

Chapter 560

(House Bill 315)

AN ACT concerning

**State Department of Education – Breakfast and Lunch Programs – Funding
(Maryland Cares for Kids Act)**

FOR the purpose of repealing the requirement that the State Board of Education adopt and publish standards for the administration of a subsidized feeding program; authorizing a certain nonpublic school to participate in a certain feeding program; requiring the State to be responsible for reimbursing certain nonpublic schools under certain circumstances; providing for the distribution of certain funding to certain nonpublic schools and county boards; requiring the State to be responsible for reimbursing a county board of education or ~~a nonprofit~~ certain nonpublic school schools for certain portions of the student share of the costs of certain meals in certain fiscal years; prohibiting a county board of education or ~~nonprofit~~ certain nonpublic school schools from charging certain students for any portion of the cost of ~~the meal~~ certain meals beginning in certain fiscal years; requiring certain nonpublic schools to provide a free feeding program for certain children; providing for the use of certain funds for certain nonpublic schools; authorizing a nonpublic school to provide a certain free breakfast program; providing for the eligibility for certain nonpublic schools for a certain State reimbursement under certain circumstances; altering the calculation for the reimbursement for certain meals to certain county boards of education and ~~nonprofit~~ certain nonpublic schools; making conforming changes; and generally relating to school breakfast and lunch programs and the State Department of Education.

BY repealing and reenacting, with amendments,
 Article – Education
 Section 7–601 through 7–605 and 7–701 through 7–703
 Annotated Code of Maryland
 (2014 Replacement Volume and 2017 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 That the Laws of Maryland read as follows:

Article – Education

7–601.

(a) The State Board shall adopt and publish standards for the administration of the [subsidized and] free feeding program.

(b) The standards shall[:

- (1) Provide] **PROVIDE** for eligibility requirements for the program[; and
- (2) Require each county board to provide a reduced price lunch program].

7-602.

(a) There is a State Free Feeding Program.

(b) (1) Each year the State Superintendent shall determine the amount of State money required to provide [a program of subsidized and free feeding programs] **THE PROGRAM** in accordance with the standards adopted by the State Board under this subtitle.

(2) The amount included for this Program in the annual State budget, including any federal funds, and as submitted to and appropriated by the General Assembly, shall be distributed to the county boards **AND PARTICIPATING NONPUBLIC SCHOOLS IN THE SAME MANNER AS THE PROCESS ESTABLISHED** under § 5-212 of this article.

(C) (1) A NONPUBLIC SCHOOL IN THE STATE THAT PARTICIPATES IN THE FEDERAL SCHOOL BREAKFAST PROGRAM OR THE NATIONAL SCHOOL LUNCH PROGRAM MAY PARTICIPATE IN THE STATE FREE FEEDING PROGRAM.

(2) IF A NONPUBLIC SCHOOL PARTICIPATES IN THE STATE FREE FEEDING PROGRAM, THE STATE SHALL BE RESPONSIBLE FOR REIMBURSING THE PARTICIPATING NONPUBLIC SCHOOL UNDER SUBSECTION (D) OF THIS SECTION.

(D) THE STATE SHALL BE RESPONSIBLE FOR REIMBURSING A COUNTY BOARD OR A ~~NONPROFIT~~ PARTICIPATING NONPUBLIC SCHOOL FOR THE STUDENT SHARE OF THE COSTS OF:

(1) BREAKFASTS PROVIDED TO ALL STUDENTS ELIGIBLE FOR A REDUCED PRICE BREAKFAST UNDER THE FEDERAL SCHOOL BREAKFAST PROGRAM ACCORDING TO THE FOLLOWING SCHEDULE:

(I) FOR FISCAL YEAR 2020, 10 CENTS PER STUDENT;

(II) FOR FISCAL YEAR 2021, 20 CENTS PER STUDENT; AND

(III) FOR FISCAL YEAR 2022 AND EACH FISCAL YEAR THEREAFTER, THE GREATER OF 30 CENTS PER STUDENT OR THE REQUIRED FEDERAL PER MEAL CHARGE TO STUDENTS; AND

(2) LUNCHES PROVIDED TO ALL STUDENTS ELIGIBLE FOR A REDUCED PRICE LUNCH UNDER THE NATIONAL SCHOOL LUNCH PROGRAM ACCORDING TO THE FOLLOWING SCHEDULE:

(I) FOR FISCAL YEAR 2020, 10 CENTS PER STUDENT;

(II) FOR FISCAL YEAR 2021, 20 CENTS PER STUDENT;

(III) FOR FISCAL YEAR 2022, 30 CENTS PER STUDENT; AND

(IV) FOR FISCAL YEAR 2023 AND EACH FISCAL YEAR THEREAFTER, THE GREATER OF 40 CENTS PER STUDENT OR THE REQUIRED FEDERAL PER MEAL CHARGE TO STUDENTS.

~~(D)~~ **(E) A (1) BEGINNING IN FISCAL YEAR 2022, A COUNTY BOARD OR NONPROFIT PARTICIPATING NONPUBLIC SCHOOL MAY NOT CHARGE A STUDENT WHO IS ELIGIBLE FOR A REDUCED PRICE BREAKFAST OR LUNCH FOR ANY PORTION OF THE COST OF THE MEAL.**

(2) BEGINNING IN FISCAL YEAR 2023, A COUNTY BOARD OR NONPROFIT PARTICIPATING NONPUBLIC SCHOOL MAY NOT CHARGE A STUDENT WHO IS ELIGIBLE FOR A REDUCED PRICE LUNCH FOR ANY PORTION OF THE COST OF THE MEAL.

7-603.

Each public school AND PARTICIPATING NONPUBLIC SCHOOL in this State shall provide a [program of subsidized or] free feeding [programs] PROGRAM for children who meet the standards adopted by the State Board under this subtitle.

7-604.

Funds appropriated for the [subsidized or] free feeding program shall be used to reimburse each county board AND PARTICIPATING NONPUBLIC SCHOOL for the difference between costs and all available reimbursements and other funds[, including the amounts paid by children].

7-605.

(a) The General Assembly finds the following policies desirable in the administration and application of the school feeding [programs] PROGRAM:

(1) Private organizations and corporations should be encouraged to participate in the program;

(2) The identity of children who participate in **THE** free [or subsidized] feeding [programs] **PROGRAM** should remain anonymous and positive procedures should be adopted to accomplish this; and

(3) Applications for participants in the program should be brief and simple, based on a statement of present income and family size or of participation in a social services or welfare program.

(b) There may not be discrimination [among these programs] **IN THIS PROGRAM** for elementary, junior high, and high school students.

7-701.

(a) **(1)** The State Board shall require each county board to provide in each elementary school a free [and reduced price] breakfast, unless the school is exempted under § 7-702 of this subtitle.

(2) (I) A NONPUBLIC ELEMENTARY SCHOOL MAY PROVIDE A FREE BREAKFAST PROGRAM IN ACCORDANCE WITH THIS SUBTITLE.

(II) IF A NONPUBLIC ELEMENTARY SCHOOL PROVIDES A FREE BREAKFAST PROGRAM, THE PARTICIPATING NONPUBLIC ELEMENTARY SCHOOL SHALL BE ELIGIBLE FOR THE STATE REIMBURSEMENT OF THE STUDENT SHARE OF THE COSTS FOR THOSE BREAKFASTS UNDER § 7-703 OF THIS ARTICLE.

(b) The free [and reduced price] breakfast required to be provided under this section shall meet the standards of the United States Department of Agriculture.

7-702.

The State Superintendent shall exempt any elementary school from the requirements of this subtitle if:

(1) (i) The school has made a breakfast program available for at least 3 consecutive months; and

(ii) The participation is less than 25 percent of the number of students eligible for free and reduced price **ELIGIBLE** meals in each month;

(2) (i) The county board approves an alternative nutrition program that the school has instituted;

(ii) The school regularly conducts an assessment of the alternative program that provides evidence of success in achieving program objectives; and

(iii) The school submits an annual report of the assessment to the county board and the State;

(3) (i) The school requests an exemption for reasons of a compelling nature to the county board; and

(ii) After review and approval, the county board submits the request for exemption to the State Superintendent; or

(4) (i) The school has less than 15 percent of its enrollment approved for free and reduced price **ELIGIBLE** meals.

(ii) This exemption shall continue from year to year without the need for reapplication, until there is a 10 percent increase in the number of students approved for free and reduced price **ELIGIBLE** meals.

7-703.

(a) The free [and reduced price] breakfast program under this subtitle shall be suspended if the per meal reimbursement that the federal government provides for the breakfast program is:

(1) Reduced below the rate prescribed on July 1, [1979] **2013**; or

(2) Adjusted by the Secretary of the United States Department of Agriculture, as of the most recent July 1 under the national Child Nutrition Act, and the per meal reimbursement is below the adjusted rate.

(b) The **STATE** reimbursement **TO A COUNTY BOARD OF EDUCATION OR A ~~NONPROFIT PARTICIPATING NONPUBLIC SCHOOL~~** for each meal under subsection (a) of this section shall be determined as follows:

(1) Multiply the number of reduced price **ELIGIBLE** breakfasts served statewide times the **SUM OF THE** federal reimbursement rate for those breakfasts **PLUS THE STUDENT SHARE OF THE COST FOR THOSE BREAKFASTS**;

(2) Multiply the number of free breakfasts served statewide times the federal reimbursement rate for those breakfasts; and

(3) Divide the total of paragraphs (1) and (2) of this subsection by the total number of free and reduced price **ELIGIBLE** breakfasts.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2018.

Approved by the Governor, May 8, 2018.