

ASSEMBLY BILL

No. 1746

Introduced by Assembly Member Williams
(Coauthor: Assembly Member Wieckowski)
(Coauthors: Senators Alquist and Pavley)

February 17, 2012

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1746, as introduced, Williams. 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, 2013, would recast those provisions and would restrict the sale of electrolyte replacement beverages in middle 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 *school* or ~~junior~~ high
- 20 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 *school* or ~~junior~~ high school may permit the sale
- 31 of beverages that do not comply with paragraph (3) as part of a
- 32 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~~ *elementary school, middle school, or high school* from

1 making available through a vending machine any beverage allowed
2 under paragraph (1) or (3) at any time of day, or, in middle *schools*
3 and ~~junior~~ 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) Commencing July 1, 2007, no less than 50 percent of~~
8 ~~all beverages sold to a pupil from one-half hour before the start of~~
9 ~~the schoolday until one-half hour after the end of the schoolday~~
10 ~~shall be those enumerated by paragraph (3).~~

11 ~~(2) Commencing July 1, 2009, all beverages sold to a pupil from~~
12 ~~one-half hour before the start of the schoolday until one-half hour~~
13 ~~after the end of the schoolday shall be those enumerated by~~
14 ~~paragraph (3).~~

15 ~~(3) Beverages allowed under this subdivision are all of the~~
16 ~~following:~~

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

19 ~~(B) Vegetable-based drinks that are composed of no less than~~
20 ~~50 percent vegetable juice and have no added sweetener.~~

21 ~~(C) Drinking water with no added sweetener.~~

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

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

26 ~~(e)~~

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

29 (1) "Added sweetener" means any additive that enhances the
30 sweetness of the beverage, including added sugar, but does not
31 include the natural sugar or sugars that are contained within the
32 fruit juice ~~which~~ *that* is a component of the beverage.

33 (2) "Sale of beverages" means the exchange of a beverage for
34 money, coupons, or vouchers.

35 ~~(d)~~

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

38 (e)

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

4 (e) *This section shall become inoperative on July 1, 2013, and,*
5 *as of January 1, 2014, is repealed, unless a later enacted statute,*
6 *that becomes operative on or before January 1, 2014, deletes or*
7 *extends the dates on which it becomes inoperative and is repealed.*

8 SEC. 2. Section 49431.5 is added to the Education Code, to
9 read:

10 49431.5. (a) (1) All beverages sold to elementary school pupils
11 regardless of the time of day, and to middle school and high school
12 pupils from one-half hour before the start of the schoolday until
13 one-half hour after the end of the schoolday, shall be those
14 enumerated by paragraph (2).

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

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

19 (B) Vegetable-based drinks that are composed of no less than
20 50 percent vegetable juice and have no added sweetener.

21 (C) Drinking water with no added sweetener.

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

24 (b) An electrolyte replacement beverage that contains no more
25 than 42 grams of added sweetener per 20-ounce serving may be
26 sold to middle school and high school pupils prior to one-half hour
27 before school and after one-half hour after school.

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

32 (1) The items are sold by pupils of the school and the sale of
33 those items takes place off of and away from the premises of the
34 school.

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

38 (d) Notwithstanding subdivision (a), a middle school or high
39 school may permit the sale of beverages that do not comply with

1 paragraph (2) of subdivision (a) as part of a school event if the
2 sale of those items meets both of the following criteria:

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

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

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

11 (2) This section does not prohibit a middle school or high school
12 from making available through a vending machine any beverage
13 that does not comply with paragraph (2) of subdivision (a) if the
14 beverage is only available not later than one-half hour before the
15 start of the schoolday and not sooner than one-half hour after the
16 end of the schoolday.

17 (f) For purposes of this section, the following terms have the
18 following meanings:

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

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

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

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

30 (i) This section shall become operative on July 1, 2013.