

FINAL WORD ↔ BY A. BARTON HINKLE

Berkeley, Saving Us from Ourselves

Among the handful of consolations to emerge from the hellscape of 2020 is the immutability of certain verities: Fish gotta swim. Birds gotta fly. And Berkeley gotta be Berkeley.

In late September—in the midst of a pandemic that had by then claimed 200,000 lives, as protests over police brutality and racial injustice filled the streets, as smoke from massive California wildfires fouled the air, and as Donald Trump asserted he might not agree to a peaceful transfer of power—the political leadership of Berkeley, CA acted swiftly and decisively to confront the existential threat posed by ... candy and chips.

In a unanimous vote (dissent in Berkeley is largely confined to questions such as where to find the best kombucha) the city council passed a measure forbidding grocery stores bigger than 2,500 square feet to display chips, candy, and similar tools of Satan in or near the checkout aisles.

The rationale was that banning such unhealthy fare from the vicinity of the register would support public health through “good behavioral economics [that] facilitates better choices,” in the words of Kate Harrison, a sponsor of the ordinance. People are more apt to buy such items on impulse “when willpower is weak at the end of a long shopping trip,” she explained.

There was, too, the obligatory think-of-the-children gambit: A “healthy checkout” aisle “offers parents more opportunities to say ‘yes’ to their kids, and it also helps us to re-envision what treats are,” according to Holly Scheider. She is a member of the city’s Sugar-Sweetened Beverage Products



Panel of Experts Commission. As Dave Barry would say, I’m not making this up.

Finally, supporters of the new rule trotted out the standard it’s-good-for-business-too argument: “The council said the shift to selling more healthy products at checkouts will still be profitable for stores,” CNN reported, “because data shows customers are looking for more low-sugar and low-sodium products anyway.” Indeed, Harrison argued that “we think [businesses] might even make money, particularly because [the ordinance] aligns with consumer desires.”

This invites a question: Why have companies that are, presumably, the very platonic ideal of amoral, insatiable greed been disregarding their own venal interest and selling unhealthy snacks when consumers would rather have the healthy kind? To that, Scheider has an answer: “Unhealthy products actually pay for that prime real estate to create brand recognition and addict our families.” Susan Wengraf, another member of the city council, was even more direct when she railed against “the insidiousness of the industries that put this poison at the check[out] stands where they know they have an active audience.... I can’t stand the

idea that they’ve figured this out and have been doing this to us.”

Stop to unpack that statement and you find a couple of things. One is the assumed lack of agency among the public. Consumers in a checkout line evidently are so easily manipulated, so Pavlovian, that they will spend their own money to buy and ingest poison if it is in reach. One must wonder about the implications of this dim view of the general populace for, say, expanding voter registration. The notion that individuals are too bovine to look out for their own well-being seems at odds with the idea that more of them should be entrusted with the nation’s, too.

That brings up another point. Supporters of the ordinance seem to believe it is altruistic: it seeks to help people make better choices. But there are different kinds of altruism, based on whose vision of what is “better” prevails. A paternalistic altruist seeks to promote the well-being of others as the altruist defines it, whether the supposed beneficiary likes it or not. A purer form of altruism seeks to promote the well-being of others as they define it, whether the altruist likes it or not. The latter form is in scarce supply these days.

To be fair, Berkeley is not banning the sale of snacks outright, only dictating where stores can place them. And it is, after all, Berkeley. Expecting it to adopt a *laissez-faire* regulatory posture is like expecting a hippopotamus to win a gold medal in the uneven parallel bars. One shouldn’t ask too much.

Still, the city has a record of setting precedents for others to follow. After Berkeley imposed a tax on sugary drinks, several other cities followed suit. Its new checkout rules could catch fire in other progressive strongholds.

If that were the end of the matter, it might not be so bad. But the progressive instinct to regulate is never satisfied for long. It has its own version of the hedonic treadmill and will soon be in search of something else to crack down on. What might that be? We’ll find out soon enough. **R**