

AMENDED IN ASSEMBLY JANUARY 4, 2006

AMENDED IN ASSEMBLY APRIL 21, 2005

AMENDED IN ASSEMBLY APRIL 12, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 622**

**Introduced by Assembly Member Negrete McLeod**

February 17, 2005

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An act to amend ~~Sections 49430, 49430.5, and 49431~~ *Section 49430.5* of the Education Code, relating to ~~pupil nutrition~~ *school meals*.

LEGISLATIVE COUNSEL'S DIGEST

AB 622, as amended, Negrete McLeod. ~~Public schools: pupil nutrition~~ *School meals: reimbursement.*

*Existing law, operative only if moneys are appropriated for this purpose on or before January 1, 2004, requires the reimbursement that a school receives for free and reduced price meals sold or served to pupils in elementary or middle schools to be increased to \$0.23.*

*This bill instead would provide that these provisions are operative January 1, 2007, and would delete the requirement that the operation of the section is contingent upon the appropriation of funds for this specific purpose. The bill would also provide that increased reimbursement rate for pupils in high school and for full price meals.*

~~(1) Existing law, operative if funding is appropriated for specified nutritional purposes, prohibits the sale of certain beverages at elementary schools regardless of the time of day and restricts the sale of certain food items on those campuses during specified times. Existing law further prohibits the sale of carbonated beverages in~~

~~middle schools from ½ hour before the start of the schoolday until after the end of the last lunch period.~~

~~This bill would delete these provisions and would, instead, provide that food or beverages sold or served to pupils meet other specified nutritional standards. The bill would require elementary schools to comply with these standards commencing July 1, 2007, middle schools commencing July 1, 2008, and high schools commencing January 1, 2009.~~

~~(2) Existing law requires a school district to approve, for compliance with nutritional standards contained in existing law, the sale of foods on school grounds at each elementary school and schools participating in a specified pilot program.~~

~~This bill would create a state-mandated local program by requiring school districts to take this action with regard to the sale of foods on school grounds at middle and high schools.~~

~~(3) Existing law, operative only if moneys are appropriated for this purpose on or before January 1, 2004, requires the reimbursement that a school receives for free and reduced price meals sold or served to pupils in elementary or middle schools be increased to 23¢.~~

~~This bill would provide that these provisions are operative July 1, 2007, only if moneys are appropriated for this purpose. The bill would also provide for this increase for pupils in high school. The bill would implement this increase for elementary schools as of July 1, 2007, for middle schools as of July 1, 2008, and for high schools as of July 1, 2009.~~

~~(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes.~~

~~State-mandated local program: *yes-no*.~~

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

~~1 SECTION 1. Section 49430 of the Education Code is  
2 amended to read:~~

1 49430. As used in this article, the following terms have the  
2 following meanings:

3 (a) “Elementary school” means a public school that maintains  
4 any grade from kindergarten to grade 6, inclusive, but no grade  
5 higher than grade 6.

6 (b) “Middle school” means any public school that maintains  
7 grade 7 or 8, but no grade higher than grade 9.

8 (c) “High school” means any public school maintaining any of  
9 grades 10 to 12, inclusive.

10 (d) “Full meal” means any combination of food items that  
11 meet a USDA-approved meal pattern.

12 (e) “Added sweetener” means an additive other than 100  
13 percent fruit juice that enhances the sweetness of a beverage.

14 (f) “Nutritive sweetener” means an additive other than 100  
15 percent fruit juice or fruit juice that contains caloric value.

16 SEC. 2.—

17 SECTION 1. Section 49430.5 of the Education Code is  
18 amended to read:

19 49430.5. (a) ~~The~~ *Commencing January 1, 2007, the*  
20 *reimbursement a school receives for free and, reduced price, and*  
21 *full price meals sold or served to pupils shall be increased to*  
22 *twenty-three cents (\$0.23) in accordance with all of the*  
23 *following:*

24 (1) ~~For elementary schools, the increase shall occur~~  
25 ~~commencing July 1, 2007.~~

26 (2) ~~For middle schools, the increase shall occur commencing~~  
27 ~~July 1, 2008.~~

28 (3) ~~For high schools, the increase shall occur commencing~~  
29 ~~July 1, 2009.~~

30 (b) ~~Each school shall receive a reimbursement of ten cents~~  
31 ~~(\$0.10) for meals sold at full price.~~

32 (e)

33 (b) To qualify for the increased reimbursement for free and  
34 reduced price meals and for the reimbursement for meals sold at  
35 full price, a school shall follow the United States Department of  
36 Agriculture’s Enhanced Food Based Meal Pattern, the United  
37 States Department of Agriculture’s Nutrient Standard Meal  
38 Planning, California’s SHAPE Menu Patterns, or the USDA  
39 Traditional Meal Pattern.

40 (d)

1 (C) The reimbursement rates set forth in this section shall be  
 2 adjusted annually for increases in cost of living in the same  
 3 manner set forth in Section 42238.1.

4 ~~(e) This section shall become operative on July 1, 2007, only~~  
 5 ~~if moneys are appropriated on or before July 1, 2007, for the~~  
 6 ~~purposes of increased reimbursements pursuant to this article.~~

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

9 49431. (a) (1) ~~Commencing July 1, 2007, food and~~  
 10 ~~beverages sold or served to pupils on school grounds at an~~  
 11 ~~elementary school shall be approved for compliance with the~~  
 12 ~~nutrition standards in this section by the person or persons~~  
 13 ~~responsible for implementing these provisions as designated by~~  
 14 ~~the school district.~~

15 (2) ~~Commencing July 1, 2008, food and beverages sold or~~  
 16 ~~served to pupils on school grounds at a middle school shall be~~  
 17 ~~approved for compliance with the nutrition standards in this~~  
 18 ~~section by the person or persons responsible for implementing~~  
 19 ~~these provisions as designated by the school district.~~

20 (3) ~~Commencing July 1, 2009, food and beverages sold or~~  
 21 ~~served to pupils on school grounds at a high school shall be~~  
 22 ~~approved for compliance with the nutrition standards in this~~  
 23 ~~section by the person or persons responsible for implementing~~  
 24 ~~these provisions as designated by the school district.~~

25 (b) ~~Commencing July 1, 2007, food sold or served to pupils at~~  
 26 ~~an elementary school, except food sold or served as part of a~~  
 27 ~~federal meal program, shall meet all of the following standards:~~

28 (1) ~~The portion size of the food item shall not exceed the~~  
 29 ~~serving size of similar food items served in the National School~~  
 30 ~~Lunch Program or School Breakfast Program at that schoolsite.~~

31 (2) ~~A snack food item may be sold or served if that item meets~~  
 32 ~~at least one of the following:~~

33 (A) ~~The item contains 150 calories or less per serving.~~

34 (B) ~~No more than 35 percent of its calories are derived from~~  
 35 ~~total fat, no more than 10 percent of its total calories are derived~~  
 36 ~~from saturated fat, and no more than 35 percent of its total weight~~  
 37 ~~is composed of sugar. This subparagraph does not apply to the~~  
 38 ~~sale of nuts, nut butters, seeds, eggs, cheese, fruits, or vegetables.~~

39 (3) ~~Food of minimal nutritional value as defined in Section~~  
 40 ~~220.2 or 210.11 of Title 7 of the Code of Federal Regulations~~

1 shall not be sold or served to pupils during the regularly  
2 scheduled schoolday.

3 (4) Beverages sold or served to pupils shall comply with all  
4 applicable provisions of the Code of Federal Regulations and  
5 California Code of Regulation that regulate the content of  
6 beverages.

7 (e) Commencing July 1, 2008, food sold or served to pupils at  
8 a middle school, except food sold or served as part of a federal  
9 meal program, shall meet all of the following standards:

10 (1) The portion size of an entree item shall not exceed 390  
11 calories per serving.

12 (2) A snack food item may be sold or served if that item meets  
13 at least one of the following:

14 (A) The item contains 200 calories or less per serving.

15 (B) No more than 35 percent of its calories are derived from  
16 total fat, no more than 10 percent of its total calories are derived  
17 from saturated fat, and no more than 35 percent of its total weight  
18 is composed of sugar. This subparagraph does not apply to the  
19 sale of nuts, nut butters, seeds, eggs, cheese, fruits, or vegetables.

20 (3) Food of minimal nutritional value as defined in Section  
21 220.2 or 210.11 of Title 7 of the Code of Federal Regulations  
22 shall not be sold or served to pupils during the regularly  
23 scheduled schoolday.

24 (4) Beverages sold or served to pupils shall comply with all  
25 applicable provisions of the Code of Federal Regulations and  
26 California Code of Regulation that regulate the content of  
27 beverages.

28 (d) Commencing July 1, 2009, food sold or served to pupils at  
29 a high school, except food sold or served as part of a federal meal  
30 program, shall meet all of the following standards:

31 (1) The portion size of an entree item shall not exceed 435  
32 calories per serving.

33 (2) A snack food item may be sold or served if that item meets  
34 at least one of the following:

35 (A) The item contains 250 calories or less per serving.

36 (B) No more than 35 percent of its calories are derived from  
37 total fat, no more than 10 percent of its total calories are derived  
38 from saturated fat, and no more than 35 percent of its total weight  
39 is composed of sugar. This subparagraph does not apply to the  
40 sale of nuts, nut butters, seeds, eggs, cheese, fruits, or vegetables.

1 ~~(3) From one-half hour before the start of the schoolday until~~  
2 ~~one-half hour after the end of the schoolday, 66 percent of the~~  
3 ~~beverages served or sold to pupils at a high school shall be one of~~  
4 ~~the following:~~

5 ~~(A) Drinking water, including water products that contain no~~  
6 ~~added nutritive sweeteners.~~

7 ~~(B) Milk, including, but not limited to, flavored milk.~~

8 ~~(C) Fruit and vegetable based drinks that are composed of at~~  
9 ~~least 50 percent fruit or vegetable juice and contain no added~~  
10 ~~nutritive sweeteners.~~

11 ~~(D) Electrolyte replacement beverages that contain no more~~  
12 ~~than 42 grams of added sweetener per 20 ounce serving.~~

13 ~~(E) Other beverages that contain no added nutritive~~  
14 ~~sweeteners.~~

15 ~~(e) A school may permit the sale of food items that do not~~  
16 ~~comply with subdivisions (b) to (d), inclusive, as part of a school~~  
17 ~~fundraising event in any of the following circumstances:~~

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

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

23 ~~(3) An organization in a middle or high school may conduct~~  
24 ~~no more than four sales of food items per year, and these sales~~  
25 ~~shall be held on the same four days for all organizations.~~

26 ~~(f) Notwithstanding Article 3 (commencing with Section~~  
27 ~~33050) of Chapter 1 of Part 20, compliance with this section may~~  
28 ~~not be waived.~~

29 ~~(g) (1) This section shall become operative only if moneys are~~  
30 ~~appropriated for each of the following purposes:~~

31 ~~(A) Providing nutrition policy development grants pursuant to~~  
32 ~~subdivision (e) of Section 49433.~~

33 ~~(B) Support and technical assistance to school districts~~  
34 ~~pursuant to Section 49433.5.~~

35 ~~(C) Increasing meal reimbursements pursuant to Section~~  
36 ~~49430.5.~~

37 ~~(2) The department shall file a written statement with the~~  
38 ~~Secretary of the Senate and the Chief Clerk of the Assembly~~  
39 ~~when funds have been appropriated to meet the conditions of~~

1 paragraph (1). The statement shall state the annual Budget Act or  
2 other measure in which each appropriation was made.

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

6 ~~SEC. 4. If the Commission on State Mandates determines that~~  
7 ~~this act contains costs mandated by the state, reimbursement to~~  
8 ~~local agencies and school districts for those costs shall be made~~  
9 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
10 ~~4 of Title 2 of the Government Code.~~