



MANHATTAN'S HIGHEST DAILY CIRCULATION NEWSPAPER

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Must-Haves  
From Kelly  
PAGE 9



**GULP!**

Judge cans Mike's  
big-soda ban

PAGES 6-7

**CRUISING YEAR-ROUND TO THE  
CARIBBEAN FROM NYC.**

Ships' Registry: The Bahamas, Panama and Malta.



## WEATHER



TODAY  
HI 54° LO 38°  
Heavy rain



TOMORROW  
HI 50° LO 32°  
Partly cloudy



THURSDAY  
HI 38° LO 28°  
Partly cloudy

## HOT LIST


**'God of War:  
Ascension'**

Kratos brings a Cerberus to a gruesome end in the newest version of PlayStation's "God of War," released today.


**St. Paddy's pub crawl**

Visit PubCrawls.com for tickets to some St. Patrick's Day bar hopping fun from this Friday through Sunday.

**Espresso  
tequila**

Tequila Avión today is releasing its first-ever espresso tequila, which is made with Avión Silver and the world's finest Italian espresso.



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# BIG SODA BAN CANNED

With one day left, judge puts kibosh on plan

BY IVAN PEREIRA  
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Finding the big soda ban hard to swallow, a state Supreme Court justice struck down the mayor's controversial plan yesterday — just a day before the Department of Health was set to put it into action.

Mayor Mike Bloomberg vowed the city will appeal the ruling on the lawsuit filed by soda companies, the NAACP and other affected businesses.

Justice Milton Tingling, who issued the decision, said the regulation that would make it illegal for certain stores and restaurants to sell sugary drinks in containers greater than 16 ounces was "arbitrary and capricious," adding that the city was overstepping its jurisdiction.

"The rule would not only violate the separation of powers doctrine, it would eviscerate it," the judge wrote in his 37-page decision.

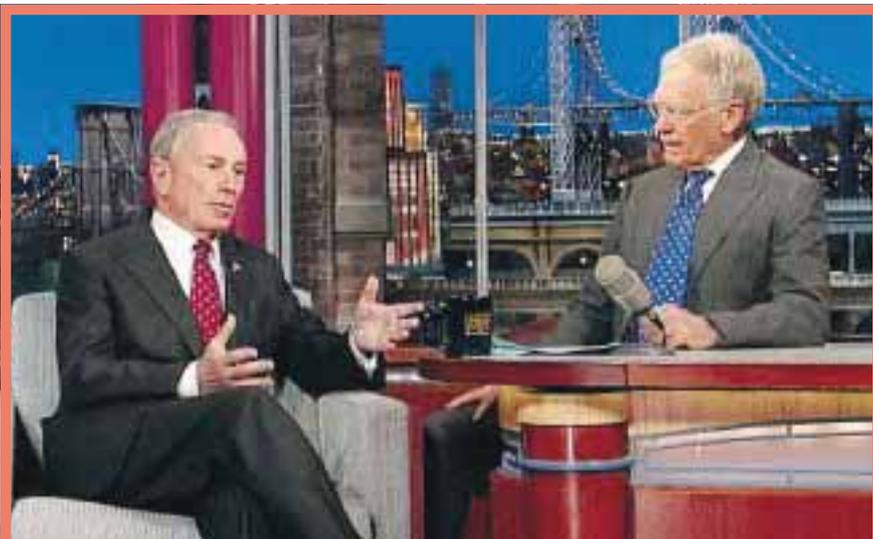
The plaintiffs called the decision a win for city businesses who they say would have lost millions from the ban.

"The court ruling provides a sigh of relief to New Yorkers and thousands of small businesses in New York City that would have been harmed by this arbitrary and unpopular ban," said Chris Gindlesperger, a spokesman for the American Beverage Association, one of the plaintiffs in the suit.

The mayor was adamant that the decision would be overturned in state appellate court, but it's unclear when the city will file its appeal.

Bloomberg said the case will be made that the regulation needed to be imposed as soon as possible to save lives, pointing out that 5,000 New Yorkers die each year from obesity.

"We believe it's reasonable to draw a line and it's responsible to draw a line right now," he said at a news conference.



Mayor Michael Bloomberg appeared on CBS' "Late Show with David Letterman" last night.

## Mike, Dave have 'sweet' talk

Mayor Michael Bloomberg was a guest on Dave Letterman's "Late Show" last night, and he reasserted his confidence that his newly invalidated soda ban will ultimately pass.

"State court judge said the Department of Health didn't have the authority to do it," Bloomberg said of the ban on the sale of

large soda.

"We think that they do. We'll appeal," he said.

Bloomberg also discussed the government's role in public health, saying it's "incumbent upon government to tell people what they're doing to themselves and let people make their own decisions."

He went on: "So our job is to educate people, and

the ban on bigger cup sizes was a way to remind you if you wanted 32 ounces, you'd have to take two cups, so maybe you'd only take one."

Still, the mayor said there's one thing he would never ban: Cheez-Its.

"As long as you don't ban Cheez-Its. Cheez-Its are OK," he said. "That's my addiction." (TIM HERRERA)

Under the law, any establishment that has a letter grade from the health department would be fined \$200 per violation for defying the ban. Diet sodas, alcohol and dairy products would not have been outlawed.

Supermarkets are exempt because they are regulated by the state, and Tingling said those exemptions made the mayor's obesity fighting intentions moot.

"The loopholes in this rule effectively defeat the state purpose of the rule," he wrote.

Dr. Lisa Young, an adjunct professor of nutrition and public health at NYU, disagreed with the ruling, saying that soda has no health benefits whatsoever.

"We're not picking Doritos over potato chips. They're doing things that have no nutrients. So it's not capricious at all," she said.

Young, who testified in favor for the ban during a health department public hearing in July, said she thinks the city will ultimately

## BOTH SIDES WEIGH IN

### FOR BAN

Sugary drinks are a leading cause of this epidemic. Today's decision threatens the health of New Yorkers, but we are confident that we will win on appeal."

**Thomas Farley**, city health commissioner

This measure is part of the city's multipronged effort to combat the growing obesity epidemic, which takes the lives of more than 5,000 New Yorkers every year, and we believe the Board of Health has the legal authority — and responsibility — to tackle its leading causes."

**Michael A. Cardozo**, Corporation Counsel for the New York City Law Department

win the appeal.

She reiterated that this isn't the first time a judge ruled against a health initiative that ultimately passed.

"The businesses, they al-

### AGAINST IT

This issue was never about obesity, nor about soda. This was all about power."

**Matthew Greller**, of the National Association of Theatre Owners of New York State

It opened up a Pandora's box of legislating people's eating habits, especially when it came to nontoxic products people eat every day."

**Eric Levine**, director of the Dallas BBQ chain (IVAN PEREIRA AND TIM HERRERA)

ways try to sue. They sued the first time around with the calorie postings, the judge struck that down and then the city fought back," she said. (WITH ANNA SANDERS)

## Cuomo still popular, but at new low in poll

Andrew M. Cuomo's favorability rating has hit an all-time low, with 30% percent of respondents saying they had an unfavorable view of the governor in a new poll released yesterday.

Cuomo's favorability has dropped 8% since December, according to the poll conducted last week by the Siena College Research Institute. However, the governor's popularity remains high, with 64% saying they had a favorable opinion of him overall.

"With a better than two-to-one favorability rating that would be the envy of most elected officials or politicians, Andrew Cuomo continues to be

very popular with New York voters," said Siena pollster Steven Greenberg.

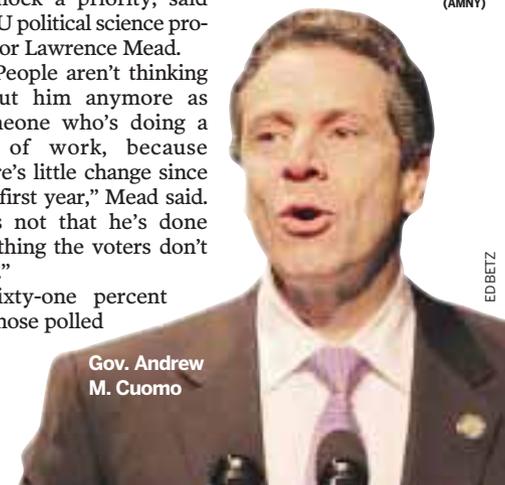
In his first year, Cuomo made reducing Albany's gridlock a priority, said NYU political science professor Lawrence Mead.

"People aren't thinking about him anymore as someone who's doing a lot of work, because there's little change since the first year," Mead said. "It's not that he's done anything the voters don't like."

Sixty-one percent of those polled

also supported the state's new gun control law and Greenberg noted that most voters are "strongly with him on a number of other prominent issues."

(AMNY)



Gov. Andrew M. Cuomo

ED BETZ

## Monserrate sentence delayed due to toothache

Hiram Monserrate recently got a gift from the tooth fairy — an extra month outside the big house.

The former state senator and Queens city councilman was supposed to start a two-year sentence for fraud yesterday, but Judge Colleen McMahon gave him a four week postponement after he griped about his choppers hurting.

Monserrate's lawyer requested the delay in a Feb. 27 letter after the disgraced pol went to his dentist "complaining of recent, severe pain."

Following the Jan. 18 visit, Monserrate's dentist, Louis Shapiro, began performing a



Former New York State Sen. Hiram Monserrate

ANTHONY LANZLOTE

add four more crowns.

"Dr. Shapiro opines that this treatment is necessary and must be done 'expeditiously' in order to avoid additional damage," the pol's lawyer, James Neuman, wrote.

"It is very unlikely that this type of work would occur while Mr. Monserrate is in custody" he wrote. Judge McMahon granted the request on March 1, ordering Monserrate to surrender to authorities before 2 p.m. on April 11.

root canal in stages over several weeks, according to the letter filed in federal court in Manhattan. The letter to McMahon notes that Monserrate still needed about eight weeks to



## Walters says Hasselbeck not leaving 'The View'

Elisabeth Hasselbeck is staying on "The View" for the long haul, Barbara Walters said yesterday, quashing reports that Hasselbeck was on her way out.

Rumors circulated this weekend that Hasselbeck, 35, would follow in the steps of Joy Behar, 70, who announced her departure last Thursday.

But Walters shot down the story, saying there are "no plans for Elisabeth to leave the show."

"There's a particularly false story that keeps get-



Elisabeth Hasselbeck and Barbara Walters on "The View"

ting picked up about Elisabeth's alleged departure, saying we don't approve of her conservative views," Walters said.

"The truth is we love Elisabeth. I like her personally, and she's just a

wonderful person, but beyond that we value and appreciate her point of view. It's important to us because Elisabeth helps give this show perspective."

Hasselbeck joined the show in 2003. (TIM HERRERA)