



Ohio Legislative Service Commission

Bill Analysis

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S.B. 11

130th General Assembly
(As Introduced)

Sens. Brown, Lehner, Tavares, Smith, Gentile, Kearney, Schiavoni, Cafaro, Sawyer, Turner, Skindell, LaRose

BILL SUMMARY

- Requires a school district board of education that opts not to comply (for financial reasons) with a requirement to offer summer food services to permit an alternative summer meal sponsor to use a school facility if at least one-half of the students in the facility's attendance area are eligible for free lunches.
- To the extent permitted by federal law, permits a school district that elects to provide a summer food service program to (1) use a school bus to transport children and meals to summer meal service sites and (2) authorize, under certain conditions, the serving and consumption of meals while children are on the school bus.
- Creates a "healthy food license" that authorizes a child day-care center or school child program to receive, serve, and store fruit, vegetables, and single-serving dairy products for the children in the center's or program's care, and requires the Director of Health to adopt rules governing the license.
- Exempts from food service operation licensure child day-care centers and school child programs that hold the healthy food license.

CONTENT AND OPERATION

Use of school facilities by alternative summer meal sponsors

Under current law, the State Board of Education must require each school district board of education to establish one of the following if mandated summer academic intervention services are being offered by the district board: (1) an extension during the summer of the school breakfast program, (2) an extension during the summer of the

school lunch program, or (3) a summer food service program.¹ A district board may opt out of complying with the summer food requirement if the board determines that it cannot comply for financial reasons.²

The bill imposes a requirement on those district boards that opt out of compliance. If a district board makes this choice, the State Board must nevertheless require the district board to permit an alternative summer meal sponsor to use school facilities located in a school building attendance area where at least one-half of the students are eligible for free lunches. The State Board must provide each district with a list of approved alternative summer meal sponsors that may use school facilities for the purpose of providing student meals. Subject to laws governing the use of school facilities generally and for public meetings and entertainment, the bill permits a district board to charge the summer meal sponsor a reasonable fee for the use of school facilities. The fee may include the actual cost of custodial services and a prorated share of the utility costs as determined by the district. A school district may also require the summer meal sponsor to indemnify and hold harmless the district from any potential liability resulting from the operation of an alternative summer meal program.³

The bill does not define what an "alternative summer meal sponsor" is.

Use of school buses for summer meal programs

The bill permits a school district that elects to provide a summer food service program under the "National School Lunch Act"⁴ and "Child Nutrition Act of 1996"⁵ to do any of the following, to the extent permitted by federal law: (1) use a school bus to transport children or meals, or both, to summer meal service sites, and (2) authorize the serving and consumption of meals while children are seated in the school bus, as long as the bus is parked and not in motion and the district has at least one employee present who has both received instruction in methods to prevent choking and demonstrated an ability to perform the Heimlich maneuver.⁶ Currently, a rule adopted by the

¹ R.C. 3313.813(C)(3).

² R.C. 3313.813(C)(4)(a).

³ R.C. 3313.813(C)(4)(c).

⁴ 42 United States Code (U.S.C.) § 1751.

⁵ 42 U.S.C. § 1771.

⁶ R.C. 3327.18.



Department of Education prohibits students from eating or drinking on a school bus except as required for medical reasons.⁷

Background – school meal programs

The Ohio Department of Education, in conjunction with the U.S. Department of Agriculture, administers the National School Lunch and School Breakfast programs under the federal "National School Lunch Act" and "Child Nutrition Act of 1966."⁸ Under current federal guidelines, students from families with incomes at or below 185% of the federal poverty guidelines are eligible for reduced price meals, and students from families with incomes at or below 130% of the federal poverty guidelines are eligible for free meals.⁹ Children who receive Temporary Assistance to Needy Families (TANF), Food Stamps, or who are homeless, runaways, or migrants are also eligible for free lunch.¹⁰

Healthy food license for day-care centers and school child programs

Description

The bill creates a "healthy food license" that authorizes a child day-care center or school child program to receive, serve, and store any of the following for the children in the center's or program's care: (1) fruit, (2) vegetables, and (3) single-serving dairy products (if included in the licensing category applicable to the license held by the center or program).¹¹ Associated with the creation of the new license, the bill exempts from food service operation licensure child day-care centers and school child programs that hold the new license.¹²

Currently, a child day-care center or school child program must be licensed as a food service operation if it is a place, location, site, or separate area where food intended to be served in individual portions is prepared or served for a charge or required donation.¹³ "Served" means a response made to an order for one or more individual

⁷ Ohio Administrative Code (O.A.C.) 3301-83-08(C).

⁸ 42 U.S.C. §§ 1751 and 1771, respectively.

⁹ U.S. Department of Agriculture, *Income Eligibility Guidelines* (last visited Feb. 15, 2013), available at <<http://www.fns.usda.gov/cnd/governance/notices/iegs/iegs.htm>>; Child Nutrition Program – Income Eligibility Guidelines (Notice), 77 Fed. Reg. 17004 (issued Mar. 23, 2012).

¹⁰ 42 U.S.C. § 1758.

¹¹ R.C. 3717.60(A)(2).

¹² R.C. 3717.42(B)(9).

¹³ R.C. 3717.01(F).



portions of food in a form that is edible without washing, cooking, or additional preparation. "Prepared" means any action that affects a food other than receiving or maintaining it at the temperature at which it was received.¹⁴ In practical terms, this means that a center or program that charges parents or guardians for food served to children enrolled in the center or program, or that receives reimbursement from the U.S. Department of Agriculture, must obtain a food service operation license and comply with several rules adopted by the Director of Health governing food service operations including inspections.¹⁵ Personnel of the city or general health district in which the center or program is located conduct the required inspections.¹⁶

In general, under law unchanged by the bill:

--A child day-care center is any place in which child care is provided for 13 or more children at one time or any place that is not the permanent residence of the licensee or administrator in which child care is provided for 7 to 12 children at one time.¹⁷

--A school child program is a child care program for only school children that is operated by a school district board of education, county board of developmental disabilities, or eligible nonpublic school.¹⁸

Application; issuance and renewal

The bill requires a child day-care center or school child program seeking a healthy food license or renewal of a license to apply to the entity specified by the Director of Health in rules the bill requires the Director to adopt. The center or program must use the application form provided by the entity. The entity must issue or renew a license if the applicant meets the requirements established by the Director in rules.¹⁹

A healthy food license remains valid until scheduled to expire unless it is earlier suspended or revoked pursuant to rules the Director adopts under the bill.²⁰

¹⁴ R.C. 3717.01(F).

¹⁵ R.C. 3717.51 and 3717.52; O.A.C. Chapter 3701-21.

¹⁶ R.C. 5104.051(D); electronic correspondence from Ohio Department of Health representative (Feb. 19, 2013).

¹⁷ R.C. 5104.01(M).

¹⁸ R.C. 3301.52(J).

¹⁹ R.C. 3717.60(B).

²⁰ R.C. 3717.60(B).



Rules

The bill requires the Director of Health to adopt rules governing healthy food licenses. The rules must be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119.) and include all of the following:

--Standards and procedures for applying for a license or renewal of a license, including the length of the license.

--The amount of the fees to be charged for issuing and renewing licenses.

--Procedures for selecting a local entity to enforce the bill's provisions on healthy food licenses.

--Standards and procedures for reviewing and approving applications for licenses.

--Standards and procedures for conducting inspections of the child day-care centers and school child programs holding healthy food licenses, including a schedule of frequency for conducting the inspections.

--Standards and procedures for conducting investigations of complaints pertaining to centers and programs holding healthy food licenses.

--Specification of the fruits, vegetables, and, if applicable, single-serving dairy products that may be received, stored, and served by the center or program holding a healthy food license.

--Specifications regarding the manner in which a child day-care center or school child program may receive, serve, and store fruit, vegetables, and single-serving dairy products, except that the specifications cannot be the same as or more restrictive than the specifications for food service operations.

--Licensing categories that apply to healthy food licenses and requirements for each category based on whether the license authorizes the holder to receive, serve, and store fruit and vegetables only or authorizes the holder to receive, serve, and store single-serving dairy products in addition to fruit and vegetables.

--Standards and procedures for suspending or revoking a license.

--Any other matter the Director considers relevant to the administration and enforcement of the bill's provisions on healthy food licenses.

Standards and procedures

The bill requires a child day-care center or school child program holding a healthy food license to comply with the standards and procedures in rules the bill requires the Director to adopt.²¹

Inspections

The bill specifies that inspections conducted for purposes of the healthy food license are the responsibility of the entity the Director of Health specifies in rules the bill requires the Director to adopt.²²

HISTORY

ACTION	DATE
Introduced	02-12-13

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²¹ R.C. 3717.60(C).

²² R.C. 5104.051(E).

