



Ohio Legislative Service Commission

Bill Analysis

Jeffery A. Bernard

Sub. H.B. 60

128th General Assembly
(As Passed by the House)

Reps. Pillich, Harris, Foley, Hagan, Weddington, Chandler, Yates, Phillips, Patten, Yuko, Luckie, Belcher, Brown, Celeste, DeBose, Driehaus, Dyer, Garrison, Goyal, Heard, Koziura, Letson, Mallory, Stewart, B. Williams, Winburn

BILL SUMMARY

- Requires snack food items sold to students through a vending machine or school store in a school district, community school, and STEM school to meet specified nutritional standards.
- Prohibits a school district, community school, and STEM school from selling through a vending machine or school store beverages other than milk, juice, or water, or for grades 9-12, other beverages, and requires that the permitted beverage meet specified nutritional standards.
- Prohibits a school district, public school, community school, and STEM school from entering into a contract with any producer or distributor of a food or beverage in violation of the bill's provisions.
- Exempts contracts with any food or beverage producer or distributor from the bill's provisions if the contract was entered into prior to the bill's effective date.
- Requires school districts, community schools, and STEM schools to adopt standards governing beverage sales on school premises.

CONTENT AND OPERATION

Food and beverage sales in school vending machines and school stores

Nutritional standards for snack food items

(R.C. 3313.816(A)(2) and (3), (B), and (D), 3314.03, and 3326.11)

The bill requires snack food items¹ sold to students during normal school hours through a vending machine or school store in a school district, community school, and STEM² school to meet the following nutritional standards:

(1) The snack food item must not exceed the following caloric levels, based on the majority of grades being offered:

- (a) Grades kindergarten through six (K-6), 150 calories;
- (b) Grades seven and eight (7-8), 180 calories;
- (c) Grades nine through twelve (9-12), 200 calories;

(2) Not more than 35% of its total calories are derived from fat, except that this standard does not apply to unsalted nuts or seeds;

(3) Not more than 10% of its total calories are derived from saturated fat;

(4) It contains zero trans fat;

(5) Not more than 35% of its total weight is composed of processed sugar, which is defined by the bill as any sugar that does not occur naturally in fruits, vegetables, or dairy products;

(6) It contains not more than 230mg. of sodium per serving.

The bill allows school districts, community schools, and STEM schools to adopt the caloric level of the higher grade group if different grade groupings have shared access to areas on a common campus or in common buildings.

¹ The bill defines "snack" as any food item that is generally regarded as supplementing, but not a part of, a meal, or that is to be eaten between meals and is not presented, served, or sold as a main entree (R.C. 3313.816(B)(3)).

² Science, technology, engineering, and mathematics (STEM) schools are governed by R.C. Chapter 3326.

Beverage restrictions

(R.C. 3313.816(C) and (D), 3314.03, and 3326.11)

The bill prohibits school districts, community schools, and STEM schools from selling beverages other than the beverages listed in the table below (based on the majority of grades being offered) to students during normal school hours in a vending machine or school store.

TYPE OF BEVERAGE	GRADES K-6	GRADES 7-8	GRADES 9-12
Low-fat or fat-free milk, including flavored milk, but only if the milk does not exceed 150 calories per 8oz., including nutritionally equivalent milk alternatives, as defined by the United States Department of Agriculture. ³	Yes, 8oz. or less.	Yes, 10oz. or less.	Yes, 16oz. or less.
100% fruit juice, regardless of whether the juice contains water, but only if the beverage contains no added sweeteners, ⁴ at least 10% of the recommended daily allowance ⁵ for three or more vitamins and minerals, and not more than 120 calories per 8oz.	Yes, 8oz. or less.	Yes, 10oz. or less.	Yes, 12oz. or less.*
Water	Yes	Yes	Yes*
Any no-calorie or low-calorie beverage that contains not more than 10 calories per 8oz.	No	No	Yes*
Other beverages that contain not more than 66 calories per 8oz.	No	No	Yes, 12oz or less.*

*The bill specifies that for grades 9-12, at least 50% of the four types of beverages other than milk (i.e. juice, water, no-calorie/low-calorie, or other beverages) offered for sale at any one time in a vending machine or school store must be juice, water, or both.

The bill allows school districts, community schools, and STEM schools to adopt the standard of the higher grade group if different grade groupings have shared access to areas on a common campus or in common buildings.

³ The bill permits flavored milk, other than chocolate milk, to exceed the caloric maximum listed in the bill until September 1, 2011, at which time the flavored milk must meet the bill's caloric requirements (R.C. 3313.816(G)).

⁴ Under the bill "added sweeteners" are additives that enhance the sweetness of a beverage, including processed sugar, but do not include the natural sugars found in fruit or vegetable juices that are a component of the beverage (R.C. 3313.816(A)).

⁵ For grades K-6, the bill refers to recommended daily "value" for vitamins and minerals. An amendment may be necessary to refer instead to the recommended daily "allowance," as the bill specifies in the case of grades 7-8 and 9-12.

Sales of snack foods or beverages outside of normal school hours

(R.C. 3313.816(F)(1))

In addition to the bill's food and beverage standards applying to sales during normal school hours, the bill specifies that the standards also apply before and after school hours if the reason for the additional hours is a school-related function such as a club meeting, sports practice, music practice, drama activity, or child-care program.

Exemptions from the snack food and beverage standards

(R.C. 3313.816(F)(2))

The bill's food and beverage standards do not apply to snack foods and beverages sold under the following circumstances:

- (1) In vending machines that are accessible only to school district employees;
- (2) Immediately before, during, and immediately after school-related activities such as sporting competitions, musical concerts, or plays, where a significant number of parents or other adults are in attendance, including events for which a booster club or similar entity is selling food or beverage items.

Contractual obligations--vending machine sales

(R.C. 3313.816(E); Section 3)

The bill prohibits school districts, public schools, community schools, and STEM schools from entering into a contract with any producer or distributor of a food or beverage if the contract would require the sale of a food or beverage through a vending machine to students in violation of the bill's provisions. However, under the bill, the vending machine snack food nutritional standards and beverage restrictions do not apply to a contract that was entered into before the bill's effective date between a school district or public school and a food or beverage producer or distributor. Any contracts renewed after the bill's effective date must be in compliance with the bill's restrictions on snack food and beverage sales in vending machines.

Food and beverage standards

(R.C. 3313.814, 3314.03, and 3326.11)

Continuing law requires boards of education to adopt and enforce standards governing the types of food that may be sold on school premises. These standards must specify the time and place each type of food may be sold. In adopting the standards,

the board must consider each food's nutritional value.⁶ No food may be sold on any school premises except in accordance with the standards adopted by the board.

Under the bill, school district boards of education must adopt standards regarding the sale of beverages just as they must do now for food sales. The sale of beverages on school premises must be in accordance with those standards. The standards adopted for food and for beverages must comply with the bill's restrictions on snack food and beverage sales, as described above. The bill applies all of these provisions to community schools and STEM schools.

Prohibition against exemptions

(R.C. 3302.07(A) and 3313.814)

Continuing law authorizes the State Board of Education to free *excellent* and *effective* school districts from specified statutes and administrative rules pertaining to education.⁷ Individual boards of education also may apply for exemptions from certain statutes or rules for the purpose of implementing an innovative education pilot program approved by the Superintendent of Public Instruction.

The bill prohibits the State Board from exempting a school district from the requirement to adopt snack food and beverage standards. The bill also prohibits a board of education from applying for an exemption from that requirement or from the bill's restrictions on snack food and beverage sales.

HISTORY

ACTION	DATE
Introduced	03-04-09
Reported, H. Health	10-08-09
Passed House (60-37)	12-16-09

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⁶ The State Board of Education has developed guidelines that board may follow when adopting standards for the sale of foods (Ohio Administrative Code 3301-91-09).

⁷ R.C. 3302.05, not in the bill.

