Enrolled
House Bill 2404

Introduced and printed pursuant to House Rule 12.00. Presession filed (at the request of Governor John A. Kitzhaber, M.D., for Department of Education)

CHAPTER .....

AN ACT

Relating to school nutritional standards; creating new provisions; amending ORS 336.423; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 336.423 is amended to read:

336.423. (1) As used in this section:

(a) "Entree" means a food that is generally regarded as being the primary food in a meal and includes, but is not limited to, sandwiches, burritos, pasta and pizza.

(b) "Snack" means a food that is generally regarded as supplementing a meal and includes, but is not limited to, chips, crackers, onion rings, nachos, french fries, doughnuts, cookies, pastries, cinnamon rolls and candy.

(2) Except as provided in subsection (6) of this section, all food and beverage items sold **to students** in a public kindergarten through grade 12 school must at a minimum meet the standards required by this section.

(3) The following shall apply to all food sold **to students** in a school during the times described in subsection (5)(a) of this section:

(a) A snack item may be sold only in a single-serving size and:

(A) May not have more than 35 percent of the total calories from fat. This requirement does not apply to snack items that are legumes, nuts, nut butters, seeds, **seed butters,** eggs, nonfried vegetables and cheese.

(B) May not have more than 10 percent of the total calories from saturated fat. This requirement does not apply to snack items that are nuts, **nut butters, seeds, seed butters,** eggs and cheese.

(C) May not contain more than 35 percent sugar by weight. This requirement does not apply to fruit and vegetables.

(D) May not contain more than 0.5 grams of trans fat per serving.

(E) May not contain more than 150 total calories if sold in a school in which the highest grade level in the school is grade 5 or less.

(F) May not contain more than 180 total calories if sold in a school in which the highest grade level in the school is grade 6, 7 or 8.

(G) May not contain more than 200 total calories if sold in a school in which the highest grade level in the school is grade 9, 10, 11 or 12.

(b) An entree item that is sold individually:

(A) May not contain more than four grams of fat per 100 calories.

(B) May not contain more than 450 total calories.

(4) The following shall apply to all beverages sold **to students** in a school during the times described in subsection (5)(a) of this section:

(a) If the beverage is sold in a school in which the highest grade level in the school is grade 5 or less, the beverage **may not contain caffeine and** may be only:

(A) Water.

(B) Fruit or vegetable juice, provided the beverage item is not more than eight ounces, is 100 percent juice [*with*] **or 100 percent juice diluted with water, has** no added sweeteners and contains no more than 120 calories per eight ounces.

(C) Milk or a nutritionally equivalent milk alternative, provided the beverage item is not more than eight ounces, is fat free or low fat and, if flavored, contains no more than 150 calories per eight ounces.

(b) If the beverage is sold in a school in which the highest grade level in the school is grade 6, 7 or 8, the beverage **may not contain caffeine and** may be only:

(A) Water.

(B) Fruit or vegetable juice, provided the beverage item is not more than 10 ounces, is 100 percent juice [*with*] **or 100 percent juice diluted with water, has** no added sweeteners and contains no more than 120 calories per eight ounces.

(C) Milk or a nutritionally equivalent milk alternative, provided the beverage item is not more than 10 ounces, is fat free or low fat and, if flavored, contains no more than 150 calories per eight ounces.

(c) If the beverage is sold in a school in which the highest grade level in the school is grade 9, 10, 11 or 12, the beverage may be only:

(A) Water.

(B) Flavored water, provided the beverage item is not more than 20 ounces and contains no calories.

[*(B)*] **(C)** Fruit or vegetable juice, provided the beverage item is not more than 12 ounces, is 100 percent juice [*with*] **or 100 percent juice diluted with water, has** no added sweeteners and contains no more than 120 calories per eight ounces.

[*(C)*] **(D)** Milk or a nutritionally equivalent milk alternative, provided the beverage item is not more than 12 ounces, is fat free or low fat and, if flavored, contains no more than 150 calories per eight ounces.

[*(D)*] **(E)** A [*no-calorie or low-calorie beverage if the*] beverage **item that is not more than 20 ounces and** contains no more than [*10*] **0.5** calories per [*eight ounces*] **ounce**.

[*(E)*] **(F)** A beverage **item** that is not more than 12 ounces and contains no more than [*66*] **five** calories per [*eight ounces*] **ounce**.

(5)(a) The standards required by this section apply to food and beverage items sold **to students** in a school at all times during the regular or extended school day when the activities in the school are primarily under the control of the school district board. This includes, but is not limited to, the time before or after classes are in session and the time when the school is being used for activities such as clubs, yearbook, band or choir practice, student government, drama rehearsals or child care programs.

(b) The standards required by this section do not apply to food and beverage items sold in a school at times when the school is being used for school-related events or nonschool-related events for which parents and other adults are a significant part of an audience or are selling food or beverage items before, during or after the event, such as a sporting event or another interscholastic activity, a play or a band or choir concert.

(6) The standards required by this section do not apply to**:**

(a) Food and beverage items sold **as a meal** in a school as part of the United States Department of Agriculture's National School Lunch Program or School Breakfast Program[.]**; or**

(b) Entree items that:

(A) At a minimum, meet the standards of the federal programs identified in paragraph (a) of this subsection;

(B) Are sold individually in portions allowed under the federal programs identified in paragraph (a) of this subsection; and

(C) Are sold not later than one day after items that are part of a federal program identified in paragraph (a) of this subsection are sold.

(7) A school district board may adopt standards that are more restrictive than the standards specified by this section.

(8) Each school year, a school district board shall determine whether the school district is in compliance with the standards required by this section and report the results of that determination to the Department of Education. The department may monitor whether school districts are in compliance with the standards required by this section.

SECTION 2. The amendments to ORS 336.423 by section 1 of this 2015 Act first apply to food and beverage items sold during the 2015-2016 school year.

SECTION 3. This 2015 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect July 1, 2015.

Passed by House March 3, 2015

Repassed by House June 1, 2015

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate May 28, 2015

.....
Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2015

Approved:

.....M.,....., 2015

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2015

.....
Jeanne P. Atkins, Secretary of State