

AMENDED IN ASSEMBLY MAY 7, 2013
AMENDED IN ASSEMBLY APRIL 23, 2013
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CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 626

Introduced by Assembly Members Skinner and Lowenthal
(Coauthor: Assembly Member Pan)

February 20, 2013

An act to amend Sections 8482.3, 35182.5, 38091, 38100, 49430, 49431, 49431.2, 49431.5, 49431.7, and 49432 of, to repeal Sections 38092, 38102, 49433, 49433.5, 49433.7, 49433.9, 49435, and 49436 of, and to repeal and add Section 49434 of, the Education Code, relating to school nutrition.

LEGISLATIVE COUNSEL'S DIGEST

AB 626, as amended, Skinner. School nutrition.

(1) Existing law, the After School Education and Safety Program Act of 2002, enacted by initiative statute, establishes the After School Education and Safety Program to serve pupils in kindergarten and grades 1 to 9, inclusive, and requires an entity that applies to operate a program to agree that snacks made available by the program conform to specified nutrition standards.

This bill would also require an entity that applies to operate a program to agree that meals made available by the program conform to specified federal nutrition standards.

(2) Existing law authorizes the governing board of any school district to establish cafeterias in the schools under its jurisdiction and authorizes the moneys received for the sale of food or for any services performed

by the cafeterias to be paid into the county treasury to the credit of the cafeteria fund of the particular school district. Existing law requires the cafeteria fund to be used only for those expenditures authorized by the governing board of the school district as necessary for the operation of school cafeterias, including, but not limited to, certain expenditures related to a central food processing plant. Existing law authorizes the governing board of any school district with an average daily attendance of over 100,000 to allow as an expenditure from its cafeteria fund a share of money, agreed upon pursuant to a contract, that is generated from the joint sale of items between the cafeteria and an associated student body store. Existing law also authorizes the governing board of a school district to authorize the establishment of one or more cafeteria revolving accounts whenever a cafeteria fund is operated.

This bill would repeal the authority of the governing board of a school district to use moneys in the cafeteria fund for certain expenditures related to a central food processing plant, to allow as an expenditure from that fund a share of money generated from the joint sale of items between the cafeteria and an associated student body store, and to create one or more cafeteria revolving accounts.

(3) Existing law requires the cost of housing and equipping cafeterias to be a charge against the funds of the school district except that the governing board of a school district is authorized to make the cost of the lease or purchase of additional cafeteria equipment for a central food processing plant, and of vending machines and their installation and housing, a charge against cafeteria funds if the governing board of the school district deems it necessary. Existing law also authorizes the governing board of a school district, if school district funds are expended for the lease or purchase of additional cafeteria equipment for a central food processing plant, or for the lease, purchase, installation, or housing of vending machines, to reimburse school funds from cafeteria funds within 5 years after the expenditure.

This bill would instead require the cost of providing adequate housing for cafeterias, including, but not limited to, kitchen facilities, to be a charge against the funds of the school district. The bill would require the cost of the lease or purchase of cafeteria equipment and of vending machines and their installation and housing to be a charge against cafeteria funds. However, the governing board of a school district would be authorized to make these costs a charge against the funds of the school district if the governing board of the school district deems it necessary. The bill would also authorize the governing board of the

school district, if school district funds are expended for the lease or purchase of cafeteria equipment, or for the lease, purchase, installation, or housing of vending machines, as specified, to reimburse school funds from cafeteria funds during the same fiscal year. The bill would require the governing board of a school district to only approve reimbursement for vending machines if specified conditions apply.

Existing law authorizes the governing board of a school district to make the cost of maintenance of the physical plant used in connection with cafeterias, the cost of replacement of equipment, and the cost of telephone charges, water, electricity, gas, coal, wood, fuel oil, and garbage disposal a charge against the funds of the school district.

This bill would instead authorize the governing board of a school district to make the cost of maintenance of kitchen facilities, the cost of replacement or maintenance of kitchen equipment, and the reasonable costs of providing drinking water in the cafeteria and garbage disposal related to food service and delivery a charge against cafeteria funds.

(4) Existing law authorizes the governing board of any school district operating school cafeterias to establish and maintain a cafeteria fund reserve for the purchase, lease, maintenance, or replacement of cafeteria equipment.

This bill would repeal that provision.

(5) Existing law, the Pupil Nutrition, Health, and Achievement Act of 2001, requires each elementary school, ~~commencing July 1, 2007,~~ to sell only certain foods to a pupil during the schoolday, except for food items sold as part of a school fundraising event, if the items are sold by pupils of the school and the sale of those items *either* takes place ~~off of and away from school premises, or the items are sold by pupils of the school and the sale of those items~~ *or* takes place at least ~~one-half~~^{1/2} hour after the end of the schoolday. Existing law defines “sold” ~~as the exchange of food for money, coupon, or vouchers for purposes of those provisions.~~

This bill would ~~require each elementary school, instead make those provisions applicable from one-half~~^{1/2} hour before the start of the schoolday ~~to one-half~~^{1/2} hour after the schoolday, to sell only certain foods to a pupil, except for food items sold as part of a school fundraising event if the sale of those items takes place ~~off of and away from school premises, or the sale of those items takes place on school premises at least one-half hour after the end of the schoolday, and would include individually sold dairy or whole grain foods among the list of foods that may be sold. The bill would revise the requirements for the~~

sale of food at school fundraising events by deleting the requirement that the items be sold by pupils. The bill would also define revise the definition of “sold” as the exchange of food or beverages for money, coupon, vouchers, or order forms, when any part of the exchange occurs on a school campus for purposes of those provisions.

(6) Existing law, ~~commencing July 1, 2007,~~ and excluding food served as part of a United States Department of Agriculture (USDA) meal program, requires snacks and entrée items sold to a pupil in middle, junior, or high school to meet specified nutritional standards, and requires entrée items to also be categorized as entrée items in the School Breakfast Program or National School Lunch Program. Existing law authorizes the sale of food items that do not comply with these provisions in specific circumstances, including, but not limited to, if the sale of those items occurs during a school-sponsored pupil activity after the end of the schoolday.

This bill would apply these restrictions to the sale of snacks and entrées to a pupil in middle school or high school from ~~one-half~~^{1/2} hour before the start of the schoolday to ~~one-half~~^{1/2} hour after the schoolday, and would remove the requirement that entrée items be categorized as entrée items in the School Breakfast Program or National School Lunch Program. The bill would also repeal the authority of a middle school or high school to permit the sale of food items that do not comply with the specified nutritional standards if the sale of those items occurs during a school-sponsored pupil activity after the end of the schoolday.

(7) Existing law requires ~~that only~~ beverages that ~~meet specified nutritional standards may be~~ *are* sold to a pupil at an elementary school; ~~regardless of the time of day. Existing law authorizes an elementary school to permit the sale of beverages that do not meet the specified nutritional standards as part of a fundraising event if to meet specified nutritional standards, unless the school authorizes the items are to be~~ sold by pupils of the school *as part of a fundraising event*, and the sale of those items *either* takes place ~~off of and~~ away from ~~the school premises of the school or the sale of those items takes place~~ ~~one-half~~^{1/2} hour or more after the end of the schoolday.

This bill would ~~instead require, from one-half hour before the start of the schoolday to one-half hour after the schoolday, that only~~ beverages that meet specified nutritional standards may be sold to a pupil at an elementary school. The bill would also remove the requirement that beverages that do not meet specified nutritional

~~standards must delete the provision requiring the items to be sold by pupils of the school.~~

~~Existing~~

~~(8) Existing law requires that only beverages that meet specified nutritional standards may be sold to a pupil at a middle or junior high school from ~~one-half~~ 1/2 hour before the start of the schoolday to ~~one-half~~ 1/2 hour after the end of the schoolday. Existing law authorizes a middle or junior high school to permit the sale of beverages that do not meet the specified nutritional standards as part of a school event if the sale of those items occurs during a school-sponsored event and takes place at the location of the event at least ~~one-half~~ 1/2 hour after the end of the schoolday and vending machines, pupil stores, and cafeterias are used later than ~~one-half~~ 1/2 hour after the end of the schoolday.~~

This bill would require that only beverages that meet the same specified nutritional standards may be sold to a pupil at a high school for ~~one-half~~ 1/2 hour before the start of the schoolday to ~~one-half~~ 1/2 hour after the end of the schoolday. The bill would also authorize a middle school or high school to permit the sale of beverages that do not meet specified nutritional standards as part of a school event if either the sale of those items takes place ~~off of and~~ away from the premises of the school or the sale of those items takes place on school premises at least ~~one-half~~ 1/2 hour after the end of the schoolday.

~~(8)~~

~~(9) Existing law prohibits a school or school district, during school hours and ~~one-half~~ 1/2 hour before and after school hours, through a vending machine or school food service establishment, as defined, from making available to pupils enrolled in kindergarten, or grades 1 to 12, inclusive, food containing artificial trans fat, as defined, or use food containing artificial trans fat in the preparation of a food item served to those pupils unless the food is provided as part of a USDA meal program.~~

This bill would instead prohibit a school or school district, from ~~one-half~~ 1/2 hour before the start of the schoolday to ~~one-half~~ 1/2 hour after the end of the schoolday, from selling to pupils enrolled in kindergarten, or grades 1 to 12, inclusive, food containing artificial trans fat, as defined, unless the food is provided as part of a USDA meal program.

~~(9)~~

~~(10) Existing law requires the State Department of Education to establish a 3-year pilot program related to the Pupil Nutrition, Health,~~

and Achievement Act of 2001, commencing in the fall of the 2002–03 school year, in which a total of not less than 10 high schools, middle schools, or any combination of high schools and middle schools that apply are selected to participate.

This bill would repeal the provisions related to the pilot program.

~~(10)~~

(11) Existing law authorizes the Superintendent of Public Instruction to monitor school districts for compliance with the Pupil Nutrition, Health, and Achievement Act of 2001, and requires each school district so monitored to report to the Superintendent in the coordinated review effort regarding the extent of the school district’s compliance. Existing law requires a school district found to be noncompliant with certain provisions of that act to adopt a corrective action plan, as specified.

This bill would repeal those provisions and require that compliance with the act be monitored by the State Department of Education in conformity with the USDA’s administrative review process, as specified.

~~(11)~~

(12) This bill would also make conforming and nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

- 1 SECTION 1. Section 8482.3 of the Education Code is amended
- 2 to read:
- 3 8482.3. (a) The After School Education and Safety Program
- 4 shall be established to serve pupils in kindergarten and grades 1
- 5 to 9, inclusive, at participating public elementary, middle, junior
- 6 high, and charter schools.
- 7 (b) A program may operate a before school component of a
- 8 program, an after school component, or both the before and after
- 9 school components of a program, on one or multiple schoolsites.
- 10 If a program operates at multiple schoolsites, only one application
- 11 shall be required for its establishment.
- 12 (c) Each component of a program established pursuant to this
- 13 article shall consist of the following two elements:
- 14 (1) An educational and literacy element in which tutoring or
- 15 homework assistance is provided in one or more of the following

1 areas: language arts, mathematics, history and social science,
2 computer training, or science.

3 (2) An educational enrichment element, that may include, but
4 need not be limited to, fine arts, career technical education,
5 recreation, physical fitness, and prevention activities.

6 (3) Notwithstanding any other provision of this article, the
7 majority of the time spent by a pupil who is in kindergarten or any
8 of grades 1 to 9, inclusive, and who is participating in a career
9 technical education element of a program established pursuant to
10 this article shall be at a site that complies with Section 8484.6.

11 (d) (1) Applicants shall agree that snacks made available
12 through a program shall conform to the nutrition standards in
13 Article 2.5 (commencing with Section 49430) of Chapter 9 of Part
14 27 of Division 4 of Title 2.

15 (2) Applicants shall agree that meals made available through a
16 program shall conform to the nutrition standards of the United
17 States Department of Agriculture’s at-risk afterschool meal
18 component of the Child and Adult Care Food Program (42 U.S.C.
19 Sec. 1766) or the National School Lunch Program (42 U.S.C. Sec.
20 1751 et seq.).

21 (e) Applicants for programs established pursuant to this article
22 may include any of the following:

23 (1) A local educational agency, including, but not limited to, a
24 charter school, the California School for the Deaf (northern
25 California), the California School for the Deaf (southern
26 California), and the California School for the Blind.

27 (2) A city, county, or nonprofit organization in partnership with,
28 and with the approval of, a local educational agency or agencies.

29 (f) Applicants for grants pursuant to this article shall ensure that
30 each of the following requirements is fulfilled, if applicable:

31 (1) The application documents the commitments of each partner
32 to operate a program on that site or sites.

33 (2) The application has been approved by the school district, or
34 the charter school governing board, and the principal of each
35 participating school for each schoolsite or other site.

36 (3) Each partner in the application agrees to share responsibility
37 for the quality of the program.

38 (4) The application designates the public agency or local
39 educational agency partner to act as the fiscal agent. For purposes
40 of this section, “public agency” means only a county board of

1 supervisors or if the city is incorporated or has a charter, a city
2 council.

3 (5) Applicants agree to follow all fiscal reporting and auditing
4 standards required by the department.

5 (6) Applicants agree to incorporate into the program both of the
6 elements required pursuant to subdivision (c).

7 (7) Applicants agree to provide information to the department
8 for the purpose of program evaluation pursuant to Section 8483.55.

9 (8) Applicants shall certify that program evaluations will be
10 based upon Section 8484 and upon any requirements recommended
11 by the Advisory Committee on Before and After School Programs
12 and adopted by the state board, in compliance with subdivision
13 (g) of Section 8482.4.

14 (9) The application states the targeted number of pupils to be
15 served by the program.

16 (10) Applicants agree to provide the following information on
17 participating pupils to the department:

18 (A) Schoolday attendance rates.

19 (B) Pupil test scores from the Standardized Testing and
20 Reporting Program established under Section 60640, reflecting
21 achievement in the areas addressed by required program elements,
22 if assessments have been established in that area.

23 (C) Program attendance.

24 (g) (1) Grantees shall review their after school program plans
25 every three years, including, but not limited to, all of the following:

26 (A) Program goals. A grantee may specify any new program
27 goals that will apply to the following three years during the grant
28 renewal process.

29 (B) Program content, including the elements identified in
30 subdivision (c).

31 (C) Outcome measures selected from those identified in
32 subdivision (a) of Section 8484 that the grantee will use for the
33 next three years.

34 (D) Any other information requested by the department.

35 (E) If the program goals or outcome measures change as a result
36 of this review, the grantee shall notify the department in a manner
37 prescribed by the department.

38 (F) The grantee shall maintain documentation of the after school
39 program plan for a minimum of five years.

1 (2) The department shall monitor this review as part of its onsite
2 monitoring process.

3 SEC. 2. Section 35182.5 of the Education Code is amended to
4 read:

5 35182.5. (a) The Legislature finds and declares all of the
6 following:

7 (1) State and federal laws require all schools participating in
8 meal programs to provide nutritious food and beverages to pupils.

9 (2) State and federal laws restrict the sale of food and beverages
10 in competition with meal programs to enhance the nutritional goals
11 for pupils, and to protect the fiscal and nutritional integrity of the
12 school food service programs.

13 (3) Parents, pupils, and community members should have the
14 opportunity to ensure, through the review of food and beverage
15 contracts, that food and beverages sold on school campuses provide
16 nutritious sustenance to pupils, promote good health, help pupils
17 learn, provide energy, and model fit living for life.

18 (b) For purposes of this section, the following terms have the
19 following meanings:

20 (1) “Nonnutritious beverages” means any beverage that is not
21 any of the following:

22 (A) Drinking water.

23 (B) Milk, including, but not limited to, chocolate milk, soy milk,
24 rice milk, and other similar dairy or nondairy milk.

25 (C) An electrolyte replacement beverage that contains 42 grams
26 or less of added sweetener per 20 ounce serving.

27 (D) A 100 percent fruit juice, or fruit-based drink that is
28 composed of 50 percent or more fruit juice and that has no added
29 sweeteners.

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

34 (3) “Nonnutritious food” means food that is not sold as part of
35 the school breakfast or lunch program as a full meal, and that meets
36 any of the following standards:

37 (A) More than 35 percent of its total calories are from fat.

38 (B) More than 10 percent of its total calories are from saturated
39 fat.

1 (C) More than 35 percent of its total weight is composed of
2 sugar. This subparagraph does not apply to the sale of fruits or
3 vegetables.

4 (c) The governing board of a school district shall not do any of
5 the following:

6 (1) Enter into or renew a contract or permit a school within the
7 district to enter into or renew a contract that grants exclusive or
8 nonexclusive advertising or grants the right to the exclusive or
9 nonexclusive sale of carbonated beverages or nonnutritious
10 beverages or nonnutritious food within the district to a person,
11 business, or corporation, unless the governing board of the school
12 district does all of the following:

13 (A) Adopts a policy after a public hearing of the governing
14 board to ensure that the district has internal controls in place to
15 protect the integrity of the public funds and to ensure that funds
16 raised benefit public education, and that the contracts are entered
17 into on a competitive basis pursuant to procedures contained in
18 Section 20111 of the Public Contract Code or through the issuance
19 of a Request for Proposal.

20 (B) Provides to parents, guardians, pupils, and members of the
21 public the opportunity to comment on the contract by holding a
22 public hearing on the contract during a regularly scheduled board
23 meeting. The governing board shall clearly, and in a manner
24 recognizable to the general public, identify in the agenda the
25 contract to be discussed at the meeting.

26 (2) Enter into a contract that prohibits a school district employee
27 from disparaging the goods or services of the party contracting
28 with the governing board.

29 (3) Enter into a contract or permit a school within the district
30 to enter into a contract for electronic products or services that
31 requires the dissemination of advertising to pupils, unless the
32 governing board of the school district does all of the following:

33 (A) Enters into the contract at a noticed public hearing of the
34 governing board.

35 (B) Makes a finding that the electronic product or service in
36 question is or would be an integral component of the education of
37 pupils.

38 (C) Makes a finding that the school district cannot afford to
39 provide the electronic product or service unless it contracts to
40 permit dissemination of advertising to pupils.

1 (D) Provides written notice to the parents or guardians of pupils
2 that the advertising will be used in the classroom or other learning
3 centers. This notice shall be part of the district’s normal ongoing
4 communication to parents or guardians.

5 (E) Offers the parents the opportunity to request in writing that
6 the pupil not be exposed to the program that contains the
7 advertising. Any request shall be honored for the school year in
8 which it is submitted, or longer if specified, but may be withdrawn
9 by the parents or guardians at any time.

10 (d) A governing board may meet the public hearing requirement
11 set forth in subparagraph (B) of paragraph (1) of subdivision (c)
12 for those contracts that grant the right to the exclusive or
13 nonexclusive sale of carbonated beverages or nonnutritious
14 beverages or nonnutritious food within the district, by an annual
15 public hearing to review and discuss existing and potential
16 contracts for the sale of food and beverages on campuses, including
17 food and beverages sold as full meals, through competitive sales,
18 as fundraisers, and through vending machines.

19 (1) The public hearing shall include, but not be limited to, a
20 discussion of all of the following:

21 (A) The nutritional value of food and beverages sold within the
22 district.

23 (B) The availability of fresh fruit, vegetables, and grains in
24 school meals and snacks, including, but not limited to, locally
25 grown and organic produce.

26 (C) The amount of fat, sugar, and additives in the food and
27 beverages discussed.

28 (D) Barriers to pupil participation in school breakfast and lunch
29 programs.

30 (2) A school district that holds an annual public hearing
31 consistent with this subdivision is not released from the public
32 hearing requirements set forth in subparagraph (B) of paragraph
33 (1) of subdivision (c) for those contracts not discussed at the annual
34 public hearing.

35 (e) The governing board of the school district shall make
36 accessible to the public any contract entered into pursuant to
37 paragraph (1) of subdivision (c) and may not include in that
38 contract a confidentiality clause that would prevent a school or
39 school district from making any part of the contract public.

1 (f) The governing board of a school district may sell advertising,
2 products, or services on a nonexclusive basis.

3 (g) The governing board of a school district may post public
4 signs indicating the district's appreciation for the support of a
5 person or business for the district's education program.

6 (h) Contracts entered into before January 1, 2004, may remain
7 in effect, but may not be renewed if they are in conflict with this
8 section.

9 SEC. 3. Section 38091 of the Education Code is amended to
10 read:

11 38091. The cafeteria fund shall be used only for those
12 expenditures authorized by the governing board of a school district
13 as necessary for the operation of school cafeterias, including, but
14 not limited to, expenditures for the lease or purchase of additional
15 cafeteria equipment, vending machines and their installation and
16 housing, and computer equipment and related software.

17 SEC. 4. Section 38092 of the Education Code is repealed.

18 SEC. 5. Section 38100 of the Education Code is amended to
19 read:

20 38100. (a) The cost of providing adequate housing for
21 cafeterias, including, but not limited to, kitchen facilities, is a
22 charge against the funds of the school district. The cost of the lease
23 or purchase of cafeteria equipment and of vending machines and
24 their installation and housing shall be a charge against cafeteria
25 funds, in accordance with Section 38091. However, when the
26 governing board of a school district deems it necessary, the
27 governing board of a school district may make the cost of the lease
28 or purchase of cafeteria equipment and vending machines and their
29 installation and housing a charge against the funds of the school
30 district. If school district funds are expended for the lease or
31 purchase of cafeteria equipment or for the lease, purchase,
32 installation, or housing of vending machines, the governing board
33 of the school district may at any time during the same fiscal year
34 after the expenditure reimburse school district funds from cafeteria
35 funds. The governing board of a school district shall only approve
36 reimbursement for vending machines if one, or both, of the
37 following apply:

38 (1) The vending machines are owned and operated by the school
39 food services department, sell meals that qualify for federal meal

1 program reimbursement, and are equipped with appropriate point
2 of service meal counting software.

3 (2) The vending machines sell only food, or only beverages, or
4 both that comply with state and federal competitive food laws and
5 regulations.

6 (b) The governing board of a school district may by resolution
7 make the cost of maintenance of the kitchen facilities, the cost of
8 replacement or maintenance of kitchen equipment, and the
9 reasonable costs of providing drinking water in the ~~cafeteria;~~
10 *cafeteria* and garbage disposal related to food service and delivery
11 a charge against cafeteria ~~funds~~ *funds*, provided that the school
12 district complies with all applicable state and federal laws and
13 regulations.

14 SEC. 6. Section 38102 of the Education Code is repealed.

15 SEC. 7. Section 49430 of the Education Code is amended to
16 read:

17 49430. As used in this article, the following terms have the
18 following meanings:

19 (a) “Elementary school” means a school operated and maintained
20 by a school district or county office of education that maintains
21 any grade from kindergarten to grade 6, inclusive, but no grade
22 higher than grade 6.

23 (b) “Middle school” means a school operated and maintained
24 by a school district or county office of education that maintains
25 grade 7 or 8, 7 to 9, inclusive, or 7 to 10, inclusive.

26 (c) “High school” means a school operated and maintained by
27 a school district or county office of education maintaining any of
28 grades 9 to 12, inclusive.

29 (d) “Full meal” means a combination of food items that meet
30 USDA-approved School Breakfast Program or National School
31 Lunch Program meal pattern requirements or the menu planning
32 options of Shaping Health as Partners in Education developed by
33 the state (SHAPE California network).

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

36 (f) “Sold” means the exchange of food or beverages for money,
37 coupons, vouchers, or order forms, when any part of the exchange
38 occurs on a school campus.

1 (g) “Entrée” means a food that is generally regarded as being
2 the primary food in a meal, and shall include, but not be limited
3 to, sandwiches, burritos, pasta, and pizza.

4 (h) “Snack” means a food that is generally regarded as
5 supplementing a meal, including, but not limited to, chips, crackers,
6 onion rings, nachos, french fries, donuts, cookies, pastries,
7 cinnamon rolls, and candy.

8 (i) “Deep fried” means a food item is cooked by total submersion
9 in oil or fat.

10 (j) “Par fried” means a food item is fried to reach an internal
11 temperature of 160 degrees Fahrenheit then is cooled to room
12 temperature so that it may be refrigerated or frozen for future
13 frying.

14 (k) “Flash fried” means a food item is quickly fried on both
15 sides in oil with a temperature of 400 degrees Fahrenheit or higher.

16 SEC. 8. Section 49431 of the Education Code is amended to
17 read:

18 49431. (a) (1) From one-half hour before the start of the
19 schoolday to one-half hour after the schoolday, at each elementary
20 school, the only food that may be sold to a pupil are full meals,
21 individually sold dairy or whole grain foods, and individually sold
22 portions of nuts, nut butters, seeds, eggs, cheese packaged for
23 individual sale, fruit, vegetables that have not been deep fried, and
24 legumes.

25 (2) An individually sold dairy or whole grain food item, and
26 individually sold portions of nuts, nut butters, seeds, eggs, cheese
27 packaged for individual sale, fruit, vegetables that have not been
28 deep fried, and legumes may be sold to pupils at an elementary
29 school, except food sold as part of a USDA meal program, if they
30 meet all of the following standards:

31 (A) Not more than 35 percent of its total calories shall be from
32 fat. This subparagraph shall not apply to individually sold portions
33 of nuts, nut butters, seeds, eggs, cheese packaged for individual
34 sale, fruit, vegetables that have not been deep fried, or legumes.

35 (B) Not more than 10 percent of its total calories shall be from
36 saturated fat. This subparagraph shall not apply to eggs or cheese
37 packaged for individual sale.

38 (C) Not more than 35 percent of its total weight shall be
39 composed of sugar, including naturally occurring and added sugar.

1 This subparagraph shall not apply to fruit or vegetables that have
2 not been deep fried.

3 (D) Not more than 175 calories per individual food item.

4 (b) An elementary school may permit the sale of food items that
5 do not comply with subdivision (a) as part of a school fundraising
6 event in either of the following circumstances:

7 (1) The sale of those items takes place off of and away from
8 school premises.

9 (2) The sale of those items takes place on school premises at
10 least one-half hour after the end of the schoolday.

11 (c) It is the intent of the Legislature that the governing board of
12 a school district annually review its compliance with the nutrition
13 standards described in this section and Section 49431.5.

14 SEC. 9. Section 49431.2 of the Education Code is amended to
15 read:

16 49431.2. (a) From one-half hour before the start of the
17 schoolday to one-half hour after the schoolday, snacks sold to a
18 pupil in middle school or high school, except food served as part
19 of a USDA meal program, shall meet all of the following standards:

20 (1) Not more than 35 percent of its total calories shall be from
21 fat. This paragraph does not apply to the sale of nuts, nut butters,
22 seeds, eggs, cheese packaged for individual sale, fruits, vegetables
23 that have not been deep fried, or legumes.

24 (2) Not more than 10 percent of its total calories shall be from
25 saturated fat. This subparagraph does not apply to eggs or cheese
26 packaged for individual sale.

27 (3) Not more than 35 percent of its total weight shall be
28 composed of sugar, including naturally occurring and added sugars.
29 This paragraph does not apply to the sale of fruits or vegetables
30 that have not been deep fried.

31 (4) No more than 250 calories per individual food item.

32 (b) From one-half hour before the start of the schoolday to
33 one-half hour after the schoolday, entrée items sold to a pupil in
34 middle school or high school, except food served as part of a
35 USDA meal program, shall contain no more than 400 calories per
36 entrée, and shall contain no more than 4 grams of fat per 100
37 calories contained in each entrée.

38 (c) A middle school or high school may permit the sale of food
39 items that do not comply with subdivision (a) or (b) in any of the
40 following circumstances:

1 (1) The sale of those items takes place off of and away from
 2 school premises.

3 (2) The sale of those items takes place on school premises at
 4 least one-half hour after the end of the schoolday.

5 (d) It is the intent of the Legislature that the governing board
 6 of a school district annually review its compliance with the
 7 nutrition standards described in this section.

8 SEC. 10. Section 49431.5 of the Education Code is amended
 9 to read:

10 49431.5. (a) (1) ~~From one-half hour before the start of the~~
 11 ~~schoolday to one-half hour after the schoolday, Regardless of the~~
 12 ~~time of day, only the following beverages may be sold to a pupil~~
 13 ~~at an elementary school:~~

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

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

18 (C) Drinking water with no added sweetener.

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

21 (2) An elementary school may permit the sale of beverages that
 22 do not comply with paragraph (1) as part of a school fundraising
 23 event in either of the following circumstances:

24 (A) The sale of those items takes place off and away from the
 25 premises of the school.

26 (B) The sale of those items takes place on school premises at
 27 least one-half hour after the end of the schoolday.

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

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

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

35 (C) Drinking water with no added sweetener.

36 (D) Two-percent-fat milk, one-percent-fat milk, nonfat milk,
 37 soy 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 (4) A middle school or high school may permit the sale of
2 beverages that do not comply with paragraph (3) as part of a school
3 event if the sale of those items meets either of the following
4 criteria:

5 (A) The sale of those items takes place off and away from the
6 premises of the school.

7 (B) The sale of those items takes place on school premises at
8 least one-half hour after the end of the schoolday.

9 (b) It is the intent of the Legislature that the governing board
10 of a school district annually review its compliance with this section.

11 (c) Notwithstanding Article 3 (commencing with Section 33050)
12 of Chapter 1 of Part 20 of Division 2, compliance with this section
13 may not be waived.

14 SEC. 11. Section 49431.7 of the Education Code is amended
15 to read:

16 49431.7. (a) From one-half hour before the start of the
17 schoolday to one-half hour after the end of the schoolday, a school
18 or school district shall not sell to pupils enrolled in kindergarten,
19 or any of grades 1 to 12, inclusive, food containing artificial trans
20 fat, as defined in subdivision (b).

21 (b) For purposes of this section, a food contains artificial trans
22 fat if a food contains vegetable shortening, margarine, or any kind
23 of partially hydrogenated vegetable oil, unless the manufacturer's
24 documentation or the label required on the food, pursuant to
25 applicable federal and state law, lists the trans fat content as less
26 than 0.5 grams of trans fat per serving.

27 (c) This section shall not apply to food provided as part of a
28 USDA meal program.

29 SEC. 12. Section 49432 of the Education Code is amended to
30 read:

31 49432. Every public school may post a summary of nutrition
32 and physical activity laws and regulations, and shall post the school
33 district's nutrition and physical activity policies, in public view
34 within all school cafeterias or other central eating areas. The
35 department shall develop the summary of state law and regulations.

36 SEC. 13. Section 49433 of the Education Code is repealed.

37 SEC. 14. Section 49433.5 of the Education Code is repealed.

38 SEC. 15. Section 49433.7 of the Education Code is repealed.

39 SEC. 16. Section 49433.9 of the Education Code is repealed.

40 SEC. 17. Section 49434 of the Education Code is repealed.

1 SEC. 18. Section 49434 is added to the Education Code, to
2 read:
3 49434. Compliance with this article shall be monitored by the
4 department in conformity with the United States Department of
5 Agriculture’s administrative review process, as published in the
6 Federal Register, Volume 77, Number 17, on January 26, 2012.
7 SEC. 19. Section 49435 of the Education Code is repealed.
8 SEC. 20. Section 49436 of the Education Code is repealed.

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