



**SB-965 Pupil nutrition: beverages.** (2005-2006)

**Senate Bill No. 965**

**CHAPTER 237**

An act to amend Section 49431.5 of the Education Code, relating to pupils.

[ Approved by Governor September 15, 2005. Filed with Secretary of State  
September 15, 2005. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 965, Escutia. Pupil nutrition: beverages.

Existing law requires the governing board of a school district to give diligent care to the health and physical development of pupils. Existing law restricts the sale of beverages to pupils at an elementary school to certain specified beverages, including water, milk, and 100% fruit juices, and at a middle or junior high school at specified times to certain specified beverages.

This bill would modify the list of beverages that may be sold to pupils at an elementary or a middle or junior high school, and would restrict the sale of beverages to pupils at a high school at specified times to certain specified beverages.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 49431.5 of the Education Code is amended to read:

**49431.5.** (a) (1) Regardless of the time of day, only the following beverages may be sold to a pupil at an elementary school:

(A) Fruit-based drinks that are composed of no less than 50 percent fruit juice and have no added sweetener.

(B) Vegetable-based drinks that are composed of no less than 50 percent vegetable juice and have no added sweetener.

(C) Drinking water with no added sweetener.

(D) Two-percent-fat milk, one-percent-fat milk, nonfat milk, soy milk, rice milk, and other similar nondairy milk.

(2) An elementary school may permit the sale of beverages that do not comply with paragraph (1) as part of a school fundraising event in any of the following circumstances:

(A) The items are sold by pupils of the school and the sale of those items takes place off and away from the premises of the school.

(B) The items are sold by pupils of the school and the sale of those items takes place one-half hour or more after the end of the schoolday.

(3) From one-half hour before the start of the schoolday to one-half hour after the end of the schoolday, only the following beverages may be sold to a pupil at a middle or junior high school:

(A) Fruit-based drinks that are composed of no less than 50 percent fruit juice and have no added sweetener.

(B) Vegetable-based drinks that are composed of no less than 50 percent vegetable juice and have no added sweetener.

(C) Drinking water with no added sweetener.

(D) Two-percent-fat milk, one-percent-fat milk, nonfat milk, soy milk, rice milk, and other similar nondairy milk.

(E) An electrolyte replacement beverage that contains no more than 42 grams of added sweetener per 20-ounce serving.

(4) A middle or junior high school may permit the sale of beverages that do not comply with paragraph (3) as part of a school event if the sale of those items meets all of the following criteria:

(A) The sale occurs during a school-sponsored event and takes place at the location of that event at least one-half hour after the end of the schoolday.

(B) Vending machines, pupil stores, and cafeterias are used later than one-half hour after the end of the schoolday.

(5) This subdivision does not prohibit an elementary, or middle or junior high school from making available through a vending machine any beverage allowed under paragraph (1) or (3) at any time of day, or, in middle and junior high schools, any beverage that does not comply with paragraph (3) if the beverage only is available not later than one-half hour before the start of the schoolday and not sooner than one-half hour after the end of the schoolday.

(b) (1) Commencing July 1, 2007, no less than 50 percent of all beverages sold to a pupil from one-half hour before the start of the schoolday until one-half hour after the end of the schoolday shall be those enumerated by paragraph (3).

(2) Commencing July 1, 2009, all beverages sold to a pupil from one-half hour before the start of the schoolday until one-half hour after the end of the schoolday shall be those enumerated by paragraph (3).

(3) Beverages allowed under this subdivision are all of the following:

(A) Fruit-based drinks that are composed of no less than 50 percent fruit juice and have no added sweetener.

(B) Vegetable-based drinks that are composed of no less than 50 percent vegetable juice and have no added sweetener.

(C) Drinking water with no added sweetener.

(D) Two-percent-fat milk, one-percent-fat milk, nonfat milk, soy milk, rice milk, and other similar nondairy milk.

(E) An electrolyte replacement beverage that contains no more than 42 grams of added sweetener per 20-ounce serving.

(c) For the purposes of this section, the following terms have the following meanings:

(1) "Added sweetener" means any additive that enhances the sweetness of the beverage, including added sugar, but does not include the natural sugar or sugars that are contained within the fruit juice which is a component of the beverage.

(2) "Sale of beverages" means the exchange of a beverage for money, coupons, or vouchers.

(d) It is the intent of the Legislature that the governing board of a school district annually review its compliance with this section.

(e) Notwithstanding Article 3 (commencing with Section 33050) of Chapter 1 of Part 20, compliance with this section may not be waived.