# Policy Forum: The Tobacco Surcharge & Sugar-Sweetened Beverage Taxes: Reconciling Equity and Targeted Public Health Interventions

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Virginia is poised to repeal the tobacco surcharge, an ineffective policy that disproportionately harms low and middle-income Virginians (Small, 2023).

The Patient Protection and Affordable Care Act (ACA), which otherwise strengthened health care access and equity, allows health insurers in the individual and small-group markets to charge smokers up to 50% higher premiums relative to nonsmokers (ACA, 2010). The law's financial assistance does not apply to this surcharge, forcing enrollees to bear the entire cost of the penalty. This provision was a compromise between the ACA's drafters, most of whom opposed the surcharge, and the health insurance industry, which argued that insurers would need to raise premiums on all enrollees if they could not charge smokers higher premiums.

Thirteen years on, it is clear the tobacco surcharge was a mistake. Instead of incentivizing smokers to quit, the surcharge priced many of them out of the insurance market (Dorilas et al., 2022). This had the absurd effect of preventing smokers from accessing the very services that could help them quit. The surcharge also doesn't appear to have much of an effect on health insurance premiums. In fact, Virginia's Joint Commission on Health Care estimates that repealing the surcharge would *reduce* individual insurance market premiums by three percent (JCHC, 2022).

There is a broader lesson, though. The true failure of the tobacco surcharge is that it unnecessarily punished low and middle-income individuals. Smokers tend to have lower incomes than non-smokers. Consequently, individuals and families who needed the most help were harmed instead.

Repealing the tobacco surcharge is an easy call because the policy doesn't work. However, effective public health policies that disproportionately target lower-income individuals also deserve scrutiny. For example, sugar-sweetened beverage (SSBs) taxes have been shown to reduce sugar consumption, a major driver of the obesity epidemic (Vargas-Garcia, et al., 2017). However, they are regressive, meaning lower-income consumers pay a larger share of their income to the tax than higher earners. Moreover, lower-income individuals tend to drink higher amounts of SSBs, meaning they pay the tax more often (Jiang, et al., 2020).

SSB tax proponents argue that the repressiveness of the tax should be overlooked because the money raised can be directed to programs that benefit poor or minority communities (Krieger, et al., 2021). I am skeptical. The point of the tax is to disincentivize a certain behavior. If it is effective, the funds to support these programs will diminish over time, leaving programs and the communities they serve in limbo. How can a community program succeed if its funding source is designed to disappear?

Second, the poor should not have to pay their way out of poverty. Policymakers should fund community programs and other interventions to address poverty, obesity, tobacco use, and other public health challenges because it is the right thing to do, not because the poor have paid for it via a tax scheme.

Finally, if SSBs are as bad for people as the research suggests they are, then policymakers should ban or at least severely restrict the ability of producers to sell them and consumers to buy them. Americans can't legally buy tobacco products until 18. They can't legally buy alcohol until 21. Of course, an army of lobbyists would mobilize against these measures, but that isn't a good enough reason to pin the burden on the poor, who are too often shut out of policy debates altogether.

The bottom line is that public health professionals should painstakingly scrutinize any public health proposal that disproportionately affects the poor, regardless of their effectiveness. At best, they indirectly encourage small changes in behavior that may have long-term benefits. At worst, they needlessly punish the very people who need the most support. It is our job as public health professionals to advocate for more creative – *and more just* – public health solutions.

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