

CHAPTER 45

AN ACT establishing certain restrictions concerning foods and beverages sold, served or given away to pupils at public and certain nonpublic schools and supplementing chapter 33 of Title 18A of the New Jersey Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.18A:33-15 Findings, declarations relative to food, beverages sold to certain school pupils.

1. The Legislature finds and declares that:
 - a. the federal Centers for Disease Control and Prevention has declared that obesity, which affects 61% of American adults, and childhood obesity, which affects up to 15% of American children between the ages of six and 17, are epidemics in the United States;
 - b. Congress has introduced the Improved Nutrition and Physical Activity Act (IMPACT Act) to address the overall concern with the obesity epidemic and, in particular, the need to educate youth about good nutrition, healthy eating habits, and the importance of physical activity;
 - c. the United States Surgeon General has issued a report entitled "The Surgeon General's Call to Action to Prevent and Decrease Overweight and Obesity," which lists the treatment and prevention of obesity as a national priority, and the United States Department of Agriculture issued a report to Congress in which it recognized that foods without regulated nutrition standards are low in nutrient density and are higher in fat, added sugar, and calories; and
 - d. health experts agree that one of the most effective ways to prevent obesity is to establish policies and programs that encourage children and adolescents to develop healthy eating habits that they can maintain throughout their lives.

C.18A:33-16 Regulation of items sold, served, given away on school property.

2. a. As of September 2007, the following items shall not be served, sold or given away as a free promotion anywhere on school property at any time before the end of the school day, including items served in the reimbursable After School Snack Program:
 - (1) Foods of minimal nutritional value, as defined by the United States Department of Agriculture;
 - (2) All food and beverage items listing sugar, in any form, as the first ingredient; and
 - (3) All forms of candy as defined by the New Jersey Department of Agriculture.
- b. Schools shall reduce the purchase of any products containing trans fats beginning September 1, 2007.
- c. As of September 2007, all snack and beverage items, sold or served anywhere on school property during the school day, including items sold in a la carte lines, vending machines, snack bars, school stores and fundraisers, or served in the reimbursable After School Snack Program, shall meet the following standards:
 - (1) Based on manufacturers' nutritional data or nutrient facts labels, no more than eight grams of total fat per serving, with the exception of nuts and seeds, and no more than two grams of saturated fat per serving;
 - (2) All beverages, other than milk containing two percent or less fat, or water, shall not exceed a 12-ounce portion size; and whole milk may not exceed an eight-ounce portion;
 - (3) In elementary schools, beverages shall be limited to milk, water or 100 percent fruit or vegetable juices;
 - (4) In middle and high schools, at least 60 percent of all beverages offered, other than milk or water, must be 100 percent fruit or vegetable juice; and

(5) In middle and high schools, no more than 40 percent of all ice cream and frozen desserts shall be allowed to exceed the above standards for sugar, fat and saturated fat.

d. Food and beverages served during special school celebrations or during curriculum-related activities shall be exempt from the provisions of this section, with the exception of foods of minimal nutritional value as defined by the United States Department of Agriculture.

e. The provisions of this section shall not apply to:

(1) Medically authorized special needs diets as defined by the United States Department of Agriculture;

(2) School nurses using foods of minimal nutritional value during the course of providing health care to individual students; or

(3) Special needs students whose Individual Education Plan indicates a particular diet.

C.18A:33-17 Applicability to certain nonpublic schools.

3. The provisions of this act shall apply to nonpublic schools that participate in the Child Nutrition Programs as defined by the New Jersey Department of Agriculture.

C.18A:33-18 Rules, regulations.

4. The Secretary of Agriculture shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), promulgate rules and regulations to implement the provisions of this act and shall monitor compliance with the provisions of this act.

C.18A:33-19 Nonpreemption of more stringent policies.

5. Nothing in this act shall be construed to prohibit the board of education of a public school district or the governing board or chief school administrator of a nonpublic school from establishing more stringent nutritional policies for students.

6. This act shall take effect immediately.

Approved February 21, 2007.