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BILL TEXT

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INTRODUCED BY Senator Ortiz

FEBRUARY 21, 2003

An act to amend Section 49431 of, and to add Section 49431.5 to, the Education Code, relating to schools.

LEGISLATIVE COUNSEL'S DIGEST

SB 677, Ortiz. The California Childhood Obesity Prevention Act.

Existing law prohibits the sale of certain beverages at elementary schools regardless of the time of day and restricts the sale of certain food items on those campuses during specified times.

Existing law further 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. Existing law makes those provisions operative on January 1, 2004, if funding is appropriated for specified nutrition purposes on or before that date.

This bill would instead make those restrictions on the sale of food items operative if funding is appropriated for those specified nutritional purposes regardless of the date on which the appropriation is made.

The bill would prohibit the sale of certain beverages to pupils in elementary, middle, or junior high schools commencing July 1, 2004. The bill would, in addition, exempt the sale of certain beverages at specified school events from those prohibitions.

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

SECTION 1. This act shall be known and may be cited as the California Childhood Obesity Prevention Act.

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

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

children have early signs of Type 2 diabetes.

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

(c) Each additional daily serving of sugar-sweetened soda increases a child's risk for obesity by 60 percent. Twenty years ago, boys consumed more than twice as much milk as soft drinks, and girls consumed 50 percent more milk than soft drinks. By 1996, both boys and girls consumed twice as many soft drinks as milk. Soft drinks now comprise the leading source of added sugar in a child's diet. Teenage boys consume twice the recommended amount of sugar each day, almost one-half of which (44 percent) comes from soft drinks. Teenage girls consume almost three times the recommended amount of sugar, 40 percent of which comes from soft drinks.

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

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

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

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

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

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

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

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

(c) An elementary school may permit the sale of food items that do

not comply with subdivision (a) or (b) as part of a school fundraising event in any of the following circumstances:

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

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

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

(e) (1) This section shall become operative only if moneys are appropriated for each of the following purposes:

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

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

(C) Increasing meal reimbursements pursuant to Section 49430.5.

(2) The department shall file a written statement with the Secretary of the Senate and the Chief Clerk of the Assembly when funds have been appropriated to meet the conditions of paragraph (1).

The statement shall state the annual Budget Act or other measure in which each appropriation was made.

SEC. 4. Section 49431.5 is added to the Education Code, to read:

49431.5. (a) Commencing July 1, 2004, regardless of the time of day, beverages, other than water, milk, 100 percent fruit juices, or fruit-based drinks that are composed of no less than 50 percent fruit juice and have no added sweeteners, may not be sold to a pupil at an elementary school.

(b) An elementary school may permit the sale of beverages that do not comply with subdivision (a) as part of a school fundraising event in any of the following circumstances:

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

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

(c) Commencing July 1, 2004, from one-half hour before the start of the schoolday to one-half hour after the end of the schoolday, only the following beverages may be sold to a pupil at a middle or junior high school:

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

(2) Drinking water.

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

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

(d) A middle or junior high school may permit the sale of beverages that do not comply with subdivision (c) as part of a school event if the sale of those items meets all of the following criteria:

(1) The sale occurs during a school-sponsored event and takes place at the location of that event after the end of the schoolday.

(2) Vending machines, pupil stores, and cafeterias are not used no sooner than one-half hour after the end of the schoolday.

(e) This section does not prohibit an elementary, middle or junior high school from making available through a vending machine any beverage allowed under subdivision (a) or (c) at any time of day, or, in middle and junior high schools, any product that does not comply with subdivision (c) if the product 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.

(f) For the purposes of this section, "added sweetener" means any additive that enhances the sweetness of the beverage, including, but not limited to, 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.

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