



Ohio Legislative Service Commission

Bill Analysis

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S.B. 24

128th General Assembly
(As Introduced)

Sen. Kearney

BILL SUMMARY

- Establishes nutritional standards for food sold to students through a vending machine in schools operated by school districts, community schools, and STEM schools.
- Restricts the sale of beverages to students through a vending machine in schools operated by school districts, community schools, and STEM schools generally to (1) unflavored water, (2) milk, (3) fruit or vegetable juices containing at least 50% juice and no added sweeteners, (4) nectar or other fruit-based beverages containing at least 35% fruit and no added sweeteners, and (5) electrolyte replacement beverages.
- Prohibits the sale to students through a vending machine of any beverage described in the preceding dot point, other than unflavored water, in a size that exceeds 12 ounces.
- Prohibits school districts, community schools, and STEM schools from permitting the sale to students through a vending machine of any beverage that is carbonated or that contains more than 150 calories per serving.
- Prohibits a school district, community school, or STEM school from entering into a contract with a food or beverage vendor if the contract would require selling the food or beverage to students in violation of the bill's provisions.
- Provides an exemption from the restrictions regarding food and beverage sales described in the preceding dot point for sales under preexisting contracts between school districts or public schools and food or beverage vendors.
- Specifies that the restrictions regarding food and beverage sales described in the preceding dot points do not apply to food and beverage items sold in vending

machines accessible only to school district, community school, or STEM school employees.

- Requires school districts to adopt standards governing beverage sales on school premises (in addition to food sales as under current law) and applies the requirement for adoption of standards regulating food and beverage sales on school premises to community schools and STEM schools.

CONTENT AND OPERATION

Nutritional standards for food sold in schools

(R.C. 3313.816(A) to (D) and (G), 3314.03(A)(11)(d), and 3326.11; Section 3)

The bill establishes nutritional standards for food items sold to students in public schools through a vending machine. These standards are based upon the number of calories, the proportion of calories derived from fat, and the amount of processed sugar contained in the food. An individual food item meets the bill's nutritional standards if it satisfies the following criteria:

- (1) It contains less than 200 calories;
- (2) No more than 30% of its total calories are derived from fat, except for unsalted nuts and seeds;
- (3) No more than 10% of its total calories are derived from saturated fat and trans fat; and
- (4) No more than 35% of its total weight is composed of processed sugar (defined in the bill as any sugar that does not occur naturally in fruits, vegetables, or dairy products).

Generally, all food items sold individually to students through a vending machine must comply with these nutritional standards. The bill provides an exemption from this requirement, though, for vending machine sales under a preexisting contract, as described below in "**Contracts with beverage producers or distributors; exemption under preexisting contracts**," and specifies that the requirement does not apply to food items sold in vending machines that are accessible only to school employees.

The bill makes all of these food-related provisions apply to community schools and STEM schools, as well as to schools operated by a school district.

Restrictions on beverage sales in schools

(R.C. 3313.816(C) to (E) and (G), 3314.03(A)(11)(d), and 3326.11; Section 3)

The bill requires public schools to restrict the sale of certain beverages, including carbonated beverages, to students through a vending machine. It provides two distinct sets of restrictions, described below. The bill provides an exemption from the restrictions, though, for vending machine sales under a preexisting contract, as described below in "**Contracts with beverage producers or distributors; exemption under preexisting contracts**," and specifies that the restrictions do not apply to beverage items sold in vending machines that are accessible only to school employees.

The bill makes all of these beverage-related provisions apply to community schools and STEM schools, as well as to school districts.

Restriction in general

(R.C. 3313.817(C) and (D), 3314.03(A)(11)(d), and 3326.11)

Under the bill, no school district (and no community school or STEM school) may permit the sale of beverages other than the following to students through a vending machine: (1) unflavored water, (2) milk, including chocolate or other flavored milk, soy milk, rice milk, and other similar dairy or nondairy milk, (3) fruit or vegetable juices that contain at least 50% juice and have no added sweeteners,¹ (4) nectar or other fruit-based beverages that contain at least 35% fruit and have no added sweeteners, or (5) electrolyte replacement beverages. No beverage described in this paragraph, other than unflavored water, may be sold to students through a vending machine in a size that exceeds 12 ounces.

Carbonated beverage and calorie content restrictions

(R.C. 3313.817(E), 3314.03(A)(11)(d), and 3326.11)

The bill prohibits school districts (and community schools and STEM schools) from permitting the sale to students through a vending machine of any beverage that is carbonated or that contains more than 150 calories per serving.

¹ As defined by the bill, "added sweeteners" are "additives that enhance the sweetness of a beverage, including processed sugar." Added sweeteners specifically do not include the natural sugars found in fruit or vegetable juices that are a component of the beverage. (R.C. 3313.816(A).)

Contracts with food or beverage producers or distributors; exemption under preexisting contract

(R.C. 3313.816(F), 3314.03(A)(11)(d), and 3326.11; Section 3)

Many schools have exclusive contracts with food or beverage vendors under which the school sells the vendor's products in exchange for donations to the school or a percentage of the product sales. This income is used by schools for many purposes, such as buying supplies or supporting extracurricular activities. The food or beverages are often sold through vending machines maintained by the vendor.

The bill prohibits school districts and public schools from entering into a contract with any producer or distributor of a food or beverage if the contract would require the sale to students through a vending machine of a food or beverage in violation of the bill's provisions. Schools may use vending machines to sell food or beverages to students, but the sale must satisfy the bill's provisions regarding the types of food and beverages that may be sold. The bill makes all of these provisions apply to community schools and STEM schools, as well as to school districts.

The bill specifies that a school district or public school that, prior to the bill's effective date, entered into a contract with a producer or distributor of a food or beverage that requires the sale of the food or beverage in violation of the bill's provisions is exempt from the bill's restrictions on food and beverage sales until the contract expires. If the contract is renewed, the new contract must comply with the bill's restrictions.

Adoption of standards for food and beverage sales

(R.C. 3313.814, 3314.03(A)(11)(d), 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 district must consider each food's nutritional value.² No food may be sold on any school premises except in accordance with the standards adopted by the board of education.

Under the bill, boards of education must adopt standards regarding the sale of beverages just as they must do now for food sales and the sale of beverages on school

² The State Board of Education has developed guidelines that districts may follow when adopting standards for the sale of foods (Ohio Administrative Code 3301-91-09).

premises must be in accordance with those standards. Also under the bill, the standards adopted for food and for beverages must comply with the bill's restrictions on food and beverage sales described in preceding parts of this analysis. The bill makes all of these provisions apply to community schools and STEM schools, as well as to school district boards of education.

Prohibition against waiver of requirement to adopt standards for food and beverage sales

(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.³ Individual districts 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 explicitly prohibits the State Board from waiving the requirement to adopt standards for food and beverage sales for any school district board of education, and explicitly prohibits an application of any individual district for an exemption from that requirement or from the bill's restrictions on food and beverage sales to students through a vending machine.

HISTORY

ACTION	DATE
Introduced	02-10-09

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³ R.C. 3302.05, not in the bill.