

**Department of Legislative Services**  
Maryland General Assembly  
2001 Session

**FISCAL NOTE**

Senate Bill 435      (Senator Pinsky, *et al.*)  
Economic and Environmental Affairs

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**Captive Audience/Stop Commercialism in Schools Act of 2001**

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This bill requires local boards of education to develop and adopt policies that prohibit students from being the targets of commercial advertising while in school and that encourage a reduction in student consumption of minimally nutritional foods while on school premises. The policies must be submitted to the Maryland State Department of Education (MSDE) by August 1, 2002. The bill prohibits a county board or a school from entering into an agreement for the exclusive sale of vending machines and products sold in vending machines. The bill also prohibits the posting of commercial advertisements on the inside or the outside of school buses. MSDE must adopt regulations to implement the bill.

The bill is effective July 1, 2001.

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**Fiscal Summary**

**State Effect:** The Maryland State Department of Education could monitor local school system policies and adopt regulations to implement the bill with existing resources.

**Local Effect:** Local school system and individual school revenues from vending contracts could decrease, depending on the current policy in each system. *This bill imposes a mandate on a unit of local government.*

**Small Business Effect:** Meaningful.

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## Analysis

**Bill Summary:** Each county board of education must develop and adopt policies that prohibit the board and a school in the county from:

- requiring students to observe, read, or listen to commercial advertising, unless the advertising is a part of the instruction;
- providing students' personal information to vendors;
- entering into contracts that prohibit employees from disparaging the goods or services of the party contracting with the school;
- allowing access by students to vending machines before the end of a school day;
- requiring or advising students to purchase particular brand name products; and
- requiring students to wear uniforms with visible commercial logos or brand names.

Each county board must also develop and adopt a policy that prohibits the county board or a school from entering into a contract for electronic products or services that require dissemination of advertising to students, unless the county board:

- enters into the contract at a public hearing;
- finds that the electronic products or services provide an integral component of the curriculum and that the county cannot afford to provide the products or services without the dissemination of advertising; and
- provides written notice of the advertising to the parents or guardians of students and allows an opportunity for a parent or guardian to request in writing that a student not be exposed to the advertising.

A policy that encourages a reduction in student consumption of minimally nutritional foods on school premises must also be developed and adopted by each county board. Each county board must submit its adopted policies to the Maryland State Department of Education (MSDE) after consultation about the policies with an advisory board composed of parents, teachers, and administrators. With the policies submitted to MSDE, each county board must also submit a statement of the proceeds collected in the prior three years from the sale of vending machine products and a report on expenditures made with the proceeds.

A county school board or school may not enter into an agreement with a vendor to provide exclusive sale of vending machines and products sold in vending machines, and vending machine contracts may not exceed a term of three years. If a school violates a policy regarding vending machine access by students, the county board may prohibit the school from entering into a new contract.

A county school board or school may not post commercial advertisements or authorize the posting of commercial advertisements on school buses used by the county.

**Current Law:** County boards of education are not required to develop policies that restrict students' school-time access to commercial advertisement.

**Background:** Many local school systems -- including Baltimore, Montgomery, and Prince George's counties -- allow school administrators to raise revenues by contracting with vending and soda machine companies. The supplemental revenue is often used to support extra-curricular activities in schools. Other school systems, like Charles County, have exclusive systemwide contracts with vendors that supply county schools with vending machines and products sold in vending machines.

School breakfasts and lunches supported by State and federal funds must meet specific nutritional standards.

MSDE has had an unwritten rule for years that forbids students from having access to soda machines until the final lunch period of the school day has ended so students do not use school lunch money to purchase sodas. More recently, that rule has been relaxed in many school districts, allowing many students to purchase sodas and other products throughout the school day.

A January 26, 2001 article in the *Wall Street Journal* noted that N2H2 Inc., which makes a Web-filtering software used by more than 12 million elementary and secondary school students, has begun to sell records of the Internet-surfing patterns of students to marketers. The new Children's Internet Protection Act requires schools and libraries to use Web-filtering software in order to receive federal funds from the E-rate program, which helps schools get on the Internet. N2H2's software is used by about 20% of the schools that currently use Internet filter software. Data sold by N2H2 is in aggregate form and contains no personal student data.

**Local Revenues:** MSDE advises that the primary fiscal effect of the legislation would be on revenues that individual schools derive from vending machine sales. MSDE estimates that in school systems that allow schools to independently contract with vendors, middle schools can make from \$5,000 to \$10,000 and high schools can make from \$10,000 to \$20,000 from vending machine sales. Elementary schools do not typically provide students with access to vending machines. There are 227 senior high schools and 228 middle schools in Maryland. If one-third of the schools have contracts that allow them to receive vending machine proceeds, total revenues would be from \$1.1 million to \$2.3 million. This bill could result in a reduction in school revenues generated from vending machine sales. Proceeds from vending machine sales are generally managed at the

school level, and policies regarding the management, reporting, and internal controls over the school agreements vary by school system. The revenues schools receive from commercial advertising and the selling of student information cannot be estimated at this time.

**Local Expenditures:** It is assumed that local boards of education could hold public hearings and develop, implement, and enforce the required policies with existing resources.

**Small Business Effect:** Small vending businesses that sell products to schools could be hurt by the legislation. The businesses could be limited in the hours that their products may be sold in schools, and schools would develop policies that encourage students to avoid many of the products sold in vending machines. In-school advertising of products sold in vending machines would also be prohibited. Vending machine businesses would lose the ability to negotiate for exclusive contracts. This could harm vending businesses that currently have exclusive contracts but could open the market to other small vending businesses. Small business Internet providers that use advertisements as a part of their service could also be hurt by the legislation if they are forced to drop advertisements from their service. Any small businesses that currently advertise in schools could lose business. In addition, marketers would not be able to collect personal student data that could be used by small businesses to target their advertising efforts.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland State Department of Education, Maryland Association of Boards of Education, Department of Legislative Services

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