

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 185 Session of 2005

INTRODUCED BY STAIRS, CALTAGIRONE, CORNELL, CRAHALLA, CREIGHTON, DALEY, J. EVANS, GEIST, GEORGE, HERSHEY, KENNEY, LEACH, LEDERER, MANDERINO, MCGILL, MELIO, PRESTON, REICHLEY, SEMMEL, STERN, E. Z. TAYLOR, WILT AND YOUNGBLOOD, FEBRUARY 1, 2005

REFERRED TO COMMITTEE ON EDUCATION, FEBRUARY 1, 2005

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An  
2 act relating to the public school system, including certain  
3 provisions applicable as well to private and parochial  
4 schools; amending, revising, consolidating and changing the  
5 laws relating thereto," providing for contracts for sale of  
6 carbonated beverages, non-nutritious beverages and non-  
7 nutritious food.

8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 Section 1. The act of March 10, 1949 (P.L.30, No.14), known  
11 as the Public School Code of 1949, is amended by adding a  
12 section to read:

13 Section 504.1. Contracts for Sale of Carbonated Beverages,

14 Non-nutritious Beverages and Non-nutritious Food.--(a) (1)

15 State and Federal laws require all schools participating in meal  
16 programs to provide nutritious food and beverages to pupils.

17 (2) State and Federal laws restrict the sale of food and  
18 beverages in competition with meal programs to enhance the  
19 nutritional goals for pupils, and to protect the fiscal and

1 nutritional integrity of the school food service programs.

2 (3) Parents, pupils and community members should have the  
3 opportunity to ensure, through the review of food and beverage  
4 contracts, that food and beverages sold on school campuses  
5 provide nutritious sustenance to pupils, promote good health,  
6 help pupils learn, provide energy and model fit living for life.

7 (b) The following words and phrases when used in this  
8 section shall have the meanings given to them in this subsection  
9 unless the context clearly indicates otherwise:

10 "Added sweetener" shall include any additive that enhances  
11 the sweetness of the beverage, including, but not limited to,  
12 added sugar, but does not include the natural sugar or sugars  
13 that are contained within any fruit juice that is a component of  
14 the beverage.

15 "Non-nutritious beverages" shall include any beverage that is  
16 not any of the following:

17 (1) Drinking water.

18 (2) Milk, including, but not limited to, chocolate milk, soy  
19 milk, rice milk and other similar dairy or non-dairy milk.

20 (3) An electrolyte replacement beverage that contains forty-  
21 two (42) grams or less of added sweetener per twenty (20) ounce  
22 serving.

23 (4) A one hundred per centum fruit juice, or fruit-based  
24 drink that is composed of fifty per centum or more fruit juice  
25 and that has no added sweeteners.

26 "Non-nutritious food" shall mean food that is not sold as  
27 part of the school breakfast or lunch program as a full meal,  
28 and that meets any of the following standards:

29 (1) More than thirty-five per centum of its total calories  
30 are from fat.

1       (2) More than ten per centum of its total calories are from  
2 saturated fat.

3       (3) More than thirty-five per centum of its total weight is  
4 composed of sugar.

5       (c) The governing board of a school district may not do any  
6 of the following:

7       (1) Enter into or renew a contract or permit a school within  
8 the district to enter into or renew a contract that grants  
9 exclusive or non-exclusive advertising or grants the right to  
10 the exclusive or non-exclusive sale of carbonated beverages or  
11 non-nutritious beverages or non-nutritious food within the  
12 district to a person, business or corporation unless the  
13 governing board of the school district does all of the  
14 following:

15       (i) Adopts a policy after a public hearing of the governing  
16 board to ensure that the district has internal controls in place  
17 to protect the integrity of the public funds and to ensure that  
18 funds raised benefit public education, and that the contracts  
19 are entered into on a competitive basis subject to 62 Pa.C.S.  
20 (relating to procurement).

21       (ii) Provides to parents, guardians, pupils and members of  
22 the public the opportunity to comment on the contract by holding  
23 a public hearing on the contract during a regularly scheduled  
24 board meeting. The governing board shall clearly, and in a  
25 manner recognizable to the general public, identify in the  
26 agenda the contract to be discussed at the meeting.

27       (2) Enter into a contract that prohibits a school district  
28 employe from disparaging the goods or services of the party  
29 contracting with the school board.

30       (3) Enter into a contract or permit a school within the

1 district to enter into a contract for electronic products or  
2 services that requires the dissemination of advertising to  
3 pupils unless the governing board of the school district does  
4 all of the following:

5 (i) Enters into the contract at a noticed public hearing of  
6 the governing board.

7 (ii) Makes a finding that the electronic product or service  
8 in question is or would be an integral component of the  
9 education of pupils.

10 (iii) Makes a finding that the school district cannot afford  
11 to provide the electronic product or service unless it contracts  
12 to permit dissemination of advertising to pupils.

13 (iv) Provides written notice to the parents or guardians of  
14 pupils that the advertising will be used in the classroom or  
15 other learning centers. This notice shall be part of the  
16 district's normal ongoing communication to parents or guardians.

17 (v) Offers the parents the opportunity to request in writing  
18 that the pupil not be exposed to the program that contains the  
19 advertising. Any request shall be honored for the school year in  
20 which it is submitted or longer if specified but may be  
21 withdrawn by the parents or guardians at any time.

22 (d) (1) An annual public hearing shall be held to review  
23 and discuss potential contracts for the sale of food and  
24 beverages on campuses, including food and beverages sold as full  
25 meals, through competitive sales such as fundraisers and vending  
26 machines.

27 (2) The public hearing shall include:

28 (i) The nutritional value of food and beverages sold within  
29 the district.

30 (ii) The availability of fresh fruit, vegetables and grains

1 in school meals and snacks including, but not limited to,  
2 locally grown and organic produce.

3 (iii) The amount of fat, sugar and additives in food and  
4 beverages discussed.

5 (iv) Barriers to pupil participation in school breakfast and  
6 lunch programs.

7 (3) The annual public requirement of this subsection does  
8 not release the governing board from the public hearing  
9 requirements of subsection (c)(1) for a potential contract that  
10 was not discussed at the annual meeting.

11 (e) The governing board of the school district shall make  
12 accessible to the public any contract entered into pursuant to  
13 this section and may not include in that contract a  
14 confidentiality clause that would prevent a school or school  
15 district from making any part of the contract public.

16 (f) The governing board of a school district may sell  
17 advertising, products or services on a non-exclusive basis.

18 (g) The governing board of a school district may post public  
19 signs indicating the district's appreciation for the support of  
20 a person or business for the district's education program.

21 (h) Contracts entered into prior to the effective date of  
22 this section may remain in effect but may not be renewed if in  
23 conflict with this section.

24 Section 2. This act shall take effect in 60 days.