

---

---

**Introduced by Senator Escutia**

February 22, 2005

---

---

An act to amend Section 49431.5 of the Education Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

SB 965, as introduced, Escutia. Pupil nutrition: beverages.

(1) Existing law requires the governing board of a school district to give diligent care to the health and physical development of pupils. Existing law restricts the sale of beverages to pupils at a middle or junior high school at specified times to certain specified beverages.

This bill would restrict the sale of beverages to pupils at a high school at specified times to certain specified beverages, thus imposing a state-mandated local program by imposing new duties on school districts.

(2) 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.

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

1 SECTION 1. Section 49431.5 of the Education Code is  
2 amended to read:

- 1 49431.5. ~~(a) Commencing July 1, 2004, regardless~~ (1)  
2 *Regardless* of the time of day, beverages, other than water, milk,  
3 100 percent fruit juices, or fruit-based drinks that are composed  
4 of no less than 50 percent fruit juice and have no added  
5 sweeteners, may not be sold to a pupil at an elementary school.
- 6 ~~(b)~~  
7 (2) An elementary school may permit the sale of beverages  
8 that do not comply with ~~subdivision (a) paragraph (1)~~ as part of  
9 a school fundraising event in any of the following circumstances:
- 10 ~~(1)~~  
11 (A) The items are sold by pupils of the school and the sale of  
12 those items takes place off the premises of the school.
- 13 ~~(2)~~  
14 (B) The items are sold by pupils of the school and the sale of  
15 those items takes place one-half hour or more after the end of the  
16 schoolday.
- 17 ~~(e) Commencing July 1, 2004, from~~  
18 (3) *From* one-half hour before the start of the schoolday to  
19 one-half hour after the end of the schoolday, only the following  
20 beverages may be sold to a pupil at a middle or junior high  
21 school:
- 22 ~~(1)~~  
23 (A) Fruit-based drinks that are composed of no less than 50  
24 percent fruit juice and have no added sweeteners.
- 25 ~~(2)~~  
26 (B) Drinking water.
- 27 ~~(3)~~  
28 (C) Milk, including, ~~but not limited to~~, chocolate milk, soy  
29 milk, rice milk, and other similar dairy or nondairy milk.
- 30 ~~(4)~~  
31 (D) An electrolyte replacement beverage that contains no more  
32 than 42 grams of added sweetener per 20-ounce serving.
- 33 ~~(d)~~  
34 (4) A middle or junior high school may permit the sale of  
35 beverages that do not comply with ~~subdivision (e) paragraph (3)~~  
36 as part of a school event if the sale of those items meets all of the  
37 following criteria:
- 38 ~~(1)~~  
39 (A) The sale occurs during a school-sponsored event and takes  
40 place at the location of that event after the end of the schoolday.

1 ~~(2)~~  
 2 (B) Vending machines, pupil stores, and cafeterias are not  
 3 used no sooner than one-half hour after the end of the schoolday.

4 ~~(e)~~  
 5 (5) This ~~section~~ *subdivision* does not prohibit an elementary,  
 6 *or middle or junior high school* from making available through a  
 7 vending machine any beverage allowed under ~~subdivision (a) or~~  
 8 ~~(e) paragraph (1) or (3)~~ at any time of day, or, in middle and  
 9 junior high schools, any product that does not comply with  
 10 ~~subdivision (e) paragraph (3)~~ if the product only is available not  
 11 later than one-half hour before the start of the schoolday and not  
 12 sooner than one-half hour after the end of the schoolday.

13 ~~(f)~~  
 14 (b) (1) *At each high school, the sale of all beverages on school*  
 15 *grounds shall be approved for compliance with this subdivision*  
 16 *by the person or persons responsible for implementing these*  
 17 *provisions as designated by the school district. This subdivision*  
 18 *does not apply to the sale of beverages during a*  
 19 *school-sponsored pupil activity that takes place after the end of*  
 20 *the schoolday.*

21 (2) *Commencing July 1, 2007, no less than 50 percent of all*  
 22 *beverages sold to a pupil from one-half hour before the start of*  
 23 *the schoolday until one-half hour after the end of the schoolday*  
 24 *shall be those enumerated by paragraph (4).*

25 (3) *Commencing July 1, 2009, all beverages sold to a pupil*  
 26 *from one-half hour before the start of the schoolday until*  
 27 *one-half hour after the end of the schoolday shall be those*  
 28 *enumerated by paragraph (4).*

29 (4) *Beverages allowed under this subdivision are all of the*  
 30 *following:*

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

33 (B) *Vegetable-based drinks that are composed of no less than*  
 34 *50 percent vegetable juice and have no added sweeteners.*

35 (C) *Drinking water with no added sweetener.*

36 (D) *Two percent-fat milk, one percent-fat milk, nonfat milk, soy*  
 37 *milk, rice milk, and other similar nondairy milk.*

38 (E) *An electrolyte replacement beverage that contains no more*  
 39 *than 42 grams of added sweetener per 20-ounce serving.*

1 (c) For the purposes of this section, “added sweetener” means  
2 any additive that enhances the sweetness of the beverage,  
3 including, ~~but not limited to,~~ added sugar, but does not include  
4 the natural sugar or sugars that are contained within the fruit  
5 juice which is a component of the beverage.

6 ~~(g)~~

7 (d) *It is the intent of the Legislature that the governing board*  
8 *of a school district annually review its compliance with this*  
9 *section.*

10 (e) Notwithstanding Article 3 (commencing with Section  
11 33050) of Chapter 1 of Part 20, compliance with this section may  
12 not be waived.

13 SEC. 2. If the Commission on State Mandates determines that  
14 this act contains costs mandated by the state, reimbursement to  
15 local agencies and school districts for those costs shall be made  
16 pursuant to Part 7 (commencing with Section 17500) of Division  
17 4 of Title 2 of the Government Code.