

AMENDED IN SENATE JUNE 14, 2005

AMENDED IN SENATE JUNE 9, 2005

AMENDED IN ASSEMBLY APRIL 20, 2005

AMENDED IN ASSEMBLY MARCH 29, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 443

Introduced by Assembly Member Yee

February 15, 2005

An act to amend Section 48931 of the Education Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

AB 443, as amended, Yee. School food sales.

Existing law allows the governing board of any school district or any county office of education to authorize the sale of food on school premises by any pupil or adult organization, subject to policy and regulations of the State Board of Education. Existing law requires the State Board of Education to develop policy and regulations for the sale of food on school premises by any pupil or adult organization to ensure optimum participation in nonprofit food service programs.

This bill would eliminate the requirement that the State Board of Education develop policy and regulations for the sale of food by pupil and adult organizations and instead require the governing board of any school district or any county office of education to ensure that the sale of food by any organization, other than the school food service department, does not interfere with optimum participation in nonprofit food service programs. The bill would allow the governing board of any school district or a county superintendent of schools to permit

food sales by pupil organizations at elementary, middle, junior high, and high schools if specified requirements are satisfied.

This bill would require the State Department of Education to review the compliance of each school district or county office of education with the food sale provisions of the bill, as specified.

This bill would allow the State Department of Education to adopt regulations to enforce and administer the food sale provisions of the bill.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

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

3 (a) School meal programs contribute to better nutrition and
4 healthier eating behaviors among pupils.

5 (b) The United States Department of Agriculture's National
6 School Breakfast and Lunch programs were instituted to promote
7 better nutrition and healthier foods for children at school.

8 (c) Pupil organizations are important school support systems
9 that contribute to the academic and social success of pupils.

10 (d) Pupil organizations are encouraged to utilize a variety of
11 fundraising activities, including, but not limited to, food sales.

12 (e) Partnerships between a school district's food service
13 program and pupil organizations improve knowledge about
14 nutrition and help pupil organizations thrive.

15 (f) It is the intent of the Legislature to enact legislation that
16 increases participation in school meal programs and promotes
17 good nutrition by limiting the sale of foods in direct competition
18 with the national and state school meal programs.

19 (g) It is further the intent of the Legislature to enact legislation
20 that improves the nutritional value of food sold on school
21 campuses and addresses the impacts of obesity and other diseases
22 on California's children.

23 SEC. 2. Section 48931 of the Education Code is amended to
24 read:

25 48931. (a) The governing board of any school district or any
26 county office of education shall ensure that all food and
27 beverages sold or served by any organization, other than the

1 school food service department, do not interfere with optimum
2 participation in the nonprofit food service programs of that
3 school district or county office of education and are in
4 consideration of all programs approved by the governing board
5 of any school district or any county office of education.

6 (b) The governing board of a school district or a county
7 superintendent of schools maintaining an elementary school may
8 permit a food sale by a pupil organization at that school if all of
9 the following requirements are met:

10 (1) Each food item is approved for sale by the governing board
11 of the school district, the school district superintendent, or the
12 county superintendent of schools prior to the sale.

13 (2) The food items are not prepared on school premises.

14 (3) The sale takes place off school premises.

15 (4) The sale begins at least one-half hour after the end of the
16 regularly scheduled schoolday.

17 (c) The governing board of a school district or a county
18 superintendent of schools maintaining a middle, junior high, or
19 high school may permit a food sale by a pupil organization at that
20 school during or after the regular schoolday if all of the following
21 requirements are met:

22 (1) Each food item is approved for sale by the governing board
23 of the school district, the school district superintendent, or the
24 county superintendent of schools prior to the sale.

25 (2) The food item is not prepared on school premises.

26 (3) (A) The sale begins after the end of the regularly
27 scheduled schoolday.

28 (B) Notwithstanding subparagraph (A), the governing board of
29 a school district or a county superintendent of schools may
30 designate, or may approve the school principal's designation of,
31 four days per school year on which pupil organizations may
32 conduct food sales at any time during the schoolday, including
33 regularly scheduled food service periods. The four days
34 designated shall be the same four days for any and all
35 organizations of the school.

36 (C) Notwithstanding subparagraph (B), a pupil organization
37 may conduct food sales on days not designated or approved by
38 the governing board of the school district or a county
39 superintendent of schools at any time during the schoolday,
40 including the regularly scheduled food service periods, if a

1 partnership is established between the school food authority and
2 the pupil organization to promote full meal participation and to
3 ensure that school food authorities participating in state-funded
4 meal programs or in any federally funded meal program may
5 claim reimbursement for meals, food, and beverages sold or
6 served in accordance with that program.

7 (d) Nothing in this section shall be construed as exempting
8 from the California Uniform Retail Food Facilities Law (Chapter
9 4 (commencing with Section 113700) of Part 7 of Division 104
10 of the Health and Safety Code), food sales that are authorized
11 pursuant to this section and that would otherwise be subject to
12 the California Uniform Retail Food Facilities Law.

13 (e) This section does not exempt school districts from the
14 requirements of Sections 38103,~~45103~~ 45103.1, 45103.5,
15 88003.1, and 88020.5.

16 (f) The department shall review the compliance of each school
17 district or county office of education with the provisions of this
18 section as part of its Coordinated Review Effort pursuant to the
19 National School Lunch Program.

20 (g) The department may adopt regulations to enforce and
21 administer this section.