fructose Corn Syrup in their products. The judge expelled the case in portion since the offended party fizzled to "connect her illness to the activities of any one defendant."<sup>5</sup> The shortage of cases recorded against nourishment organizations on this hypothesis of obligation, and the cavalier comes about in these cases, illustrates the tough fight that tort change has in forming well-being change.

This Note brings us to a basic see of Common-sense Utilization Acts and their nature or behavior towards inconvenience to the plausibility of the "Big Food" case. The tobacco industry was stated responsible through the successful utilization of tort case (frequently alluded to as "Big Tobacco" case), and the nourishment industry may hypothetically be held additionally responsible, but CCAs are avoiding the plausibility of comparable change. Subsequently, in arranging for well-being change to be as compelling as tobacco change, CCAs must be canceled within the states where they exist.

### **WHY THE FOOD INDUSTRY IS CALLING FOR TORT REFORM**

Before we can discover the lenses to clarify the obesity epidemic, we must first comprehend how we got here. Today, the gross annual revenue of the food business is \$1 trillion. Approximately \$2.7 trillion is spent on healthcare by the federal government each year. According to Mr. Robert Lustig, chronic metabolic diseases could be avoided if we modified our diets, yet chronic metabolic disorders account for around 75% of government spending on healthcare. He claims that to clean up the mess that the large food corporations leave behind, the government must spend around \$3 for every dollar that the food business makes in profits. spending time together. and power. By focusing on educating the American population and altering the food options accessible to them, we might be able to combat these diseases more directly<sup>6</sup>

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<sup>5</sup> Roxanne Nelson, 'Cheeseburger Bill protect food industry' (The Lancet, March 20, 2004) <[https://doi.org/10.1016/S0140-6736\(04\)15826-1](https://doi.org/10.1016/S0140-6736(04)15826-1)> accessed 15 May 2023

<sup>6</sup> Floriana S. Luppino, 'Overweight, Obesity and Depression: A Systematic review and meta-analysis of longitudinal studies' (2010) 67(3) Archives of General Psychiatry <<http://doi:10.1001/archgenpsychiatry.2010.4>> accessed 14 May 2023

## LEADING STATISTICS

The food sector is immensely strong, and this power is primarily held by a select group of prominent people who can afford to pay. In a report by Oxfam International, 10 corporations were identified as being "so influential that their policies have the potential to significantly affect the environment, human diets, and working conditions around the world." The 10 firms include Associated British Foods, The Coca-Cola Company, Groupe Danone, General Mills, Kellogg Company, Mars Incorporated, Mondelez International, Nestle, PepsiCo, and Unilever Group, which are all well-known brands<sup>7</sup>.

The global food industry is dominated by these businesses. They made tens of billions of dollars, had assets worth at least \$50 billion, and employed more than 1.5 million people in 2013. They control advertising as well. Nine out of ten businesses were among the top 100 media consumers in the world in 2012. Coca-Cola, for instance, was the sixth-largest advertiser in the world that year after spending more than \$3 billion on advertising.

These businesses mostly dominate the food supply and the food marketing industry, yet they do not feel obligated to push for improvements in people's health. Usually not a surprise because the necessary change would adversely affect their deals, benefits, and industry dominance. In actuality, a number of these businesses are actively and knowingly worsening the impact of their food products on Americans' health. Take Coca-Cola as an example. The New York Times exposed Coca-Cola in 2015 for promoting arguments that, in particular, sought to downplay the link between sugar and obesity and divert the blame away from sugary beverages. These health experts "advanced this message in restorative journals, at conferences, and through social media," rather than only publishing their findings in peer-reviewed or critical scientific journals.<sup>27</sup> As a result, word of their message spread and was widely heard.

Companies proceed to thrust their items in any case of well-being notices from unmistakable organizations. Companies continue to promote their products despite health warnings from renowned organizations. In 2009, the American Heart Association recommended capping the number of added sugars in a person's diet at "no more than half of solitary's daily permitted optional calories." This often breaks even with 6 teaspoons, 24 grams, or 100 calories for the majority of American women. The idea consisted of about 9 teaspoons, 36 grams, or 150

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<sup>7</sup> Alexander E.M. Hess, 'Companies that control the world's food' (USA Today, Aug 16, 2014) <<https://www.usatoday.com/story/money/business/2014/08/16/companies-that-control-the-worlds-food/14056133>> accessed, 15 May 2023

calories for men.<sup>8</sup> The Office of Disease Prevention and Health Promotion (ODPHP) also argued for a significant restriction on daily admissions of added sugars in its proposals for 2015-2016.<sup>9</sup> Unescorted by determination across socioeconomic groups, ODPHP advised people to keep their daily intake of added sugars to less than 10% of total calorie intake. Additionally, it recommended keeping sodium intake to under 2,300 milligrams per day and limiting saturated fats to no more than 10% of daily caloric intake.<sup>10</sup> The ODPHP indicated that these specific chemicals ought to be limited because they are "of particular open health concern within the Associated States." Despite these health warnings, businesses continue to advertise, provide, and distribute their sugary products widely across the United States.

### THE PHANTASM, "CHOICE"

The idea that we are intelligent on-screen characters who decide when and what to spend is one of the biggest obstacles standing in the way of sustainable tort change in the food business. Customers of McDonald's are not required to eat fries. Basic supply customers are not required by Common Plants to purchase sweet cereal. One of the pillars of the American identity might be the idea that we are free, autonomous, and uninfluenced individuals on television. What if "choice," however, is a pipe dream when it comes to the food we eat?<sup>11</sup> Put another way, if food businesses have been promoting a profit-over-people strategy for decades, is it possible that most customers have lost the ability to understand this?

The author of *Broken Scales: Obesity and Justice in America* claims that society tends to blame individual consumer decisions for health issues and to view those decisions as the cause of those problems. To reduce our propensity to seek out "high-energy foods" (i.e., sugar), we are continually inundated with commercials and recommendations for healthy eating. Currently, we unwittingly fall prey to marketing strategies used by food companies to persuade us to eat more, which increases the manufacturers' profits and the consumers' waistlines. For instance, as music has been found "to increment in general spending," some restaurant chains play music inside their establishments using elevated loudspeakers. Additionally, fast food restaurants are

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<sup>8</sup> Melissa Marie Card and John Francis Abela, 'Just a spoonful of sugar will land you six feet underground ' (2015) 70(3) JSTOR <<https://www.jstor.org/stable/26661072>> accessed 15 May 2023

<sup>9</sup> Id.

<sup>10</sup> Ibid.

<sup>11</sup> Art Markman, 'The Dark side of choice in America '(HuffPost, Sept 3, 2011) <[https://www.huffpost.com/entry/dark-side-of-choice\\_b\\_888751/amp](https://www.huffpost.com/entry/dark-side-of-choice_b_888751/amp)> accessed 15 May 2023

using science to identify the perfect flavors that will "produce a pleasurable reaction in customers and offer more burgers and French fries."

### **COMMON-SENSE CONSUMPTION ACTS**

Because the problems linked with nutrition are now a dreadful but clear fact, there is no longer any dispute about whether America has to make changes to its health. Not whether we should alter our approach to health, but rather which transformation strategy will be most effective, is the question. As was previously said, the food industry and the general public too frequently blame individual choices for food-related health issues<sup>12</sup>. This is a challenging societal topic to describe because of its complexity. We must decide which route towards healing, equity, and reform to take after accepting, however, that the majority of Americans believe that the food industry is aware of this critical health concern.

### **LEGISLATIVE HISTORY**

The food industry was already looking for authoritative methods to preserve its goldmine when lawmakers and American consumers became aware of the diet-related health crisis and demanded change. The demonstrative CCA was completed on January 1, 2004, by the AMERICAN LEGISLATIVE EXCHANGE COUNCIL (ALEC). The "cheeseburger bill" was successfully enacted by the United States House of Representatives in the same legislative year, but the Senate rejected the measure.<sup>13</sup>

While a government CCA was approved by the House but was rejected by the Senate, lobbyists for the food sector were successful in enacting some "cheeseburger bills" at the state level. Florida and Colorado started this system of authorizations in May 2004, followed by Washington in June, Tennessee in July, and Michigan in October of the same year. Arizona and South Dakota swiftly followed in 66. In 2005, eleven additional states followed suit and approved what is known as "Baby Mc Bills." The governing body of Utah acknowledged that it had not yet adopted a law limiting the responsibility of food suppliers, but ultimately decided to sanction the CCA because "the section of the Act takes after the slant of a majority of states

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<sup>12</sup> A.H Crispand and M. QUEENAN, 'Jolly Fat' (1980) 24(5) Journal of Psychosomatic Research  
<[https://doi.org/10.1016/0022-3999\(80\)90013-6](https://doi.org/10.1016/0022-3999(80)90013-6)> accessed 15 May 2023

<sup>13</sup> David Burnett, 'Fast-Food lawsuits and the Cheeseburger Bill: Critiquing Congress's Response to Obesity Epidemic' (2006) 14(3) Journal of Social Policy and the Law  
<[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=949944](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=949944)> accessed 15 May 2023



within the country that have considered this type of legislation."<sup>14</sup> Currently, a total of twenty-three states have mandated a CCA in some form. The food sector used state assemblies to protect itself against change in one swift move. The only legislature to approve its CCA law before ALEC's model was the Louisiana State Legislature, which did so in June 2003. The law of Louisiana has language that is common to most statutes, stating:

In cases where liability is based on the person's weight gain, obesity, or a health condition related to weight gain or obesity and brought on by his prolonged consumption of a food or non-alcoholic beverage, the manufacturer, distributor, or seller of a food or non-alcoholic beverage intended for human consumption shall not be subject to civil liability for personal injury or wrongful death based on an individual's consumption of food or non-alcoholic beverages. The historical reliability of a few states has been called into question. The first CCA was declared completely void in Oklahoma, for example, by the Incomparable Court of Oklahoma. In *Douglas v. Cox*, the court determined that the charge violated the state constitution's mandated single-subject rule. Amazingly, just half of the states have decided against sanctioning CCAs. In any case, enough states have mandated CCAs that several tort case frames are currently unresolved. A tobacco-like case change cannot happen unless the CCAs are fundamentally altered or completely canceled.

### **THE JUDICIAL MOTIVE BEHIND ESTABLISHING CCA**

While some state regulating authorities were explicit in their justifications for sanctioning CCAs, others were less so. The Louisiana State Governing body, the first to sanction a CCA, is one of those less simple. Individuals in the assembly were only provided an uncovered authoritative account of the meetings where the bill was discussed, amended, and ultimately ordered.

More particularly, the title of the clause itself provides context for its passage. If expressed more specifically, the purposeful outcome of enacting such provisions can be expressed as the "prevention of frivolous lawsuits" or the "prohibition on recovery based on claims of weight gains, obesity, or health conditions resulting from long-term consumption of aforesaid products." In other words, the purpose of these kinds of clauses is to stop class actions brought

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<sup>14</sup> Christopher S. Carpenter and D. Sebastian Tello-Trillo, 'Do Cheeseburger Bills Work? Effect of Tort Reform for fast food (2015) National Bureau of Economic Research <<https://www.nber.org/papers/w21170>> accessed 16 May 2023

about by excessive consumption of harmful food produced by "big players" in the food industry.

### **PREDICTABLE HURDLES**

Tort reform may seem like a sensible option for changing the food business, but it has known drawbacks. For instance, the allegedly wronged parties in possible lawsuits against "Big Food" are expected to face similar difficulties as those allegedly wronged parties in "Big Tobacco" litigations. Additionally, defense attorneys will have the ability to make more knowledgeable arguments in opposition to this "Big Food" litigation.

### **ATROCITY IN THE BIG FOOD LITIGATION CONTEXT**

The biggest problem aggrieved parties have when pursuing a tort action (course action or something else) against the food sector is causation, as the court's ruling in Pelman demonstrates. Researchers and experts have suggested ways to battle the disease, showing that we have thought of its source even though the exact reason for obesity is still very much in dispute. What we do know is that Americans consume at least 10% of their daily caloric intake from added sugars<sup>15</sup>. The majority of the excess consumption of added sugar is accounted for by foods such as sweets, cakes, cakes, natural product drinks, ice cream, solidified yogurt, and sweets, as well as beverages like soft drinks, vitality drinks, and sports drinks. Although it is "well-known" that added sugar is linked to weight increase, it will remain difficult to prove the legal theory that the defendant's specific product was the direct cause of the plaintiff's obesity.

State rules governing consumer security present another barrier to tort change in this context. The direction of advertising was the subject of President Kennedy's 1962 speech, which prompted the majority of states to enact this legislation. Kennedy in 1962, entitled, "The Direction of Advertising." President Kennedy hopes to advance four rights in this speech: the right to security, the right to information, the freedom to choose among options, and the right to be heard as a customer. The purpose of consumer assurance laws is to protect consumers; in any case, the existence of these laws enables Huge Nourishment to argue that it complied with the relevant state consumer security laws, that it did not abuse it is promoting rights, and that it did not restrict customers' freedom of choice to purchase or not purchase their product.

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<sup>15</sup> Michael Moss, 'Salt Sugar Fat: How the food giants hooked us ' (2014) 27(3) National Library of Medicine <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4059590/>> accessed 16 May 2023



## HOW TORT LAW REFORMED THE TOBACCO INDUSTRY

The tobacco lawsuit was sparked by extensive information about the health risks of smoking that appeared in the national press. This information led to a rise in claims as people tried to sue cigarette corporations for injuries they acknowledged was brought on by smoking.” It was no little feat to bring "Big Tobacco" down. It took almost forty years and 1,800 professes, wherein legal representatives and the wronged persons were finally given the victory over Big Tobacco for smoking-related illness.

The *Lowe v. R.J. Reynolds* case from 1954 catalyzed the "first wave" of tobacco litigation. The first wave was largely unsuccessful because the cigarette manufacturers refused to settle and employed well-known delay strategies, like disclosure requests and procedural motions. Anyhow, the "second wave" was aided in its success by a new theological development that emerged in the 1960s and 1970s.<sup>16</sup>

The premise that once smoking is understood as a habit that usually develops when a smoker is still a child, it can more quickly be regarded as an open welfare issue instead of a subject of personal choice may be specifically responsible for the success. The plaintiffs' lawyers were also able to find material that prompted the tobacco respondents to begin settling claims. Disclosure pushed the tobacco industry into the modern era by revealing how nicotine levels are purposely controlled and how it targets children for marketing.

Journal of Legal Research and Juridical Sciences

## FUTURE PROSPECTS OF CCAs

It appears that the Infant McBill has lost pace, even though there was a shower of legislation in the early 2000s. The state assembly, who have so far refrained from endorsing CCAs, have nothing on the table at the moment. Furthermore, although it was attempted in 2005, no government legislation has been authorized. What CCAs will look like in the future is unclear. Twenty-three states are currently restricting the possibility of tort reform against the food business, but this has shown to be sufficient to stop the progression of tort cases in this context.

## CONCLUSION

The revocation of sensible consumption laws is necessary to make place for the tobacco-like cases that many experts predicted would hurt the food business. As long as CCAs reject the

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<sup>16</sup> Wendy E. Parmet, 'Tobacco, HIV, and The Courtroom: The role of Affirmative Litigation information of Public Health Policy (2012) 36(5) Northeastern university school of Law research paper <<https://ssrn.com/abstract=229278>> accessed 16 May 2023

idea that tort laws may be changed, food businesses will continue to deceive consumers, and Americans' health will continue to deteriorate. Companies that dominate the food business should be held accountable for their actions since they have demonstrated their focus on profit by selling products that are seriously detrimental to the health of their customers, who make up the majority of Americans. Similar to how the "Big Tobacco" case was successful, tort reform could be extremely important in advancing the "Big Food" case. Even though there are inevitable legal and social barriers, the urgent need to create a better generation of Americans should at the very least advance the conversation.

