

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 remove electrolyte replacement beverages from those beverages that may be sold at schools at specified times~~ *would recast those provisions and would restrict the sale of electrolyte replacement beverages in middle, junior, 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 high school:

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

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

24 (C) Drinking water with no added sweetener.

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

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

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

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

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

37 (5) This subdivision does not prohibit an elementary, or middle
38 or junior high school from making available through a vending
39 machine any beverage allowed under paragraph (1) or (3) at any
40 time of day, or, in middle and junior high schools, any beverage

that does not comply with paragraph (3) if the beverage only is available not later than one-half hour before the start of the schoolday and not sooner than one-half hour after the end of the schoolday.

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

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

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

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

(C) Drinking water with no added sweetener.

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

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

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

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

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

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

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

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

(f) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

1 *SEC. 2. Section 49431.5 is added to the Education Code, to*
2 *read:*

3 *49431.5. (a) (1) All beverages sold to elementary school pupils*
4 *regardless of the time of day, and to middle, junior, and senior*
5 *high school pupils from one-half hour before the start of the*
6 *schoolday until one-half hour after the end of the schoolday, shall*
7 *be those enumerated by paragraph (2).*

8 *(2) Beverages allowed under this subdivision are all of the*
9 *following:*

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

12 *(B) Vegetable-based drinks that are composed of no less than*
13 *50 percent vegetable juice and have no added sweetener.*

14 *(C) Drinking water with no added sweetener.*

15 *(D) Two-percent-fat milk, one-percent-fat milk, nonfat milk, soy*
16 *milk, rice milk, and other similar nondairy milk.*

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

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

25 *(1) The items are sold by pupils of the school and the sale of*
26 *those items takes place off of and away from the premises of the*
27 *school.*

28 *(2) The items are sold by pupils of the school and the sale of*
29 *those items takes place one-half hour or more after the end of the*
30 *schoolday.*

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

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

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

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

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

10 (f) *For the purposes of this section, the following terms have*
11 *the following meanings:*

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

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

18 (g) *It is the intent of the Legislature that the governing board*
19 *of a school district annually review its compliance with this section.*

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

23 (i) *This section shall become operative on July 1, 2011.*
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26 CORRECTIONS: _____

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28 _____