

**Introduced by Senator Padilla**

February 19, 2010

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1255, as introduced, Padilla. Schools: nutrition: beverages.

Existing law permits the sale of only certain beverages to pupils at schools. The beverages that may be sold include fruit-based and vegetable-based drinks, drinking water, milk, and an electrolyte replacement beverage if those beverages meet certain nutritional requirements.

This bill, commencing July 1, 2011, would remove electrolyte replacement beverages from those beverages that may be sold at schools at specified times.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: 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 school:
- 5 (A) Fruit-based drinks that are composed of no less than 50
- 6 percent fruit juice and have no added sweetener.
- 7 (B) Vegetable-based drinks that are composed of no less than
- 8 50 percent vegetable juice and have no added sweetener.
- 9 (C) Drinking water with no added sweetener.

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

3 (2) An elementary school may permit the sale of beverages that  
4 do not comply with paragraph (1) as part of a school fundraising  
5 event in any of the following circumstances:

6 (A) The items are sold by pupils of the school and the sale of  
7 those items takes place off and away from the premises of the  
8 school.

9 (B) The items are sold by pupils of the school and the sale of  
10 those items takes place one-half hour or more after the end of the  
11 schoolday.

12 (3) From one-half hour before the start of the schoolday to  
13 one-half hour after the end of the schoolday, only the following  
14 beverages may be sold to a pupil at a middle or junior high school:

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

17 (B) Vegetable-based drinks that are composed of no less than  
18 50 percent vegetable juice and have no added sweetener.

19 (C) Drinking water with no added sweetener.

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

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

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

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

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

32 (5) This subdivision does not prohibit an elementary, or middle  
33 or junior high school from making available through a vending  
34 machine any beverage allowed under paragraph (1) or (3) at any  
35 time of day, or, in middle and junior high schools, any beverage  
36 that does not comply with paragraph (3) if the beverage only is  
37 available not later than one-half hour before the start of the  
38 schoolday and not sooner than one-half hour after the end of the  
39 schoolday.

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

5 (2) ~~Commencing July 1, 2009, all~~ All beverages sold to a pupil  
6 from one-half hour before the start of the schoolday until one-half  
7 hour after the end of the schoolday shall be those enumerated by  
8 paragraph ~~(3)~~ (2).

9 ~~(3)~~

10 (2) Beverages allowed under this subdivision are all of the  
11 following:

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

14 (B) Vegetable-based drinks that are composed of no less than  
15 50 percent vegetable juice and have no added sweetener.

16 (C) Drinking water with no added sweetener.

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

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

21 (3) *Notwithstanding paragraphs (1) and (2) and paragraph (3)*  
22 *of subdivision (a), commencing on July 1, 2011, electrolyte*  
23 *replacement beverages shall not be sold to a pupil from one-half*  
24 *hour before the start of the schoolday until one-half hour after the*  
25 *end of the schoolday.*

26 (c) For the purposes of this section, the following terms have  
27 the following meanings:

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

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

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

36 (e) Notwithstanding Article 3 (commencing with Section 33050)  
37 of Chapter 1 of Part 20 of *Division 2*, compliance with this section  
38 may not be waived.

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