

AMENDED IN SENATE JUNE 2, 2009
AMENDED IN SENATE MAY 6, 2009
AMENDED IN SENATE APRIL 22, 2009
AMENDED IN SENATE APRIL 16, 2009

SENATE BILL

No. 416

Introduced by Senator Florez

February 26, 2009

An act to add Section 49437 to the Education Code, ~~to add Section 18739 to the Food and Agricultural Code, and to add Section 4335 to the Government Code, relating to antibiotics.~~, *relating to antibiotics.*

LEGISLATIVE COUNSEL'S DIGEST

SB 416, as amended, Florez. Antibiotics.

~~(1) The~~

The Pupil Nutrition, Health, and Achievement Act of 2001 requires a school to follow the Enhanced Food Based Meal Pattern, Nutrient Standard Meal Planning, or Traditional Meal Pattern developed by the United States Department of Agriculture or the Shaping Health as Partners in Education (SHAPE) Menu Patterns developed by the state in order to qualify for reimbursement for free and reduced-price meals sold or served to pupils. The act additionally prescribes nutrition standards for snacks sold to pupils in middle, junior, or high school with certain exceptions, and prohibits the sale of certain beverages to a pupil at an elementary school, except as specified. Existing law, commencing July 1, 2009, prohibits schools from making available to pupils food containing artificial trans fat, as specified.

This bill would ~~require~~ *authorize* a school district to make every effort to purchase poultry and meat products that have not been treated with

nontherapeutic antibiotics, and ~~require~~ *authorize* each school district that purchases such poultry or meat products, ~~or each school district that does not know if the products have been treated with nontherapeutic antibiotics,~~ to report annually to the Superintendent of Public Instruction the reasons those products were purchased, along with certain other ~~information~~ *certain information relating to those products*. The bill would require the Superintendent, ~~commencing January 1, 2012, and annually thereafter,~~ to compile those reports and report to the Legislature, as provided. The bill would require the reports of the school district and the Superintendent to be available to the public upon request. ~~By imposing additional duties on local educational agencies, this bill would impose a state-mandated local program to request information from the United States Department of Agriculture (USDA) relating to the use of nontherapeutic antibiotics in meat available to California schools through certain USDA programs. The bill would require the Superintendent, by July 1, 2011, to provide the Legislature with a copy of any information provided by the USDA.~~

~~(2) Existing law authorizes the Secretary of Food and Agriculture, if the secretary determines that an animal raised for the production of any food product is or may be carrying in its body pesticides, poisons, or other deleterious substances, including, among others, antibiotics, which may render any food product from such animal injurious to human health, to order the animal held and segregated until the secretary has determined that the animal may safely be released for human food purposes.~~

~~This bill would, commencing January 1, 2015, prohibit a person from using antibiotics for nontherapeutic use in any animal raised for the production of any human food product.~~

~~Under existing law, a violation of this provision of the bill would be a crime. Because this bill would create new crimes, the bill would impose a state-mandated local program.~~

~~(3) Under existing law, in the purchase of supplies, state and local governments are required to prefer supplies grown, manufactured, or produced in this state.~~

~~(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 with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

~~This bill would also require state and local governments, when purchasing meat supplies, to prefer meat supplies produced without the use of medically important antibiotics as feed additives. Because this requirement would impose a new duty on local governmental agencies, the bill would impose a state-mandated local program.~~

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. The Legislature finds and declares the following:*

2 *(a) An estimated 70 percent of all antibiotics sold in the United*
3 *States go toward healthy livestock, according to a study by the*
4 *Union of Concerned Scientists.*

5 *(b) It is in the best interest of pupils attending California schools*
6 *that those schools procure meat for school lunch and breakfast*
7 *programs that are free of nontherapeutic antibiotics.*

8 ~~SECTION 1.~~

9 *SEC. 2.* Section 49437 is added to the Education Code, to read:
10 49437. (a) A school district ~~shall~~ *may* make every effort to
11 purchase poultry and meat products that have not been treated with
12 nontherapeutic antibiotics.

13 (b) (1) Each school district that purchases poultry or meat
14 products that have *not* been treated with nontherapeutic antibiotics;
15 ~~or each school district that does not know if the products have been~~
16 ~~treated with nontherapeutic antibiotics, shall report annually to the~~
17 ~~Superintendent the reasons those products were purchased,~~
18 ~~including, but not limited to, that no other product could be found,~~
19 ~~other products were more expensive, or the school district could~~
20 ~~not determine if the product had been treated with nontherapeutic~~
21 ~~antibiotics. The report shall include, but not be~~ *may report annually*
22 *to the Superintendent. The report may include, but is not* limited
23 to, a list of products purchased, the names of the companies from
24 which the products were purchased, the cost of each product, and
25 the cost of a comparable product known ~~not~~ to have been treated
26 with nontherapeutic antibiotics.

1 (2) *The Superintendent shall request that the United States*
2 *Department of Agriculture (USDA) do all of the following:*

3 (A) *Provide any information known to the USDA on the use of*
4 *nontherapeutic antibiotics in the meat available to California*
5 *schools through the USDA's bonus and entitlement commodity*
6 *programs for the National School Lunch Program or School*
7 *Breakfast Program, including specifying which products contain*
8 *nontherapeutic antibiotics.*

9 (B) *If information on the use of nontherapeutic antibiotics in*
10 *meat as specified in subparagraph (A) is not readily available,*
11 *provide information as to when that information will be available.*

12 (3) *The Superintendent shall provide the Legislature, no later*
13 *than July 1, 2011, with a copy of any information provided by the*
14 *USDA pursuant to paragraph (2), including information relating*
15 *to any lack of response to the Superintendent's request for*
16 *information.*

17 (c) *For purposes of this section, "antibiotic" means any drug*
18 *intended for use in food-producing animals that is composed wholly*
19 *or partly of either of the following:*

20 (1) *Any kind of penicillin, tetracycline, macrolide, lincosamide,*
21 *streptogramin, minoglycoside, or sulfonamide.*

22 (2) *Any other drug or derivative of a drug that is used in humans*
23 *or intended for use in humans to treat or prevent disease or*
24 *infection caused by microorganisms.*

25 (d) *For purposes of this section, "nontherapeutic use," with*
26 *respect to antibiotics, means any use of the drug as a feed or water*
27 *additive for an animal in the absence of any clinical sign of disease*
28 *in the animal for growth promotion, feed efficiency, weight gain,*
29 *routine disease prevention, or other routine purpose.*

30 ~~(2) The report of each school district shall be available to the~~
31 ~~public upon request.~~

32 ~~(3) Commencing January 1, 2012, and annually thereafter, the~~
33 ~~Superintendent shall compile the reports of each school district~~
34 ~~and report to the Legislature on the feasibility of phasing in a~~
35 ~~requirement that every school district be prohibited from serving~~
36 ~~poultry and meat products treated with nontherapeutic antibiotics~~
37 ~~to pupils. Each report of the Superintendent to the Legislature shall~~
38 ~~be available to the public upon request.~~

1 ~~(e) For purposes of this section, “antibiotic” and~~
2 ~~“nontherapeutic” have the same meaning as those terms are given~~
3 ~~in Section 18739 of the Food and Agricultural Code.~~

4 ~~SEC. 2. Section 18739 is added to the Food and Agricultural~~
5 ~~Code, to read:~~

6 ~~18739. (a) Commencing January 1, 2015, no person shall use~~
7 ~~antibiotics for nontherapeutic use in any animal raised for the~~
8 ~~production of any human food product.~~

9 ~~(b) For purposes of this section, “antibiotic” means any drug~~
10 ~~intended for use in food-producing animals that is composed~~
11 ~~wholly or partly of either of the following:~~

12 ~~(1) Any kind of penicillin, tetracycline, macrolide, lincosamide,~~
13 ~~streptogramin, minoglycoside, or sulfonamide.~~

14 ~~(2) Any other drug or derivative of a drug that is used in humans~~
15 ~~or intended for use in humans to treat or prevent disease or~~
16 ~~infection caused by micro-organisms.~~

17 ~~(e) For purposes of this section, “nontherapeutic use,” with~~
18 ~~respect to antibiotics, means any use of the drug as a feed or water~~
19 ~~additive for an animal in the absence of any clinical sign of disease~~
20 ~~in the animal for growth promotion, feed efficiency, weight gain,~~
21 ~~routine disease prevention, or other routine purpose.~~

22 ~~SEC. 3. Section 4335 is added to the Government Code, to~~
23 ~~read:~~

24 ~~4335. (a) All state and local governmental agency personnel~~
25 ~~charged with purchasing meat products for human consumption~~
26 ~~shall always prefer meat supplies produced without the use of~~
27 ~~medically important antibiotics as feed additives.~~

28 ~~(b) For purposes of this section, “antibiotic” has the same~~
29 ~~meaning as that term is given in Section 18739 of the Food and~~
30 ~~Agricultural Code.~~

31 ~~SEC. 4. No reimbursement is required by this act pursuant to~~
32 ~~Section 6 of Article XIII B of the California Constitution for certain~~
33 ~~costs that may be incurred by a local agency or school district~~
34 ~~because, in that regard, this act creates a new crime or infraction,~~
35 ~~eliminates a crime or infraction, or changes the penalty for a crime~~
36 ~~or infraction, within the meaning of Section 17556 of the~~
37 ~~Government Code, or changes the definition of a crime within the~~
38 ~~meaning of Section 6 of Article XIII B of the California~~
39 ~~Constitution.~~

1 However, if the Commission on State Mandates determines that
2 this act contains other costs mandated by the state, reimbursement
3 to local agencies and school districts for those costs shall be made
4 pursuant to Part 7 (commencing with Section 17500) of Division
5 4 of Title 2 of the Government Code.

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