Senate Bill No. 12

CHAPTER 235

An act to amend Sections 49430, 49431, 49433.9, and 49434 of, and to add Section 49431.2 to, the Education Code, relating to pupils.

[Approved by Governor September 15, 2005. Filed with Secretary of State September 15, 2005.]

LEGISLATIVE COUNSEL'S DIGEST

SB 12, Escutia. School food nutrition.

(1) Existing law prohibits the sale of certain beverages and food items at elementary schools, and at middle and high schools participating in a pilot program.

This bill would, commencing July 1, 2007, limit those provisions, revised as specified, to elementary schools.

The bill, additionally, would prohibit the sale of certain beverages and food items, as specified, at all middle, junior high, and high schools, commencing July 1, 2007.

The bill would provide the intent of the Legislature that the governing board of a school district annually review its compliance with certain nutrition standards.

(2) Existing law requires the Superintendent of Public Instruction to monitor school district compliance with specified pupil nutrition and activity requirements, as specified, and requires certain school districts to report their compliance to the Superintendent, as specified.

This bill would, instead, authorize the Superintendent to monitor that school district compliance and would require those monitored school districts to report their compliance, as specified.

(3) The bill would make additional, nonsubstantive, conforming changes.

The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) The State of California has the second highest rate of overweight and low-income children in the nation.

(b) The growing epidemic of overweight children is due to poor diet and physical inactivity, putting growing numbers of California children at risk for type 2 diabetes, hypertension, heart disease, and cancer, along with psychological problems, including low self-esteem, poor body image, and symptoms of depression.

(c) Physical inactivity and nutrition-related diseases are the second leading cause of preventable death in the United States. These diseases account for 28 percent of preventable deaths each year, which is more than AIDS, violence, car crashes, alcohol, and drugs combined.

(d) In 2001, 26.5 percent of California pupils in grades 5, 7, and 9 were overweight, with rates being even higher for African-American children (28.6 percent) and Latino children (33.7 percent). In some legislative districts, more than 35 percent of pupils are overweight. Nationally, the prevalence of overweight children and adolescents has increased nearly fourfold in the last 40 years.

(e) Obesity costs California an estimated $21.7 billion a year in medical costs and lost productivity. Medical care costs associated with obesity are greater than those associated with both smoking and problem drinking.

(f) Diabetes has also reached epidemic levels primarily as a result of the growing obesity epidemic. Type 2 diabetes, which until recently affected only adults, now affects a growing number of children, accounting for almost 50 percent of new diabetes cases among children in some U.S. communities.

(g) Healthy eating plays an important role in learning and cognitive development. Children who do not get adequate nutrients have lower academic test scores.

(h) Because children spend approximately one-third of their day at school, schools play an important role in children's ability to acquire adequate nutrients.

(i) A recent study found that severely overweight pupils miss nine days of school per year. The same study estimated that average size school districts in California may lose as much as one hundred sixty thousand dollars ($160,000) per year, and very large districts may lose as much as $15 million per year as a result of reduced average daily attendance resulting from childhood obesity-related absences.

(j) Health and education leaders agree that one of the most critical steps to helping children practice healthy eating habits is to establish policies and programs that increase access to healthy foods and beverages.

(k) While the United States Department of Agriculture (USDA) regulates the nutrient content of meals sold under its reimbursable meal programs, similar standards do not exist for "competitive foods" that are sold outside the USDA meal programs. Competitive foods are often very high in added sugar, sodium, and fat.

(*l*) In a 2003 survey, 94 percent of responding California school districts with a high school reported that they sell competitive foods. The most common fast food items were chips, pizza, cookies, and soda.

(m) Only 2 percent of California youth 12 through 17 years of age consume foods that meet national dietary recommendations. Approximately 70 percent of U.S. children age 2 through 11 years consume foods that exceeded current dietary recommendations for intakes of total and saturated fat. Only 21 percent of California children meet the goal of eating five servings of fruits and vegetables per day.

(n) Soft drinks comprise the leading source of added sugar in a child's diet. Each additional daily serving of sugar-sweetened soda increases a child's risk for obesity by 60 percent. Twenty years ago, boys consumed more than twice as much milk as soft drinks, and girls consumed 50 percent more milk than soft drinks. By 1966, both boys and girls consumed twice as many soft drinks as milk.

(o) Teenage boys consume twice the recommended amount of sugar each day, almost one-half of which comes from soft drinks. Teenage girls consume almost three times the recommended amount of sugar, 40 percent of which comes from soft drinks.

(p) In October 2004, the USDA announced the "Healthier US Challenge" to encourage schools and parents to continue promoting healthy lifestyles for children. Schools can participate in the challenge by meeting nutritional standards that are based on California standards. The challenge is available to elementary schools during the first year and middle and high schools will be invited to participate during the second year.

SEC. 2. Section 49430 of the Education Code is amended to read:

49430. As used in this article, the following terms have the following meanings:

(a) "Elementary school" means a public school that maintains any grade from kindergarten to grade 6, inclusive, but no grade higher than grade 6.

(b) "Middle school" means any public school that maintains grade 7 or 8, 7 to 9, inclusive, or 7 to 10, inclusive.

(c) "High school" means any public school maintaining any of grades 10 to 12, inclusive.

(d) "Full meal" means any combination of food items that meet USDA-approved School Breakfast Program or National School Lunch Program meal pattern requirements.

(e) "Added sweetener" means any additive other than 100 percent fruit juice that enhances the sweetness of a beverage.

(f) "Sold" means the exchange of food for money, coupons, or vouchers.

(g) "Entrée" means a food that is generally regarded as being the primary food in a meal, and shall include, but not be limited to, sandwiches, burritos, pasta, and pizza.

(h) "Snack" means a food that is generally regarded as supplementing a meal, including, but not limited to, chips, crackers, onion rings, nachos, French fries, donuts, cookies, pastries, cinnamon rolls, and candy.

SEC. 3. Section 49431 of the Education Code is amended to read:

49431. (a) (1) Commencing July 1, 2007, at each elementary school, the only food that may be sold to a pupil during the school day are full meals and individually sold portions of nuts, nut butters, seeds, eggs, cheese packaged for individual sale, fruit, vegetables that have not been deep fried, and legumes.

(2) An individually sold dairy or whole grain food item may be sold to pupils at an elementary school, except food sold as part of a USDA meal program, if it meets all of the following standards:

(A) Not more than 35 percent of its total calories shall be from fat.

(B) Not more than 10 percent of its total calories shall be from saturated fat.

(C) Not more than 35 percent of its total weight shall be composed of sugar, including naturally occurring and added sugar.

(D) Not more than 175 calories per individual food item.

(b) An elementary school may permit the sale of food items that do not comply with subdivision (a) as part of a school fundraising event in any of the following circumstances:

(1) The items are sold by pupils of the school and the sale of those items takes place off of and away from school premises.

(2) The items are sold by pupils of the school and the sale of those items takes place at least one-half hour after the end of the schoolday.

(c) It is the intent of the Legislature that the governing board of a school district annually review its compliance with the nutrition standards described in this section and Section 49431.5.

SEC. 4. Section 49431.2 is added to the Education Code, to read:

49431.2. (a) Commencing July 1, 2007, snacks sold to a pupil in middle, junior, or high school, except food served as part of a USDA meal program, shall meet all of the following standards:

(1) Not more than 35 percent of its total calories shall be from fat. This paragraph does not apply to the sale of nuts, nut butters, seeds, eggs, cheese packaged for individual sale, fruits, vegetables that have not been deep fried, or legumes.

(2) Not more than 10 percent of its total calories shall be from saturated fat. This subparagraph does not apply to eggs or cheese packaged for individual sale.

(3) Not more than 35 percent of its total weight shall be composed of sugar, including naturally occurring and added sugars. This paragraph does not apply to the sale of fruits or vegetables that have not been deep fried.

(4) No more than 250 calories per individual food item.

(b) Commencing July 1, 2007, entrée items sold to a pupil in middle, junior, or high school, except food served as part of a USDA meal program, shall contain no more than 400 calories per entrée, shall contain no more than 4 grams of fat per 100 calories contained in each entrée, and shall be categorized as entrée items in the School Breakfast Program or National School Lunch Program.

(c) A middle, junior, or high school may permit the sale of food items that do not comply with subdivision (a) or (b) in any of the following circumstances:

(1) The sale of those items takes place off of and away from school premises.

(2) The sale of those items takes place on school premises at least one-half hour after the end of the schoolday.

(3) The sale of those items occurs during a school-sponsored pupil activity after the end of the schoolday.

(d) It is the intent of the Legislature that the governing board of a school district annually review its compliance with the nutrition standards described in this section.

SEC. 5. Section 49433.9 of the Education Code is amended to read:

49433.9. A school district participating in the pilot program shall adopt the provisions of Section 49433 and shall comply with all of the following requirements:

(a) (1) No beverage other than any of the following shall be sold to pupils from one-half hour before the start of the schoolday until one-half hour after the end of the schoolday:

(A) Fruit-based drinks that are composed of no less than 50 percent fruit juice and that have no added sweeteners.

(B) Drinking water.

(C) Milk, including, but not limited to, chocolate milk, soy milk, rice milk, and other similar dairy or nondairy milk.

(D) Electrolyte replacement beverages that do not contain more than 42 grams of added sweetener per 20 ounce serving.

(2) No carbonated beverage shall be sold to pupils from one-half hour before the start of the schoolday until one-half hour after the end of the schoolday.

(3) (A) Except as set forth in subparagraph (B), no beverage that exceeds 12 ounces per serving shall be sold to pupils from one-half hour before the start of the schoolday until one-half hour after the end of the schoolday.

(B) The 12-ounce maximum serving requirement does not apply to any of the following:

(i) Drinking water.

(ii) Milk, including, but not limited to, chocolate milk, soy milk, rice milk, and other similar dairy or nondairy milk.

(iii) An electrolyte replacement beverage that does not exceed 20 ounces per serving.

(4) For the purposes of this subdivision, "added sweetener" means any additive that enhances the sweetness of the beverage, including, but not limited to, added sugar, but does not include the natural sugar or sugars that are contained within the fruit juice which is a component of the beverage.

(b) No food item shall be sold to pupils from one-half hour before the start of the schoolday until one-half hour after the end of the schoolday unless it meets all of the standards set forth in subparagraphs (A) to (C), inclusive, of paragraph (2) of subdivision (a) of Section 49431.

(c) Entree items and side dish serving sizes shall be no larger than the portions of those foods served as part of the federal school meal program.

(d) Fruit and nonfried vegetables shall be offered for sale at any location where food is sold.

SEC. 6. Section 49434 of the Education Code is amended to read:

49434. (a) The Superintendent may monitor school districts of the statefor compliance with this article as set forth in subdivision (b).

(b) Each school district monitored pursuant to subdivision (a) shall report to the Superintendent in the coordinated review effort regarding the extent to which it has complied with this article.

(c) A school district that the Superintendent findsto be noncompliant with the mandatory provisions of this article shall adopt, and provide to the Superintendent of , a corrective action plan that sets forth the actions to be taken by the school district to ensure that the school district will be in full compliance, within a time agreed upon between the Superintendent and the school district that does not exceed one year.

CORRECTIONS:
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