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COMMITTEE REPORT

February 16, 2010

**H. 3297**

Introduced by Reps. Sellers, E.H. Pitts, Brady, Hutto and Bowers

S. Printed 2/16/10--S. [SEC 2/17/10 4:54 PM]

Read the first time May 5, 2009.

**THE COMMITTEE ON EDUCATION**

To whom was referred a Bill (H. 3297) to amend Section 59‑10‑340, Code of Laws of South Carolina, 1976, relating to snacks sold for student consumption in schools, so as to provide for fat, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by deleting all after the enacting words and inserting:

/ SECTION 1. Section 59‑10‑340 of the 1976 Code, as added by Act 102 of 2005, is amended to read:

“Section 59‑10‑340. (A) Each district’s Coordinated School Health Advisory Council established pursuant to Section 59‑10‑330 shall determine which snacks and beverages may be sold ~~in vending machines~~ for student consumption in elementary, middle, and high schools during the regular school day.

(B) Snacks sold in elementary, middle, and high schools for student consumption may not have more than:

(1) two hundred total calories;

(2) thirty‑five percent of their total calories from fat;

(3) thirty‑five percent of their total weight composed of sugar; and

(4) ten percent of their total calories from saturated fat.

(C) Beverages sold in elementary and middle schools for student consumption may include only the following:

(1) up to eight ounce servings for elementary schools and up to ten ounce servings for middle schools of fruit‑ or vegetable‑based drinks that are composed of no less than one hundred percent juice, have no added sweeteners, contain at least ten percent of the recommended daily value for three or more vitamins and minerals, and have no more than one hundred twenty calories per eight ounces;

(2) drinking water;

(3) up to eight ounce servings for elementary schools and up to ten ounce servings for middle schools of fat‑free milk or low‑fat milk, including nutritionally equivalent milk alternatives.

(D) Beverages sold in high schools for student consumption may include only the following:

(1) drinking water;

(2) zero calorie or low calorie beverages with up to ten calories per eight ounces;

(3) up to twelve ounce servings of fat‑free or low‑fat milk, including nutritionally equivalent milk alternatives with up to 150 calories per eight ounces;

(4) up to twelve ounce servings of fruit‑ or vegetable‑based drinks that are composed of no less than one hundred percent juice, have no added sweeteners, contain at least ten percent of the recommended daily value for three or more vitamins and minerals, and have no more than one hundred twenty calories per eight ounces; and

(5) up to twelve ounce servings of other beverages with no more than sixty‑six calories per eight ounces.

(E) At least fifty percent of nonmilk beverages offered for sale for student consumption in elementary, middle, and high schools must be water and zero calorie or low calorie options.

(F) Snacks and beverages offered for student consumption in vending machines in middle and high schools must conform to the same nutritional standards provided in this section. Snacks and beverages may not be offered for sale for student consumption in vending machines in elementary schools.

(G) For purposes of this section:

(1) ‘Regular school day’ means the instructional day, including lunch and recess hours. ‘Regular school day’ does not include activities outside the instructional day that occur either before or after the start of the instructional day, such as clubs, yearbook, band and choir practice, student government, drama, and childcare/latchkey programs. Also, ‘regular school day’ does not apply to school‑related events such as interscholastic sporting events, school plays, band concerts, or other school‑related programs where parents and other adults constitute a significant portion of the audience or are selling beverages and snacks for school‑related purposes.

(H) If middle school and high school students have shared access to areas on a common campus or in common buildings, the school community has the option to adopt the high school standard.

(I) Should federal regulations stipulate standards that exceed those provided in subsections (B), (C), or (D) of this section, federal regulations must take precedence.

(J) Nothing in this section prohibits a school district from adopting standards that exceed those provided in this section.”

SECTION 2. Article 3, Chapter 10, Title 59 of the 1976 Code is amended by adding:

“Section 59‑10‑345. (A) For purposes of this section, ‘full meal’ means any combination of food items that meets USDA nutrition guidelines and a USDA approved meal pattern.

(B) Beginning with the 2010‑2011 school year, any food served to a student in an elementary, middle, or high school during the regular school day that is not a ‘full meal’ must contain no more than:

(1) thirty‑five percent of its total calories from fat. This item does not apply to the sale of nuts, nut butters, cheese packaged for individual sale, fruits, vegetables, or legumes;

(2) thirty‑five percent of its total weight from sugar, including naturally occurring or added sugar. This item does not apply to the sale of fruits or vegetables; and

(3) ten percent of its total calories from saturated fat. This item does not apply to eggs or cheese packaged for individual sale.

(C) Portion size for a la carte sales in a cafeteria must not exceed the serving size of the food served in the National School Lunch Program or School Breakfast Program, but nothing in this section prohibits the purchase of a la carte items.

(D) Nothing in this section prohibits a school district from adopting standards that exceed those provided in this section.”

SECTION 3. Section 59‑10‑380 of the 1976 Code is amended to read:

“Section 59‑10‑380. ~~Nothing in~~ The provisions of this article may not be construed to prohibit or limit the school‑approved sale or distribution by students, teachers, or groups, of any food or beverage item ~~through fundraisers by students, teachers, or groups when the items are intended for sale off the school campus~~ for fundraising purposes during sales or distributions that occur either before or after the regular school day.

SECTION 4. This act takes effect upon approval by the Governor and begins with the 2010‑2011 school year. /

Renumber sections to conform.

Amend title to conform.

JOHN E. COURSON for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The State Department of Education (SDE) indicates this bill will have no fiscal impact to the agency. There would be no fiscal impact on federal and/or other funds.

**SPECIAL NOTES:**

A survey of the local school districts indicates they would potentially realize a loss of revenue from the sale of certain foods. The survey indicated the districts could lose revenue amounts ranging from less than $10,000 to several hundred thousand dollars per district.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO AMEND SECTION 59‑10‑340, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SNACKS SOLD FOR STUDENT CONSUMPTION IN SCHOOLS, SO AS TO PROVIDE FOR FAT, CALORIE, AND SUGAR CONTENT STANDARDS THAT SNACK FOOD AND BEVERAGES MUST MEET IN ORDER TO BE SOLD IN SCHOOLS; AND BY ADDING SECTION 59‑10‑345 SO AS TO PROVIDE THAT ELEMENTARY SCHOOLS MAY OFFER ONLY FULL MEALS FOR STUDENT CONSUMPTION, AND TO PROVIDE FOR FAT, CALORIE, AND SUGAR CONTENT STANDARDS THAT FOODS AND BEVERAGES MUST MEET IN ORDER TO BE SOLD IN SCHOOLS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 59‑10‑340 of the 1976 Code, as added by Act 102 of 2005, is amended to read:

“Section 59‑10‑340. (A) Each district’s Coordinated School Health Advisory Council established pursuant to Section 59‑10‑330 shall determine which snacks and beverages may be sold ~~in vending machines~~ for student consumption in elementary, middle, and high schools during the regular school day.

(B) Snacks sold in elementary, middle, and high schools for student consumption may not have more than:

(1) two hundred total calories;

(2) thirty‑five percent of their total calories from fat;

(3) thirty‑five percent of their total weight composed of sugar; and

(4) ten percent of their total calories from saturated fat.

(C) Beverages sold in elementary and middle schools for student consumption may include only the following:

(1) up to eight ounce servings for elementary schools and up to ten ounce servings for middle schools of fruit‑ or vegetable‑based drinks that are composed of no less than one hundred percent juice, have no added sweeteners, contain at least ten percent of the recommended daily value for three or more vitamins and minerals, and have no more than one hundred twenty calories per eight ounces;

(2) drinking water;

(3) up to eight ounce servings for elementary schools and up to ten ounce servings for middle schools of fat‑free milk or low‑fat milk, including nutritionally equivalent milk alternatives.

(D) Beverages sold in high schools for student consumption may include only the following:

(1) drinking water;

(2) zero calorie or low calorie beverages with up to ten calories per eight ounces;

(3) up to twelve ounce servings of fat‑free or low‑fat milk, including nutritionally equivalent milk alternatives with up to 150 calories per eight ounces;

(4) up to twelve ounce servings of fruit‑ or vegetable‑based drinks that are composed of no less than one hundred percent juice, have no added sweeteners, contain at least ten percent of the recommended daily value for three or more vitamins and minerals, and have no more than one hundred twenty calories per eight ounces; and

(5) up to twelve ounce servings of other beverages with no more than sixty‑six calories per eight ounces.

(E) At least fifty percent of nonmilk beverages offered for sale for student consumption in elementary, middle, and high schools must be water and zero calorie or low calorie options.

(F) Snacks and beverages offered for student consumption in vending machines in middle and high schools must conform to the same nutritional standards provided in this section. snacks and beverages may not be offered for sale for student consumption in vending machines in elementary schools.

(G) For purposes of this section:

(1) ‘Regular school day’ means the instructional day, including lunch and recess hours. ‘regular school day’ does not include activities outside the instructional day that occur either before or after the start of the instructional day, such as clubs, yearbook, band and choir practice, student government, drama, and childcare/latchkey programs. Also, ‘regular school day’ does not apply to school‑related events such as interscholastic sporting events, school plays, band concerts, or other school‑related programs where parents and other adults constitute a significant portion of the audience or are selling beverages and snacks for school‑related purposes.

(H) If middle school and high school students have shared access to areas on a common campus or in common buildings, the school community has the option to adopt the high school standard.”

SECTION 2. Article 3, Chapter 10, Title 59 of the 1976 Code is amended by adding:

“Section 59‑10‑345. (A) Beginning with the 2009‑2010 school year, the only food that may be served to a student in an elementary school during breakfast and lunch periods is food that is sold as a full meal. For purposes of this section, ‘full meal’ means any combination of food items that meets USDA nutrition guidelines and a USDA approved meal pattern. However, if a child brings a meal from home, the child may purchase individual meal items.

(B) Beginning with the 2009‑2010 school year, any food served to a student in an elementary, middle, or high school during the regular school day that is not a ‘full meal’ must contain no more than:

(1) thirty‑five percent of its total calories from fat. This item does not apply to the sale of nuts, nut butters, cheese packaged for individual sale, fruits, vegetables, or legumes;

(2) thirty‑five percent of its total weight from sugar, including naturally occurring or added sugar. This item does not apply to the sale of fruits or vegetables; and

(3) ten percent of its total calories from saturated fat. This item does not apply to eggs or cheese packaged for individual sale.

(C) portion size for a la carte sales in a cafeteria must not exceed the serving size of the food served in the National School Lunch Program or School Breakfast Program.”

SECTION 3. Section 59‑10‑380 of the 1976 Code is amended to read:

“Section 59‑10‑380. ~~Nothing in~~ The provisions of this article may not be construed to prohibit or limit the school‑approved sale or distribution by students, teachers, or groups, of any food or beverage item ~~through fundraisers by students, teachers, or groups when the items are intended for sale off the school campus~~ for fundraising purposes.

SECTION 4. This act takes effect upon approval by the Governor.

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