

AMENDED IN SENATE MAY 5, 2003
AMENDED IN SENATE MARCH 26, 2003

SENATE BILL

No. 677

Introduced by Senator Ortiz

February 21, 2003

An act to amend Section 49431 of the Education Code, relating to schools.

LEGISLATIVE COUNSEL'S DIGEST

SB 677, as amended, Ortiz. Schools: pupil nutrition: carbonated beverages.

Existing law, *to become operative on January 1, 2004, contingent on funding, prohibits the sale of carbonated beverages at elementary schools regardless of the time of day and prohibits the sale of carbonated beverages in middle schools from 1/2 hour before the start of the schoolday until after the end of the last lunch period.*

This bill would instead prohibit the sale of carbonated beverages to pupils in *elementary*, middle, or junior high schools commencing ~~January~~ *September 1, 2005*, and to pupils in high schools commencing ~~January 1, 2007~~ *September 1, 2006*. The bill would, in addition, provide that commencing on those dates only specified beverages may be sold in middle and high schools from 1/2 hour before the start of the schoolday until 1/2 hour after the end of the schoolday.

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. This act shall be known and may be cited as the
2 California Childhood Obesity Prevention Act.

3 SEC. 2. The Legislature finds and declares as follows:

4 (a) In the past two decades obesity has doubled in children, and
5 tripled in adolescents. On average, 30 percent of California's
6 children are overweight, and in some school districts, anywhere
7 from 40 to 50 percent of California's pupils are overweight. Only
8 2 percent of California's adolescents, between the ages of 12 and
9 17 years, inclusive, have eating habits that meet national dietary
10 recommendations. Only 23 percent of pupils in grades 5, 7, and 9
11 are physically fit. Almost half of the children and adolescents
12 diagnosed with diabetes have the Type 2 form of the disease, which
13 is strongly linked to obesity and lack of exercise. One in four obese
14 children have early signs of Type 2 diabetes.

15 (b) Overweight and physical inactivity costs California an
16 estimated 24.6 billion dollars annually, approximately seven
17 hundred fifty dollars (\$750) per person—a cost that is expected to
18 rise by another 32 percent by the year 2005. Poor nutrition and
19 physical inactivity account for more preventable deaths (28
20 percent) than anything other than tobacco—more than AIDS,
21 violence, car crashes, alcohol, and drugs combined. The long-term
22 impact of childhood obesity on California's economy, and on our
23 children's increased risk of death from heart disease, cancer,
24 stroke, and diabetes will be staggering. Approximately 300,000
25 deaths in the United States per year are currently associated with
26 obesity and overweight; the total direct and indirect costs
27 attributed to overweight and obesity amounted to 117 billion
28 dollars in the year 2000. Obesity is linked to a larger increase of
29 chronic health conditions and accounts for a significantly higher
30 amount of health expenditures than those associated with
31 smoking, heavy drinking, or poverty.

32 (c) Each additional daily serving of sugar-sweetened soda
33 increases a child's risk for obesity by 60 percent. Twenty years ago,
34 boys consumed more than twice as much milk as soft drinks, and
35 girls consumed 50 percent more milk than soft drinks. By 1996,
36 both boys and girls consumed twice as many soft drinks as milk.
37 Soft drinks now comprise the leading source of added sugar in a
38 child's diet. Teenage boys consume twice the recommended



1 amount of sugar each day, almost one-half of which (44 percent)
2 comes from soft drinks. Teenage girls consume almost three times
3 the recommended amount of sugar, 40 percent of which comes
4 from soft drinks.

5 (d) A study of 9th and 10th grade girls found that those who
6 drank colas were five times more likely to develop bone fractures,
7 and girls who drank other carbonated beverages were three times
8 more likely to suffer bone fractures than nonconsumers of
9 carbonated beverages. Decreased milk consumption means that
10 children are no longer getting required amounts of calcium in their
11 diets. The average teenage girl now consumes 40 percent less
12 calcium than she needs, putting her at high risk of osteoporosis in
13 her later years.

14 SEC. 3. Section 49431 of the Education Code is amended to
15 read:

16 49431. (a) At each elementary and middle school, and in
17 those schools participating in the pilot program created pursuant
18 to Section 49433.7, the sale of all foods on school grounds shall
19 be approved for compliance with the nutrition standards in this
20 section by the person or persons responsible for implementing
21 these provisions as designated by the school district.

22 (b) (1) At each elementary school, the only food that may be
23 sold to a pupil during breakfast and lunch periods is food that is
24 sold as a full meal. This paragraph does not prohibit the sale of
25 fruit, nonfried vegetables, legumes, beverages, dairy products, or
26 grain products as individual food items if they meet the
27 requirements set forth in this subdivision.

28 (2) An individual food item sold to a pupil during morning or
29 afternoon breaks at an elementary school shall meet all of the
30 following standards:

31 (A) Not more than 35 percent of its total calories shall be from
32 fat. This subparagraph does not apply to the sale of nuts or seeds.

33 (B) Not more than 10 percent of its total calories shall be from
34 saturated fat.

35 (C) Not more than 35 percent of its total weight shall be
36 composed of sugar. This subparagraph does not apply to the sale
37 of fruits or vegetables.

38 (3) ~~Regardless~~ *Commencing September 1, 2005, regardless* of
39 the time of day, water, milk, 100 percent fruit juices, or fruit-based
40 drinks that are composed of no less than 50 percent fruit juice and



1 that have no added sweeteners are the only beverages that may be
2 sold to a pupil at an elementary school.

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

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

8 (2) The items are sold by pupils of the school and the sale of
9 those items takes place at least one-half hour after the end of the
10 schoolday.

11 (d) Notwithstanding Article 3 (commencing with Section
12 33050) of Chapter 1 of Part 20, this section may not be waived
13 pursuant to that article.

14 (e) Commencing ~~January~~ *September* 1, 2005, for middle and
15 junior high schools, and commencing ~~January 1, 2007, September~~
16 *1, 2006*, for high schools, the following restrictions apply to the
17 sale of beverages to pupils on campus:

18 (1) From one-half hour before the start of the schoolday until
19 one-half hour after the end of the schoolday, only the following
20 beverages may be sold to a pupil on campus:

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

23 (B) Drinking water.

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

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

28 ~~(2) Carbonated beverages may not be sold to a pupil on campus~~
29 ~~from one-half hour before the start of the schoolday until one-half~~
30 ~~hour after the end of the schoolday.~~

31 ~~(3)–~~

32 (2) (A) Except as set forth in subparagraph (B), a beverage that
33 exceeds 12 ounces per serving may not be sold to a pupil on
34 campus from one-half hour before the start of the schoolday until
35 one-half hour after the end of the schoolday.

36 (B) Subparagraph (A) does not apply to any of the following:

37 (i) Drinking water.

38 (ii) Milk, including, but not limited to, chocolate milk, soy
39 milk, rice milk, and other similar dairy or nondairy milk.



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

3 (f) Although a middle school is required to comply with those
4 provisions of this section applicable to a middle school, it may, in
5 addition, elect to apply for participation in the pilot program
6 pursuant to Section 49433.7.

7 (g) For the purposes of this section, “added sweetener” means
8 any additive that enhances the sweetness of the beverage,
9 including, but not limited to, added sugar, but does not include the
10 natural sugar or sugars that are contained within the fruit juice
11 which is a component of the beverage.

12 (h) (1) This section, excluding paragraph (3) of subdivision
13 (b) and subdivision (e), shall become operative on January 1, 2004,
14 only if moneys are appropriated on or before January 1, 2004, for
15 each of the following purposes:

16 (A) Providing nutrition policy development grants pursuant to
17 subdivision (c) of Section 49433.

18 (B) Support and technical assistance to school districts
19 pursuant to Section 49433.5.

20 (C) Increasing meal reimbursements pursuant to Section
21 49430.5.

22 (2) The State Department of Education shall file a written
23 statement with the Secretary of the Senate and the Chief Clerk of
24 the Assembly prior to January 5, 2004, stating whether funds have
25 been appropriated to meet the conditions of paragraph (1) and
26 subdivision (e) of Section 49430.5. The statement shall state the
27 annual Budget Act or other measure in which each appropriation
28 was made.

