

AMENDED IN ASSEMBLY JUNE 22, 2010

AMENDED IN SENATE APRIL 28, 2010

SENATE BILL

No. 1255

**Introduced by Senator Padilla
(Principal coauthor: Senator Alquist)**

February 19, 2010

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1255, as amended, 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, in middle and junior high schools, an electrolyte replacement beverage if those beverages meet certain nutritional requirements.

This bill, commencing July 1, 2011, would recast those provisions and would restrict the sale of electrolyte replacement beverages in middle-, junior, schools and high schools to specified times before and after school.

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:

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

3 (B) Vegetable-based drinks that are composed of no less than
4 50 percent vegetable juice and have no added sweetener.

5 (C) Drinking water with no added sweetener.

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

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

11 (A) The items are sold by pupils of the school and the sale of
12 those items takes place off and away from the premises of the
13 school.

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

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

23 (B) Vegetable-based drinks that are composed of no less than
24 50 percent vegetable juice and have no added sweetener.

25 (C) Drinking water with no added sweetener.

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

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

30 (4) A middle-~~or junior~~ school or high school may permit the
31 sale of beverages that do not comply with paragraph (3) as part of
32 a school event if the sale of those items meets all of the following
33 criteria:

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

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

39 (5) This subdivision does not prohibit an elementary, ~~or middle~~
40 ~~or junior~~ school, middle school, or high school from making

1 available through a vending machine any beverage allowed under
2 paragraph (1) or (3) at any time of day, or, in middle- and junior
3 schools and high schools, any beverage that does not comply with
4 paragraph (3) if the beverage only is available not later than
5 one-half hour before the start of the schoolday and not sooner than
6 one-half hour after the end of the schoolday.

7 ~~(b) (1) All beverages sold to a pupil from one-half hour before~~
8 ~~the start of the schoolday until one-half hour after the end of the~~
9 ~~schoolday shall be those enumerated by paragraph (2).~~

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 ~~(e)~~

22 ~~(b) For the purposes of this section, the following terms have~~
23 ~~the following meanings:~~

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

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

30 ~~(d)~~

31 ~~(c) It is the intent of the Legislature that the governing board of~~
32 ~~a school district annually review its compliance with this section.~~

33 ~~(e)~~

34 ~~(d) Notwithstanding Article 3 (commencing with Section 33050)~~
35 ~~of Chapter 1 of Part 20 of Division 2, compliance with this section~~
36 ~~may not be waived.~~

37 ~~(f)~~

38 ~~(e) This section shall become inoperative on July 1, 2011, and,~~
39 ~~as of January 1, 2012, is repealed, unless a later enacted statute,~~

1 that becomes operative on or before January 1, 2012, deletes or
2 extends the dates on which it becomes inoperative and is repealed.

3 SEC. 2. Section 49431.5 is added to the Education Code, to
4 read:

5 49431.5. (a) (1) All beverages sold to elementary school pupils
6 regardless of the time of day, and to middle, ~~junior, and senior~~
7 *school and* high school pupils from one-half hour before the start
8 of the schoolday until one-half hour after the end of the schoolday,
9 shall be those enumerated by paragraph (2).

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 (b) An electrolyte replacement beverage that contains no more
20 than 42 grams of added sweetener per 20-ounce serving may be
21 sold to middle, ~~junior, and senior school and~~ high school pupils
22 prior to one-half hour before school and after one-half hour after
23 school.

24 (c) Notwithstanding subdivision (a), an elementary school may
25 permit the sale of beverages that do not comply with paragraph
26 (2) of subdivision (a) as part of a school fundraising event in either
27 of the following circumstances:

28 (1) The items are sold by pupils of the school and the sale of
29 those items takes place off of and away from the premises of the
30 school.

31 (2) The items are sold by pupils of the school and the sale of
32 those items takes place one-half hour or more after the end of the
33 schoolday.

34 (d) Notwithstanding subdivision (a), a middle ~~or junior school~~
35 *or* high school may permit the sale of beverages that do not comply
36 with paragraph (2) of subdivision (a) as part of a school event if
37 the sale of those items meets both of the following criteria:

38 (1) The sale occurs during a school-sponsored event and takes
39 place at the location of that event at least one-half hour after the
40 end of the schoolday.

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

3 (e) (1) This section does not prohibit a school from making
4 available through a vending machine any beverage allowed under
5 paragraph (2) of subdivision (a) at any time of day.

6 (2) This section does not prohibit a middle, ~~junior, or school or~~
7 high school from making available through a vending machine
8 any beverage that does not comply with paragraph (2) of
9 subdivision (a) if the beverage is only available not later than
10 one-half hour before the start of the schoolday and not sooner than
11 one-half hour after the end of the schoolday.

12 (f) 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 (g) It is the intent of the Legislature that the governing board
21 of a school district annually review its compliance with this section.

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

25 (i) This section shall become operative on July 1, 2011.