

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 1208
Ways and Means

(Delegate Hixson, *et al.*)

Public Schools - Health and Safety - Food Transparency

This bill requires each local school system to create a menu for all food and drink items sold at breakfast, at lunch, and a la carte. Each local school system must post this information on its website. For a la carte items, each local school system must post specific product, nutrition, and ingredient information. If a la carte items differ from school to school within a local school system, each public school within the local school system must send, by regular mail at least once a month, a list of the specific a la carte items the public school sells to parents and guardians of children who attend the school. Each public school must provide a link on its website to the information on the local school system's website. If a public school does not have a school website, the school must send, by regular mail at least once a month, the information to parents and guardians of children who attend the school.

The bill takes effect July 1, 2015.

Fiscal Summary

State Effect: None. The bill is directed at local school systems.

Local Effect: Local school expenditures may increase significantly to mail the information on a la carte menus to *all* parents once a month due to elementary, middle, and high schools within a single local school system offering different a la carte items. Local school expenditures may increase minimally to update their websites with the required product and nutrition information. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary: If an a la carte item is sold in the item's original packaging, the menu must include the following information about the item: (1) the most prominently displayed brand and product name and (2) the flavor of the item, if applicable.

Each local school system must provide, on its website, the following information for each food and drink item that is on the local school system's a la carte menu: (1) brand, manufacturer, and product name; (2) complete nutrition fact labels from the item's original packaging; and (3) complete ingredient lists from the item's original packaging.

Current Law: Local school systems are subject to federal law and regulations through participation in federal food and nutrition programs, including (among others) the National School Lunch Program (NSLP), the School Breakfast Program (SBP), and the programs for free and reduced-price meals and free milk in schools. The Maryland State Department of Education (MSDE) monitors local school compliance with federal law regarding school food and nutrition programs. The Maryland Code of Regulations indicates that local school systems are subject to administrative review by MSDE and/or the U.S. Department of Agriculture (USDA) for the purpose of evaluating the administration of a food and nutrition program.

The Federal School Lunch Program (7 CFR 210.10) requires schools to provide nutritious and well-balanced meals to all the children they serve. Children age two and older must be offered lunches that meet the following nutrition standards for their age/grade group: provision of one-third of the recommended dietary allowances for protein, calcium, iron, vitamin A, and vitamin C; provision of required lunchtime energy allowances (calories); and the following applicable recommendations from the 1995 Dietary Guidelines for Americans:

- eat a variety of foods;
- limit total fat to 30% of total calories;
- limit saturated fat to less than 10% of total calories;
- choose a diet low in cholesterol;
- choose a diet with plenty of grain products, vegetables, and fruits; and
- choose a diet moderate in salt and sodium.

School food authorities have several ways to plan menus. The minimum levels of nutrients and calories that lunches must offer depend on the menu planning approach used and the ages/grades served.

Schools must keep production and menu records for the meals they produce. These records must show how the meals contribute to the required food components, food items, or menu items every day. In addition, for lunches, these records must show how the lunches contribute to the nutrition standards and the appropriate calorie and nutrient levels for the ages or grades of the children in the school over the school week. If applicable, schools or school food authorities must maintain nutritional analysis records to demonstrate that lunches meet, when averaged over each school week, (1) nutrition standards and (2) the nutrient and calorie levels for children for each age or grade group served. Local schools are encouraged but not required to inform students, parents, and the public about efforts they are making to meet the nutrition standards for school lunches.

USDA prohibits schools from selling foods of minimal nutritional value (FMNV) during meal periods anywhere reimbursable meals are sold or eaten. Chapter 312 of 2005, the Student Health Promotion Act of 2005, requires public school vending machines that sell FMNV to have and use timing devices that automatically prohibit or allow access to vending machines in accordance with policies established by local boards of education. Also, one semester of health education is among the graduation requirements for Maryland students.

According to the Maryland Nutrition Standards for All Foods Sold in School adopted by the State Board of Education June 27, 2014, and effective July 1, 2014, all foods and beverages sold to students on the public school campus, including cafeteria a la carte items, vending machines, school stores, and fundraising activities, from 12:01 a.m. until 30 minutes after the end of the official school day must meet the nutrition standards described below.

All foods (other than foods offered in the NSLP and SBP) must fall into one of the following categories:

- be whole grain-rich (*i.e.*, at least 50% whole grain by weight or listed as first ingredient);
- first ingredient must be a fruit, vegetable, dairy product or protein food;
- be a combination of food that consists of at least ¼ cup of fruit and/or vegetable; or
- contain at least 10% of the Daily Value of a nutrient of public health concern – *i.e.*, calcium, potassium, vitamin D, or dietary fiber (this criterion will expire on July 1, 2016).

Foods must also meet the all of the standards shown in **Exhibit 1**.

Exhibit 1
Maryland Nutrition Standards for All Foods Sold in School

Calories		Sodium		Fats			Sugar
Snack/Side Dish	Entrees	Snack/ Side Dish	Entrees	Total Fat	Saturated Fat	Trans Fat	Weight Sugar/ Total Weight
≤ 200 calories	≤ 350 calories	230 mg (After 7/1/2016 ≤ 200 mg)	480 mg	35% of calories	<10% of calories	Zero grams	35% of total weight from sugar

Source: Maryland State Department of Education

Beverages must also meet the standards shown in **Exhibit 2**.

Exhibit 2
Beverage Standards for Maryland Schools

	Elementary	Middle	High School
Plain Water or Plain Carbonated Water	Any Size	Any Size	Any Size
Low-fat Milk, unflavored Nonfat Milk, flavored or unflavored	≤ 8 fl oz	≤ 12 fl oz	≤ 12 fl oz
100% Fruit/Vegetable Juice	≤ 8 fl oz	≤ 12 fl oz	≤ 12 fl oz
100% Fruit/Vegetable Juice -diluted with water, with or without carbonation -with no added sweeteners	≤ 8 fl oz	≤ 12 fl oz	≤ 12 fl oz
Other flavored and/or carbonated beverages -soda is not allowed	Not allowed	Not allowed	If ≤ 12 fl oz must meet: ≤40 calories/8 oz ≤60 calories/ 12 oz If ≤ 20 fl oz must meet: ≤5calories/8 oz ≤10 calories/ 12 oz
Caffeine, beyond naturally occurring trace amounts	Not allowed	Not allowed	Not allowed

Source: Maryland Department of Education

Background: According to MSDE, each local school system in Maryland publishes monthly school breakfast and school lunch menus to their websites. Some local school systems publish a menu that lists items in a generic way, such as “whole grain chips” rather than including a specific brand, flavor, and nutritional information.

Local Expenditures: Local school expenditures may increase significantly to mail the information on a la carte menus to *all* parents once a month due to elementary, middle, and high schools within a single local school system offering different a la carte items. In 2014 there were approximately 866,170 students enrolled in Maryland public schools. To avoid the significant costs associated with mailing the required information, a local school system may choose to offer the same a la carte items at all schools in its district; however, this alternative may also result in lost revenues or increased expenditures.

One local school system reports that, while it has a three-tiered a la carte program (*i.e.*, elementary, middle, high), it believes posting product and nutritional information on its website meets the intent of the bill. However, the Department of Legislative Services advises that, for a local school system with such a three-tiered a la carte program, simply posting the required information on its website does *not* appear to comply with the bill’s requirements since the a la carte menu varies by school.

St. Mary’s County Public Schools advises that the cost of postage, envelopes, and paper alone to mail a menu to nearly 18,000 students once a month exceeds \$100,000 per year. There are additional costs associated with assembling the information and the labor to print, fold, and stuff envelopes.

Carroll County Public Schools (CCPS) reports that it currently provides substantial nutritional information on school foods and beverages; however, the bill requires more, and more consistent, information. To provide the nutritional information in the format required by the bill, CCPS estimates it needs to update its nutrient analysis software at a cost of approximately \$1,000 and between 20 and 100 hours of additional manpower at a cost of approximately \$40 per hour.

Harford County Public Schools (HCPS) advises that the bill has an indeterminate cost but requires additional manpower to update the database. HCPS is concerned that inaccuracies in the data will cause problems if parents rely on the information to screen for food allergens. HCPS further advises that distributors occasionally substitute products due to shortages, and the produce profiles change. Finally, HCPS reports that the paper copy of the current food products fills a five-inch thick three-ring binder.

Queen Anne’s County advises that its public school administrative costs increase under the bill.

Local school expenditures may increase minimally to update their websites with the required product and nutrition information. Actual costs depend on current local practice regarding the posting of product and nutritional information of food and beverages sold at public schools.

Additional Information

Prior Introductions: None.

Cross File: SB 278 (Senator Nathan-Pulliam) - Education, Health, and Environmental Affairs.

Information Source(s): Maryland State Department of Education; Carroll, Frederick, Harford, Queen Anne's, and St. Mary's counties; Department of Legislative Services

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Analysis by: Caroline L. Boice

Direct Inquiries to:
(410) 946-5510
(301) 970-5510