

As Reported by the House Health Committee

128th General Assembly

Regular Session

2009-2010

Sub. H. B. No. 60

Representative Pillich

**Cosponsors: Representatives Harris, Foley, Hagan, Weddington, Chandler,
Yates, Phillips, Patten, Yuko, Luckie**

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A B I L L

To amend sections 3302.07, 3313.814, 3314.03, and 1
3326.11 and to enact section 3313.816 of the 2
Revised Code to establish nutritional standards 3
for food and beverages sold in vending machines or 4
school stores in public schools. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3302.07, 3313.814, 3314.03, and 6
3326.11 be amended and section 3313.816 of the Revised Code be 7
enacted to read as follows: 8

Sec. 3302.07. (A) The board of education of any school 9
district, the governing board of any educational service center, 10
or the administrative authority of any chartered nonpublic school 11
may submit to the state board of education an application 12
proposing an innovative education pilot program the implementation 13
of which requires exemptions from specific statutory provisions or 14
rules. If a district or service center board employs teachers 15
under a collective bargaining agreement adopted pursuant to 16
Chapter 4117. of the Revised Code, any application submitted under 17
this division shall include the written consent of the teachers' 18

employee representative designated under division (B) of section 19
4117.04 of the Revised Code. The exemptions requested in the 20
application shall be limited to any requirement of Title XXXIII of 21
the Revised Code or of any rule of the state board adopted 22
pursuant to that title except that the application may not propose 23
an exemption from any requirement of or rule adopted pursuant to 24
Chapter 3307. or 3309., section 3313.814 or 3313.816, sections 25
3319.07 to 3319.21, or Chapter 3323. of the Revised Code. 26
Furthermore, an exemption from any standard or requirement of 27
Chapter 3306. or from any operating standard adopted under 28
division (D)(3) of section 3301.07 of the Revised Code shall be 29
granted only pursuant to a waiver granted by the superintendent of 30
public instruction under section 3306.40 of the Revised Code. 31

(B) The state board of education shall accept any application 32
submitted in accordance with division (A) of this section. The 33
superintendent of public instruction shall approve or disapprove 34
the application in accordance with standards for approval, which 35
shall be adopted by the state board. 36

(C) The superintendent of public instruction shall exempt 37
each district or service center board or chartered nonpublic 38
school administrative authority with an application approved under 39
division (B) of this section for a specified period from the 40
statutory provisions or rules specified in the approved 41
application. The period of exemption shall not exceed the period 42
during which the pilot program proposed in the application is 43
being implemented and a reasonable period to allow for evaluation 44
of the effectiveness of the program. 45

Sec. 3313.814. Each school district board of education shall 46
adopt and enforce standards governing the types of food and 47
beverages that may be sold on the premises of its schools, and 48
specifying the time and place each type of food or beverage may be 49

sold. In adopting the standards, the board shall consider each 50
food's the nutritional value of each food or beverage. No food or 51
beverage may be sold on any school premises except in accordance 52
with the standards adopted by the board of education. The 53
standards shall comply with section 3313.816 of the Revised Code. 54

The state board of education shall formulate and adopt 55
guidelines, which boards of education may follow in enforcing and 56
implementing this section. The state board shall not exempt any 57
school district from compliance with this section pursuant to 58
section 3302.05 of the Revised Code. 59

Sec. 3313.816. (A) As used in this section: 60

(1) "Added sweeteners" means any additives that enhance the 61
sweetness of a beverage, including processed sugar. "Added 62
sweeteners" do not include any natural sugars found in fruit or 63
vegetable juices that are a component of the beverage. 64

(2) "Processed sugar" means any sugar that does not occur 65
naturally in fruits, vegetables, or dairy products. 66

(3) "Snack" means any food item that is generally regarded as 67
supplementing, but not a part of, a meal, or that is to be eaten 68
between meals and is not presented, served, or sold as a main 69
entree. 70

(B) Each individual snack food item, excluding beverages, 71
sold to students in any school operated by a school district 72
through a vending machine or school store shall meet all of the 73
following nutritional standards: 74

(1)(a) For a school in which the majority of grades offered 75
are in the range from kindergarten to grade six, it contains not 76
more than one hundred fifty calories. 77

(b) For a school in which the majority of grades offered are 78
in the range from seven to eight, it contains not more than one 79

hundred eighty calories. 80

(c) For a school in which the majority of grades offered are 81
in the range from nine to grade twelve, it contains not more than 82
two hundred calories. 83

(2) Not more than thirty-five per cent of its total calories 84
are derived from fat, except that this requirement shall not apply 85
to unsalted nuts or seeds. 86

(3) Not more than ten per cent of its total calories are 87
derived from saturated fat. 88

(4) It contains zero trans fat. 89

(5) Not more than thirty-five per cent of its total weight is 90
composed of processed sugar. 91

(6) It contains not more than two hundred thirty milligrams 92
of sodium per serving. 93

(C) No school district shall permit the sale of beverages 94
other than the following to students through a vending machine or 95
school store: 96

(1) For a school in which the majority of grades offered are 97
in the range from kindergarten to grade six: 98

(a) Water; 99

(b) Eight ounces or less of low-fat or fat-free milk, 100
including flavored milk, but only if the beverage contains not 101
more than one hundred fifty calories per eight ounces, including 102
nutritionally equivalent milk alternatives, as defined by the 103
United States department of agriculture; 104

(c) Eight ounces or less of one hundred per cent fruit juice, 105
regardless of whether the juice contains water, but only if the 106
beverage contains no added sweeteners, at least ten per cent of 107
the recommended daily value for three or more vitamins and 108
minerals, and not more than one hundred twenty calories per eight 109

<u>ounces.</u>	110
<u>(2) For a school in which the majority of grades offered are</u>	111
<u>in the range from seven to eight:</u>	112
<u>(a) Water;</u>	113
<u>(b) Ten ounces or less of low-fat or fat-free milk, including</u>	114
<u>flavored milk, but only if the beverage contains not more than one</u>	115
<u>hundred fifty calories per eight ounces, including nutritionally</u>	116
<u>equivalent milk alternatives, as defined by the United States</u>	117
<u>department of agriculture;</u>	118
<u>(c) Ten ounces or less of one hundred per cent fruit juice,</u>	119
<u>regardless of whether the juice contains water, but only if the</u>	120
<u>beverage contains no added sweeteners, at least ten per cent of</u>	121
<u>the recommended daily allowance for three or more vitamins and</u>	122
<u>minerals, and not more than one hundred twenty calories per eight</u>	123
<u>ounces.</u>	124
<u>(3) For a school in which the majority of grades offered are</u>	125
<u>in the range from grade nine to grade twelve:</u>	126
<u>(a) Sixteen ounces or less of low-fat or fat-free milk,</u>	127
<u>including flavored milk, but only if the beverage contains not</u>	128
<u>more than one hundred fifty calories per eight ounces, including</u>	129
<u>nutritionally equivalent milk alternatives, as defined by the</u>	130
<u>United States department of agriculture;</u>	131
<u>(b) Any of the following beverages, if at least fifty per</u>	132
<u>cent of such beverages offered for sale at any one time are from</u>	133
<u>the category specified in division (C)(3)(b)(i) or (ii) of this</u>	134
<u>section or from both categories:</u>	135
<u>(i) Water;</u>	136
<u>(ii) Twelve ounces or less of one hundred per cent fruit</u>	137
<u>juice, regardless of whether the juice contains water, but only if</u>	138
<u>the beverage contains no added sweeteners, at least ten per cent</u>	139

of the recommended daily allowance for three or more vitamins and minerals, and not more than one hundred twenty calories per eight ounces; 140
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(iii) Any no-calorie or low-calorie beverage that contains not more than ten calories per eight ounces; 143
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(iv) Twelve ounces or less of any other beverage that contains not more than sixty-six calories per eight ounces. 145
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(D) For purposes of divisions (B) and (C) of this section, if different grade groupings have shared access to areas on a common campus or in common buildings, the school district may adopt the standard of the higher grade level. 147
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(E) No school district or public school shall enter into a contract with any producer or distributor of a food or beverage that would require the sale to students through a vending machine of a food or beverage that does not meet the requirements of this section. 151
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(F)(1) Divisions (B) to (D) of this section apply to food and beverage items sold during normal school hours, or sold before or after normal 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. 156
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(2) Divisions (B) to (D) of this section do not apply to food and beverage items sold under the following circumstances: 161
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(a) In vending machines that are accessible only to school district employees; 163
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(b) 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. 165
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(G) Notwithstanding divisions (C)(1)(b), (2)(b), and (3)(a) 170
of this section, flavored milk, other than chocolate milk, may 171
exceed the caloric maximum listed in those divisions until 172
September 1, 2011, at which time the flavored milk must meet the 173
caloric requirements listed in those divisions. 174

Sec. 3314.03. A copy of every contract entered into under 175
this section shall be filed with the superintendent of public 176
instruction. 177

(A) Each contract entered into between a sponsor and the 178
governing authority of a community school shall specify the 179
following: 180

(1) That the school shall be established as either of the 181
following: 182

(a) A nonprofit corporation established under Chapter 1702. 183
of the Revised Code, if established prior to April 8, 2003; 184

(b) A public benefit corporation established under Chapter 185
1702. of the Revised Code, if established after April 8, 2003; 186

(2) The education program of the school, including the 187
school's mission, the characteristics of the students the school 188
is expected to attract, the ages and grades of students, and the 189
focus of the curriculum; 190

(3) The academic goals to be achieved and the method of 191
measurement that will be used to determine progress toward those 192
goals, which shall include the statewide achievement assessments; 193

(4) Performance standards by which the success of the school 194
will be evaluated by the sponsor; 195

(5) The admission standards of section 3314.06 of the Revised 196
Code and, if applicable, section 3314.061 of the Revised Code; 197

(6)(a) Dismissal procedures; 198

(b) A requirement that the governing authority adopt an attendance policy that includes a procedure for automatically withdrawing a student from the school if the student without a legitimate excuse fails to participate in one hundred five consecutive hours of the learning opportunities offered to the student.

(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;

(8) Requirements for financial audits by the auditor of state. The contract shall require financial records of the school to be maintained in the same manner as are financial records of school districts, pursuant to rules of the auditor of state. Audits shall be conducted in accordance with section 117.10 of the Revised Code.

(9) The facilities to be used and their locations;

(10) Qualifications of teachers, including a requirement that the school's classroom teachers be licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except that a community school may engage noncertificated persons to teach up to twelve hours per week pursuant to section 3319.301 of the Revised Code;

(11) That the school will comply with the following requirements:

(a) The school will provide learning opportunities to a minimum of twenty-five students for a minimum of nine hundred twenty hours per school year.

(b) The governing authority will purchase liability insurance, or otherwise provide for the potential liability of the school.

(c) The school will be nonsectarian in its programs,

admission policies, employment practices, and all other 229
operations, and will not be operated by a sectarian school or 230
religious institution. 231

(d) The school will comply with sections 9.90, 9.91, 109.65, 232
121.22, 149.43, 2151.357, 2151.421, 2313.18, 3301.0710, 3301.0711, 233
3301.0712, 3301.0715, 3313.472, 3313.50, 3313.536, 3313.608, 234
3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.643, 3313.648, 235
3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 236
3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 237
3313.718, 3313.719, 3313.80, 3313.814, 3313.816, 3313.86, 3313.96, 238
3319.073, 3319.321, 3319.39, 3319.391, 3319.41, 3321.01, 3321.041, 239
3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 240
4111.17, 4113.52, and 5705.391 and Chapters 117., 1347., 2744., 241
3365., 3742., 4112., 4123., 4141., and 4167. of the Revised Code 242
as if it were a school district and will comply with section 243
3301.0714 of the Revised Code in the manner specified in section 244
3314.17 of the Revised Code. 245

(e) The school shall comply with Chapter 102. and section 246
2921.42 of the Revised Code. 247

(f) The school will comply with sections 3313.61, 3313.611, 248
and 3313.614 of the Revised Code, except that for students who 249
enter ninth grade for the first time before July 1, 2010, the 250
requirement in sections 3313.61 and 3313.611 of the Revised Code 251
that a person must successfully complete the curriculum in any 252
high school prior to receiving a high school diploma may be met by 253
completing the curriculum adopted by the governing authority of 254
the community school rather than the curriculum specified in Title 255
XXXIII of the Revised Code or any rules of the state board of 256
education. Beginning with students who enter ninth grade for the 257
first time on or after July 1, 2010, the requirement in sections 258
3313.61 and 3313.611 of the Revised Code that a person must 259
successfully complete the curriculum of a high school prior to 260

receiving a high school diploma shall be met by completing the 261
Ohio core curriculum prescribed in division (C) of section 262
3313.603 of the Revised Code, unless the person qualifies under 263
division (D) or (F) of that section. Each school shall comply with 264
the plan for awarding high school credit based on demonstration of 265
subject area competency, adopted by the state board of education 266
under division (J) of section 3313.603 of the Revised Code. 267

(g) The school governing authority will submit within four 268
months after the end of each school year a report of its 269
activities and progress in meeting the goals and standards of 270
divisions (A)(3) and (4) of this section and its financial status 271
to the sponsor and the parents of all students enrolled in the 272
school. 273

(h) The school, unless it is an internet- or computer-based 274
community school, will comply with section 3313.801 of the Revised 275
Code as if it were a school district. 276

(12) Arrangements for providing health and other benefits to 277
employees; 278

(13) The length of the contract, which shall begin at the 279
beginning of an academic year. No contract shall exceed five years 280
unless such contract has been renewed pursuant to division (E) of 281
this section. 282

(14) The governing authority of the school, which shall be 283
responsible for carrying out the provisions of the contract; 284

(15) A financial plan detailing an estimated school budget 285
for each year of the period of the contract and specifying the 286
total estimated per pupil expenditure amount for each such year. 287
The plan shall specify for each year the base formula amount that 288
will be used for purposes of funding calculations under section 289
3314.08 of the Revised Code. This base formula amount for any year 290
shall not exceed the formula amount defined under section 3317.02 291

of the Revised Code. The plan may also specify for any year a 292
percentage figure to be used for reducing the per pupil amount of 293
the subsidy calculated pursuant to section 3317.029 of the Revised 294
Code the school is to receive that year under section 3314.08 of 295
the Revised Code. 296

(16) Requirements and procedures regarding the disposition of 297
employees of the school in the event the contract is terminated or 298
not renewed pursuant to section 3314.07 of the Revised Code; 299

(17) Whether the school is to be created by converting all or 300
part of an existing public school or educational service center 301
building or is to be a new start-up school, and if it is a 302
converted public school or service center building, specification 303
of any duties or responsibilities of an employer that the board of 304
education or service center governing board that operated the 305
school or building before conversion is delegating to the 306
governing authority of the community school with respect to all or 307
any specified group of employees provided the delegation is not 308
prohibited by a collective bargaining agreement applicable to such 309
employees; 310

(18) Provisions establishing procedures for resolving 311
disputes or differences of opinion between the sponsor and the 312
governing authority of the community school; 313

(19) A provision requiring the governing authority to adopt a 314
policy regarding the admission of students who reside outside the 315
district in which the school is located. That policy shall comply 316
with the admissions procedures specified in sections 3314.06 and 317
3314.061 of the Revised Code and, at the sole discretion of the 318
authority, shall do one of the following: 319

(a) Prohibit the enrollment of students who reside outside 320
the district in which the school is located; 321

(b) Permit the enrollment of students who reside in districts 322

adjacent to the district in which the school is located;	323
(c) Permit the enrollment of students who reside in any other district in the state.	324 325
(20) A provision recognizing the authority of the department of education to take over the sponsorship of the school in accordance with the provisions of division (C) of section 3314.015 of the Revised Code;	326 327 328 329
(21) A provision recognizing the sponsor's authority to assume the operation of a school under the conditions specified in division (B) of section 3314.073 of the Revised Code;	330 331 332
(22) A provision recognizing both of the following:	333
(a) The authority of public health and safety officials to inspect the facilities of the school and to order the facilities closed if those officials find that the facilities are not in compliance with health and safety laws and regulations;	334 335 336 337
(b) The authority of the department of education as the community school oversight body to suspend the operation of the school under section 3314.072 of the Revised Code if the department has evidence of conditions or violations of law at the school that pose an imminent danger to the health and safety of the school's students and employees and the sponsor refuses to take such action;	338 339 340 341 342 343 344
(23) A description of the learning opportunities that will be offered to students including both classroom-based and non-classroom-based learning opportunities that is in compliance with criteria for student participation established by the department under division (L)(2) of section 3314.08 of the Revised Code;	345 346 347 348 349 350
(24) The school will comply with sections 3302.04 and 3302.041 of the Revised Code, except that any action required to	351 352

be taken by a school district pursuant to those sections shall be 353
taken by the sponsor of the school. However, the sponsor shall not 354
be required to take any action described in division (F) of 355
section 3302.04 of the Revised Code. 356

(25) Beginning in the 2006-2007 school year, the school will 357
open for operation not later than the thirtieth day of September 358
each school year, unless the mission of the school as specified 359
under division (A)(2) of this section is solely to serve dropouts. 360
In its initial year of operation, if the school fails to open by 361
the thirtieth day of September, or within one year after the 362
adoption of the contract pursuant to division (D) of section 363
3314.02 of the Revised Code if the mission of the school is solely 364
to serve dropouts, the contract shall be void. 365

(B) The community school shall also submit to the sponsor a 366
comprehensive plan for the school. The plan shall specify the 367
following: 368

(1) The process by which the governing authority of the 369
school will be selected in the future; 370

(2) The management and administration of the school; 371

(3) If the community school is a currently existing public 372
school or educational service center building, alternative 373
arrangements for current public school students who choose not to 374
attend the converted school and for teachers who choose not to 375
teach in the school or building after conversion; 376

(4) The instructional program and educational philosophy of 377
the school; 378

(5) Internal financial controls. 379

(C) A contract entered into under section 3314.02 of the 380
Revised Code between a sponsor and the governing authority of a 381
community school may provide for the community school governing 382

authority to make payments to the sponsor, which is hereby 383
authorized to receive such payments as set forth in the contract 384
between the governing authority and the sponsor. The total amount 385
of such payments for oversight and monitoring of the school shall 386
not exceed three per cent of the total amount of payments for 387
operating expenses that the school receives from the state. 388

(D) The contract shall specify the duties of the sponsor 389
which shall be in accordance with the written agreement entered 390
into with the department of education under division (B) of 391
section 3314.015 of the Revised Code and shall include the 392
following: 393

(1) Monitor the community school's compliance with all laws 394
applicable to the school and with the terms of the contract; 395

(2) Monitor and evaluate the academic and fiscal performance 396
and the organization and operation of the community school on at 397
least an annual basis; 398

(3) Report on an annual basis the results of the evaluation 399
conducted under division (D)(2) of this section to the department 400
of education and to the parents of students enrolled in the 401
community school; 402

(4) Provide technical assistance to the community school in 403
complying with laws applicable to the school and terms of the 404
contract; 405

(5) Take steps to intervene in the school's operation to 406
correct problems in the school's overall performance, declare the 407
school to be on probationary status pursuant to section 3314.073 408
of the Revised Code, suspend the operation of the school pursuant 409
to section 3314.072 of the Revised Code, or terminate the contract 410
of the school pursuant to section 3314.07 of the Revised Code as 411
determined necessary by the sponsor; 412

(6) Have in place a plan of action to be undertaken in the 413

event the community school experiences financial difficulties or 414
closes prior to the end of a school year. 415

(E) Upon the expiration of a contract entered into under this 416
section, the sponsor of a community school may, with the approval 417
of the governing authority of the school, renew that contract for 418
a period of time determined by the sponsor, but not ending earlier 419
than the end of any school year, if the sponsor finds that the 420
school's compliance with applicable laws and terms of the contract 421
and the school's progress in meeting the academic goals prescribed 422
in the contract have been satisfactory. Any contract that is 423
renewed under this division remains subject to the provisions of 424
sections 3314.07, 3314.072, and 3314.073 of the Revised Code. 425

(F) If a community school fails to open for operation within 426
one year after the contract entered into under this section is 427
adopted pursuant to division (D) of section 3314.02 of the Revised 428
Code or permanently closes prior to the expiration of the 429
contract, the contract shall be void and the school shall not 430
enter into a contract with any other sponsor. A school shall not 431
be considered permanently closed because the operations of the 432
school have been suspended pursuant to section 3314.072 of the 433
Revised Code. Any contract that becomes void under this division 434
shall not count toward any statewide limit on the number of such 435
contracts prescribed by section 3314.013 of the Revised Code. 436

Sec. 3326.11. Each science, technology, engineering, and 437
mathematics school established under this chapter and its 438
governing body shall comply with sections 9.90, 9.91, 109.65, 439
121.22, 149.43, 2151.357, 2151.421, 2313.18, 2921.42, 2921.43, 440
3301.0714, 3301.0715, 3313.14, 3313.15, 3313.16, 3313.18, 441
3313.201, 3313.26, 3313.472, 3313.48, 3313.481, 3313.482, 3313.50, 442
3313.536, 3313.608, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 443
3313.61, 3313.611, 3313.614, 3313.615, 3313.643, 3313.648, 444

3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 445
3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 446
3313.718, 3313.719, 3313.80, 3313.801, 3313.814, 3313.816, 447
3313.86, 3313.96, 3319.073, 3319.21, 3319.32, 3319.321, 3319.35, 448
3319.39, 3319.391, 3319.41, 3319.45, 3321.01, 3321.041, 3321.13, 449
3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 450
4113.52, and 5705.391 and Chapters 102., 117., 1347., 2744., 451
3307., 3309., 3365., 3742., 4112., 4123., 4141., and 4167. of the 452
Revised Code as if it were a school district. 453
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Section 2. That existing sections 3302.07, 3313.814, 3314.03, 455
and 3326.11 of the Revised Code are hereby repealed. 456

Section 3. Any school district or public school that, prior 457
to the effective date of this act, entered into a contract with a 458
producer or distributor of a food or beverage that requires the 459
sale of the food or beverage to students in violation of section 460
3313.816 of the Revised Code, as enacted by this act, shall not be 461
required to comply with that section until the expiration of the 462
contract. Any renewal of the contract shall comply with that 463
section. 464