

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 834
Ways and Means

(Delegate Grammer, *et al.*)

Junior Advancement via Association Act of 2015

This bill authorizes a student who is a participant in a career exploration and development activity on a public school campus to prepare and sell any beverage in conjunction with the career exploration and development activity, notwithstanding any federal law relating to nutrition standards for beverages sold in schools.

The bill takes effect July 1, 2015.

Fiscal Summary

State Effect: If a local school system fails to comply with the federal regulations relating to nutrition standards, approximately \$6.2 million in federal funds for the Maryland State Department of Education (MSDE) for administration and oversight of the National School Lunch Program (NSLP) and the School Breakfast Program (SBP) may be jeopardized. It is assumed local school systems comply with the federal regulations.

Local Effect: A local school system that fails to comply with federal regulations relating to nutrition standards jeopardizes federal funding for its NSLP and SBP. Local school systems are scheduled to receive approximately \$261.0 million in federal funding for these programs in FY 2016.

Small Business Effect: None.

Analysis

Current Law: Local school systems are subject to federal law and regulations through participation in federal food and nutrition programs, including (among others) NSLP, SBP, and other programs for free and reduced-price meals and free milk in schools. The federal

Healthy, Hunger-Free Kids Act of 2010 requires schools to offer nutritious, well-balanced, and age-appropriate meals to all the children they serve to improve their diets and safeguard their health. Children age five and older must be offered lunches that meet the following nutrition standards for their age/grade group: specified food components and food quantities; zero grams of trans fat per serving or a minimal amount of naturally occurring trans fat; less than 10% of total calories from saturated fat; reduced amount of sodium; and following the applicable recommendations from the 2010 Dietary Guidelines for Americans.

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.

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 Maryland 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.

According to the Maryland Nutrition Standards for All Foods Sold in Schools adopted by the State Board of Education on 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: ≤5 calories/8 oz ≤10 calories/ 12 oz
Caffeine, beyond naturally occurring trace amounts	Not allowed	Not allowed	Not allowed

Source: Maryland Department of Education

Under the federal Child Nutrition and Women, Infants and Children Reauthorization Act, since 2004 all local school systems participating in the NSLP or other federal nutrition programs were required to create local school system wellness policies. The federal Healthy, Hunger-Free Kids Act of 2010, added new provisions for local school wellness policies related to implementation, evaluation, and publicly reporting on progress of local school wellness policies.

Background: Students in a special education program at Patapsco High School were operating a coffee shop at their school as part of a vocational training program. The coffee shop was closed after the implementation of new beverage standards for Maryland schools that were adopted by the State Board of Education on June 27, 2014, and effective July 1, 2014. According to the new beverage standards, all 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 cannot contain caffeine beyond naturally occurring trace amounts. The coffee shop has been replaced with a “shop” selling slushies, made of fruit concentrates and no added sugar.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Department of Education, U.S. Department of Agriculture, *Baltimore Sun*, Department of Legislative Services

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mel/rhh

Analysis by: Caroline L. Boice

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