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HOUSE BILL 598

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Roberto "Bobby" J. Gonzales

AN ACT

RELATING TO SCHOOLS; ESTABLISHING HEALTHY NUTRITIONAL STANDARDS
AND STANDARD PORTIONS; ENACTING THE COMPETITIVE FOODS IN
SCHOOLS ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Public School Code is
enacted to read:

"[NEW MATERIAL] SHORT TITLE.--This act may be cited as the
"Competitive Foods in Schools Act".

Section 2. A new section of the Public School Code is
enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in the Competitive
Foods in Schools Act:

A. "competitive beverage" means a beverage offered
or sold at school other than a beverage served through the

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1 United States department of agriculture's school breakfast,
2 national school lunch and after-school snack programs; and

3 B. "competitive food" means a food offered or sold
4 at school other than a food served through the United States
5 department of agriculture's school breakfast, national school
6 lunch and after-school snack programs."

7 Section 3. A new section of the Public School Code is
8 enacted to read:

9 "[NEW MATERIAL] DEPARTMENT DUTIES.--The department shall
10 approve a list of competitive foods and competitive beverages
11 approved for offer or sale at public schools and charter
12 schools based on compliance with the provisions of the
13 Competitive Foods in Schools Act and make the list available to
14 school districts."

15 Section 4. A new section of the Public School Code is
16 enacted to read:

17 "[NEW MATERIAL] VENDOR CONTRACTS FOR FOOD SERVICE IN
18 SCHOOLS.--Contracts for food and beverage vending shall not
19 bind school districts or school food services to exclusive or
20 multiyear provisions."

21 Section 5. A new section of the Public School Code is
22 enacted to read:

23 "[NEW MATERIAL] REWARDS.--Foods and beverages, including
24 coupons to be redeemed outside the school setting, shall not be
25 used as rewards for individual students or groups of students,

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1 or be withheld as punishment."

2 Section 6. A new section of the Public School Code is
3 enacted to read:

4 "[NEW MATERIAL] COMMERCIAL ADVERTISING.--All vending
5 machines located on school property shall exclude graphics that
6 do not promote one hundred percent fruit and vegetable juices,
7 water, milk, physical activity and health."

8 Section 7. A new section of the Public School Code is
9 enacted to read:

10 "[NEW MATERIAL] ELEMENTARY SCHOOLS.--From one hour before
11 through one-half hour after the school day, no competitive food
12 or competitive beverage shall be offered or sold on an
13 elementary school campus. Items used in nutrition education
14 lessons or served at celebrations are exempt from the
15 provisions of this section."

16 Section 8. A new section of the Public School Code is
17 enacted to read:

18 "[NEW MATERIAL] SECONDARY SCHOOLS.--

19 A. From one hour before through one-half hour after
20 the school day, all competitive foods and competitive beverages
21 offered or sold on a middle, junior high or high school campus
22 shall comply with the provisions of this section. Items used
23 in nutrition education lessons or served at celebrations are
24 exempt from the provisions of this section.

25 B. The following competitive beverages shall be

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1 allowed:

2 (1) drinking water;

3 (2) one hundred percent plain and flavored
4 milk that does not exceed two percent fat content;

5 (3) soymilk that contains no less than six
6 grams of protein and no less than two hundred eighty-five
7 milligrams of calcium per eight fluid ounces;

8 (4) yogurt beverages;

9 (5) one hundred percent fruit and vegetable
10 juices;

11 (6) fruit-based drinks that contain at least
12 fifty percent fruit juice and have no added sugars; and

13 (7) electrolyte replacement beverages that
14 contain no more than twenty-three grams of sugars per twelve
15 fluid ounces.

16 C. Qualifying competitive foods shall provide:

17 (1) not more than thirty percent of total
18 calories from fat, excluding nuts, seeds and cheeses;

19 (2) not more than ten percent of total
20 calories from saturated fat and trans fat combined; and

21 (3) not more than thirty-five percent of total
22 weight from sugar, excluding dried fruits.

23 D. Items offered or sold in single-serving
24 packages, except for fresh fruits and vegetables, milk and
25 water, shall be limited to these portion sizes:

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- 1 (1) twelve fluid ounces for beverages;
- 2 (2) eight ounces for yogurts that are not in
- 3 frozen or beverage form;
- 4 (3) one and one-fourth ounces for snacks,
- 5 including chips, crackers, popcorn, cereal, trail mix, nuts,
- 6 seeds, cheeses, dried fruit and jerky;
- 7 (4) two ounces for cookies and cereal bars;
- 8 (5) three ounces for bakery items; and
- 9 (6) three ounces for frozen desserts.

10 E. Items not offered or sold in single-serving
11 packages shall not exceed the portion-size limits set by the
12 United States department of agriculture school meals programs."

13 Section 9. A new section of the Public School Code is
14 enacted to read:

15 "[NEW MATERIAL] RULEMAKING.--The department in
16 consultation with the department of health shall adopt and
17 promulgate rules by August 1, 2005 in compliance with the
18 Competitive Foods in Schools Act, and such rules shall require
19 compliance of all school districts and charter schools. The
20 rules shall:

21 A. require a preference for New Mexico-grown foods
22 for purchase in the United States department of agriculture's
23 meals programs and for competitive food and competitive
24 beverage sales;

25 B. require preference for minimally processed,

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1 naturally nutrient-dense-per-calorie foods and beverages;

2 C. require preference for school fundraising
3 activities that use nonfood items; and when foods and beverages
4 are used for fundraising activities, require the use of foods
5 and beverages that meet the provisions of the Competitive Foods
6 in Schools Act;

7 D. require each school district to involve students
8 in creating school wellness policies;

9 E. limit school celebrations that involve the use
10 of foods and beverages to special and infrequent occasions and
11 restrict foods and beverages at celebrations to those that
12 comply with the standards of the Competitive Foods in Schools
13 Act;

14 F. encourage schools to move toward offering and
15 selling foods and beverages that comply with the Competitive
16 Foods in Schools Act at school-related activities and events
17 outside of the regularly scheduled academic day;

18 G. encourage the school display of nutrition
19 education materials that deliver positive nutrition and
20 physical activity messages; and

21 H. encourage school personnel to eat foods and
22 drink beverages that comply with the Competitive Foods in
23 Schools Act when eating with their students at school."