

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE
First Reader

House Bill 109
Ways and Means

(Delegate Fennell, *et al.*)

Public Schools - Health and Safety - Food Transparency

This bill requires local school systems to include food and drink items that are sold à la carte on monthly dining menus. If an à la carte item is sold in the item's original packaging, the menu must include the following information: (1) the most prominently displayed brand and product name; and (2) the flavor of the item, if applicable. If à la carte items differ from school to school within a local school system, the local school system must either (1) create an individual monthly à la carte menu for each school or (2) include a disclaimer on the monthly dining menu that à la carte items vary by school. The bill does not apply to food provided to a student as part of a federally assisted meal program.

The bill takes effect July 1, 2016.

Fiscal Summary

State Effect: None.

Local Effect: Local school expenditures may increase minimally to update their monthly dining menus with the required product information if all schools in the system have the same à la carte items. Local school systems can add a disclaimer on the monthly dining menu that à la carte items vary by school using existing resources or choose to update the monthly dining menus with the required product information for each school.

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) the National School Lunch Program (NSLP), the School Breakfast Program (SBP), and other programs for students who are eligible 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.

NSLP requires schools to provide nutritious and well-balanced meals to all the children they serve. 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 follow the applicable recommendations from the 2010 Dietary Guidelines for Americans.

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 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.

Also, one semester of health education is among the high school graduation requirements for Maryland students.

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 school campus, including cafeteria à 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 ($\geq 50\%$ 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 $\geq \frac{1}{4}$ 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 all of the standards shown in **Exhibit 1**.

Exhibit 1
Maryland Nutrition Standards for All Foods Sold in Schools

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	0 g	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 State Department of Education

Background: According to MSDE, each local school system in Maryland publishes monthly school breakfast and school lunch menus on 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.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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