



AB-841 Pupil nutrition: food and beverages: advertising: corporate incentive programs. (2017-2018)

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CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

ASSEMBLY BILL

No. 841

Introduced by Assembly Member Weber

(~~Coauthor: Assembly Member~~ **Coauthors: Assembly Members Chiu and Cristina Garcia**)

February 16, 2017

An act to add Section 49431.9 to the Education Code, relating to pupil nutrition.

LEGISLATIVE COUNSEL'S DIGEST

AB 841, as amended, Weber. Pupil nutrition: food and beverages: advertising: corporate incentive programs.

Existing law requires, as a condition of receipt of funds to reimburse a school for free and reduced-price meals sold or served to pupils, a school or school district to comply with specified requirements and prohibitions, including not selling or serving a food item that contains artificial trans fat. Existing law provides that the only competitive snack foods that may be sold to pupils are fruit, vegetable, dairy, protein, or whole grain-rich food items, in an elementary, middle, or high school, as ~~provided~~ **provided, and imposes other nutritional standards on competitive foods, snacks, and beverages that may be sold to pupils in an elementary, middle, or high school.**

This bill would prohibit, except as provided, a school, school district, or charter school from advertising food or beverages during the schoolday, as provided, and from participating in a corporate incentive program that rewards pupils with free or discounted foods or beverages **that do not comply with those nutritional standards** when the pupils reach certain academic goals. ~~The bill would define "advertising," "brand," "food or beverage," and "schoolday" for these purposes.~~ The bill would provide that it is the intent of the Legislature that the governing board or body of a school district and a charter school annually review their compliance with these provisions. ~~The bill would provide that it is the intent of the Legislature to encourage schools to use nonfood-related fundraising programs.~~

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) Childhood obesity rates in the United States have risen dramatically over the past 30 years, and today more than one-third of American children are obese or overweight. In California, 33 percent of children are overweight or obese. Poor diet and physical inactivity increase the risk for certain chronic health conditions, including high blood pressure, type 2 diabetes, heart disease, and obesity.

(b) The medical costs of obesity are rising rapidly in the United States and are estimated to be \$147 billion per year. California spends more in public and private money on the health consequences of obesity than any other state. Including lost productivity, obesity in California costs families, employers, the health care industry, and the government more than \$21 billion each year.

(c) The marketing of foods of poor nutritional value to American children contributes to the rise in obesity by affecting children's food preferences, choices, and diet. In 2009, the food industry spent approximately \$1.8 billion on marketing mainly foods of poor nutritional value to youth. Children are particularly vulnerable to advertising because their cognitive abilities are not fully formed until their early 20s.

(d) The mission of our schools is to educate our children. Increasingly, studies demonstrate a relationship between healthy eating, regular physical activity, and pupils' academic success. The federal Centers for Disease Control and Prevention reports that pupils who are physically active and eat a nutritious diet receive higher grades than their classmates who are physically inactive and eat foods that are less nutritious. Helping pupils to stay healthy promotes academic success.

(e) While national, state, and local efforts have improved the nutritional quality of foods provided and sold in schools, many schools permit the marketing of foods high in calories, fat, and sugar and of minimal nutritional value. That marketing includes sales, free samples, and advertising of unhealthy foods, corporate-sponsored fundraising programs that encourage pupils and their families to sell, purchase, and consume foods and beverages with little nutritional value, incentive programs, which reward children with free or discounted foods or beverages when they reach certain academic goals, sponsorship of school programs or events, and branded educational materials.

(f) Permitting the advertising of foods and beverages at schools that may not be sold on campus during the schoolday interferes with school messages promoting good health and academic success. If children are taught through school health and nutrition curriculum to limit their intake of these foods and at the same time the foods are promoted by school-based advertising and marketing, the lessons of school health and nutrition curricula are undermined. The marketing also undermines parents' efforts to feed their children a healthy diet.

SEC. 2. Section 49431.9 is added to the Education Code, to read:

49431.9. (a) For purposes of this section, and unless the context requires otherwise, the following terms have the following meanings:

(1) "Advertising" means an oral, written, or graphic statement or representation, including a company logo or trademark, made for the purposes of promoting the use or sale of a product by the producer, manufacturer, distributor, seller, or any other entity with a commercial interest in the product.

(2) "Brand" means a corporate or product name, a business logo, or a mark, regardless of whether it may legally qualify as a trademark used by a seller or manufacturer to identify goods or services and to distinguish them from competitors' goods.

(3) "Food or beverage" means any food or beverage that does not comply with the nutrition standards for food or beverages pursuant to this article.

(4) "Schoolday" means the period from the midnight before to 30 minutes after the end of the official schoolday.

(b) Except as provided in subdivision (c), a school, school district, or charter school that participates in the federal National School Lunch Program or federal School Breakfast Program shall not do either of the following:

(1) Advertise any food or beverage during the schoolday unless the food or beverage product manufactured, sold, or distributed under the corporate brand name can be served or sold on the school campus during the schoolday. This prohibition includes the advertising during the schoolday on any property or facility owned or leased by the school district or school and used for school-related activities, including, but not limited to, school buildings, athletic fields, facilities, signs, scoreboards, or parking lots, or any schoolbuses or other vehicles, equipment, vending machines, uniforms, educational material, or supplies.

(2) Participate in a corporate incentive program that rewards pupils with free or discounted foods or beverages *that do not comply with the nutritional standards required pursuant to this article* when ~~they~~ *the pupils* reach certain academic goals.

(c) The restriction on advertising in subdivision (b) does not apply to any of the following:

(1) Advertising on broadcast, digital, or print media, unless the media are produced or controlled by the local educational agency, school, faculty, or its pupils.

(2) Advertising on clothing with brand images worn on school grounds.

(3) Advertising contained in product packaging.

(4) Advertising of infrequent school fundraising events, involving food or beverages that do not meet the nutritional standards pursuant to this article.

(d) This section does not require a school, school district, or charter school to replace durable, nonconsumable items that would not be in compliance with this section, including, but not limited to, scoreboards or team uniforms in use as of January 1, 2018, but would require a school, school district, or charter school to comply with this section as these items are replaced or contracts are renegotiated.

~~(e) It is the intent of the Legislature to encourage schools to use nonfood related fundraising programs.~~

~~(f)~~

(e) It is the intent of the Legislature that the governing board or body of a school district and a charter school annually review their compliance with this section.