

AMENDED IN ASSEMBLY AUGUST 25, 2005

AMENDED IN ASSEMBLY AUGUST 15, 2005

AMENDED IN ASSEMBLY JUNE 23, 2005

AMENDED IN SENATE MAY 4, 2005

AMENDED IN SENATE APRIL 19, 2005

SENATE BILL

No. 965

**Introduced by Senator Escutia
(Coauthors: Senators Alquist and Ortiz)**

February 22, 2005

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

LEGISLATIVE COUNSEL'S DIGEST

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

~~(1) Existing~~

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 an elementary school to certain specified beverages, including water, milk, and 100% fruit juices, and at a middle or junior high school at specified times to certain specified beverages.

This bill would modify the list of beverages that may be sold to pupils at an elementary or a middle or junior high school, and would restrict the sale of beverages to pupils at a high school at specified times to certain specified beverages. ~~To the extent that this bill would impose new duties on a school district, the bill would create a state-mandated local program.~~

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

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:
 3 49431.5. (a) (1) Regardless of the time of day, only the
 4 following beverages may be sold to a pupil at an elementary
 5 school:
 6 (A) Fruit-based drinks that are composed of no less than 50
 7 percent fruit juice and have no added sweetener.
 8 (B) Vegetable-based drinks that are composed of no less than
 9 50 percent vegetable juice and have no added sweetener.
 10 (C) Drinking water with no added sweetener.
 11 (D) Two-percent-fat milk, one-percent-fat milk, nonfat milk,
 12 soy milk, rice milk, and other similar nondairy milk.
 13 (2) An elementary school may permit the sale of beverages
 14 that do not comply with paragraph (1) as part of a school
 15 fundraising event in any of the following circumstances:
 16 (A) The items are sold by pupils of the school and the sale of
 17 those items takes place off and away from the premises of the
 18 school.
 19 (B) The items are sold by pupils of the school and the sale of
 20 those items takes place one-half hour or more after the end of the
 21 schoolday.
 22 (3) From one-half hour before the start of the schoolday to
 23 one-half hour after the end of the schoolday, only the following
 24 beverages may be sold to a pupil at a middle or junior high
 25 school:
 26 (A) Fruit-based drinks that are composed of no less than 50
 27 percent fruit juice and have no added sweetener.

1 (B) Vegetable-based drinks that are composed of no less than
2 50 percent vegetable juice and have no added sweetener.

3 (C) Drinking water with no added ~~sweetener~~ *sweetener*.

4 (D) Two-percent-fat milk, one-percent-fat milk, nonfat milk,
5 soy milk, rice milk, and other similar nondairy milk.

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

8 (4) A middle or junior high school may permit the sale of
9 beverages that do not comply with paragraph (3) as part of a
10 school event if the sale of those items meets all of the following
11 criteria:

12 (A) The sale occurs during a school-sponsored event and takes
13 place at the location of that event at least one-half hour after the
14 end of the schoolday.

15 (B) Vending machines, pupil stores, and cafeterias are used
16 later than one-half hour after the end of the schoolday.

17 (5) This subdivision does not prohibit an elementary, or
18 middle or junior high school from making available through a
19 vending machine any beverage allowed under paragraph (1) or
20 (3) at any time of day, or, in middle and junior high schools, any
21 beverage that does not comply with paragraph (3) if the beverage
22 only is available not later than one-half hour before the start of
23 the schoolday and not sooner than one-half hour after the end of
24 the schoolday.

25 ~~(b) (1) At each high school, the sale of all beverages on
26 school grounds shall be approved for compliance with this
27 section by the person or persons responsible for implementing
28 these provisions as designated by the school district.~~

29 ~~(2)~~

30 *(b) (1)* Commencing July 1, 2007, no less than 50 percent of
31 all beverages sold to a pupil from one-half hour before the start
32 of the schoolday until one-half hour after the end of the
33 schoolday shall be those enumerated by paragraph ~~(4)~~ (3).

34 ~~(3)~~

35 (2) Commencing July 1, 2009, all beverages sold to a pupil
36 from one-half hour before the start of the schoolday until
37 one-half hour after the end of the schoolday shall be those
38 enumerated by paragraph ~~(4)~~ (3).

39 ~~(4)~~

1 (3) Beverages allowed under this subdivision are all of the
2 following:

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

5 (B) Vegetable-based drinks that are composed of no less than
6 50 percent vegetable juice and have no added sweetener.

7 (C) Drinking water with no added sweetener.

8 (D) Two-percent-fat milk, one-percent-fat milk, nonfat milk,
9 soy milk, rice milk, and other similar nondairy milk.

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

12 (c) For the purposes of this section, the following terms have
13 the following meanings:

14 (1) “Added sweetener” means any additive that enhances the
15 sweetness of the beverage, including added sugar, but does not
16 include the natural sugar or sugars that are contained within the
17 fruit juice which is a component of the beverage.

18 (2) “Sale of beverages” means the exchange of a beverage for
19 money, coupons, or vouchers.

20 (d) It is the intent of the Legislature that the governing board
21 of a school district annually review its compliance with this
22 section.

23 (e) Notwithstanding Article 3 (commencing with Section
24 33050) of Chapter 1 of Part 20, compliance with this section may
25 not be waived.

26 ~~SEC. 2. If the Commission on State Mandates determines that
27 this act contains costs mandated by the state, reimbursement to
28 local agencies and school districts for those costs shall be made
29 pursuant to Part 7 (commencing with Section 17500) of Division
30 4 of Title 2 of the Government Code.~~