

## CHAPTER 185

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**EDUCATION - PUBLIC SCHOOLS**

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**SENATE BILL 08-129**

BY SENATOR(S) Gibbs, Boyd, Gordon, Groff, Isgar, Johnson, Morse, Schwartz, Shaffer, Tochtrop, Tupa, and Williams;  
also REPRESENTATIVE(S) Riesberg, Borodkin, Butcher, Casso, Ferrandino, Fischer, Kefalas, Kerr A., Labuda, McGihon,  
Merrifield, Peniston, and Todd.

**AN ACT****CONCERNING NUTRITION IN SCHOOLS.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1. Legislative declaration.** (1) The general assembly hereby finds and determines that it is in the best interests of Colorado residents to address the rising rates of childhood obesity by adopting a policy regarding the serving of beverages in schools.

(2) Now, therefore, the general assembly hereby declares that the state board of education and the state charter school institute board shall promulgate rules describing beverages that may be sold to students. Each beverage described by the rules shall satisfy the Alliance for a Healthier Generation guidelines that were set forth in a memorandum of understanding between various interested entities, including the American Heart Association, the William J. Clinton Foundation, the American Beverage Association, Cadbury Schweppes Americas Beverages, the Coca-Cola Company, and PepsiCo, Inc.

**SECTION 2. Repeal.** 22-32-134, Colorado Revised Statutes, is repealed.

**SECTION 3.** Article 32 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**22-32-134.5. Healthy beverages policy required.** (1) ON OR BEFORE JULY 1, 2009, EACH SCHOOL DISTRICT BOARD OF EDUCATION SHALL ADOPT AND IMPLEMENT A POLICY THAT PROHIBITS, EXCEPT AS DESCRIBED IN SUBSECTION (2) OF THIS SECTION, THE SALE OF BEVERAGES TO STUDENTS FROM ANY SOURCE, INCLUDING BUT NOT LIMITED TO:

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

- (a) SCHOOL CAFETERIAS;
- (b) VENDING MACHINES;
- (c) SCHOOL STORES; AND
- (d) FUND-RAISING ACTIVITIES CONDUCTED ON SCHOOL CAMPUSES.

(2) (a) ON OR BEFORE NOVEMBER 15, 2008, THE STATE BOARD OF EDUCATION SHALL PROMULGATE RULES DESCRIBING BEVERAGES THAT SCHOOL DISTRICTS AND SCHOOLS MAY PERMIT TO BE SOLD TO STUDENTS. EACH BEVERAGE DESCRIBED BY THE RULES SHALL SATISFY MINIMUM NUTRITIONAL STANDARDS FOR BEVERAGES, WHICH STANDARDS ARE SCIENCE-BASED AND ESTABLISHED BY A NATIONAL ORGANIZATION THAT:

(I) ESTABLISHES AND PROMOTES MINIMUM NUTRITIONAL STANDARDS FOR BEVERAGES SERVED TO STUDENTS IN SCHOOLS; AND

(II) HAS SET FORTH A MEMORANDUM OF UNDERSTANDING BETWEEN VARIOUS INTERESTED ENTITIES, INCLUDING REPRESENTATIVES OF THE BEVERAGE INDUSTRY, WHICH MEMORANDUM OF UNDERSTANDING SETS FORTH GUIDELINES FOR POLICIES CONCERNING BEVERAGES THAT SCHOOL DISTRICTS AND SCHOOLS MAY PERMIT TO BE SOLD TO STUDENTS.

(b) ON OR BEFORE NOVEMBER 15, 2008, THE STATE BOARD OF EDUCATION SHALL PROMULGATE RULES DESCRIBING SPECIFIC EVENTS OCCURRING OUTSIDE OF THE REGULAR AND EXTENDED SCHOOL DAY, INCLUDING BUT NOT LIMITED TO EXTRACURRICULAR COMPETITIONS AND PERFORMANCES, AT WHICH A SCHOOL DISTRICT OR SCHOOL MAY PERMIT TO BE SOLD TO STUDENTS BEVERAGES OTHER THAN THE BEVERAGES DESCRIBED BY THE RULES PROMULGATED BY THE STATE BOARD PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2).

(3) (a) THE POLICY ADOPTED BY A SCHOOL DISTRICT PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL APPLY TO ALL BEVERAGES SOLD ON SCHOOL CAMPUSES DURING REGULAR AND EXTENDED SCHOOL DAYS.

(b) FOR THE PURPOSES OF THIS SUBSECTION (3), "EXTENDED SCHOOL DAY" MEANS THE REGULAR HOURS OF OPERATION FOR A SCHOOL PLUS ANY TIME SPENT BY STUDENTS AFTER THE REGULAR HOURS OF OPERATION FOR ANY PURPOSE, INCLUDING BUT NOT LIMITED TO PARTICIPATION IN EXTRACURRICULAR ACTIVITIES OR CHILDCARE PROGRAMS.

(4) THE PROVISIONS OF THIS SECTION SHALL APPLY TO CONTRACTS ENTERED INTO OR RENEWED BY A SCHOOL DISTRICT ON OR AFTER JULY 1, 2009.

**SECTION 4.** 22-32-136 (3) (a) (II), Colorado Revised Statutes, is amended to read:

**22-32-136. Children's nutrition - healthful alternatives - information - facilities - local wellness policy - competitive foods.** (3) On or before July 1,

2006, each school district board of education is encouraged to adopt policies ensuring that:

(a) Every student has access to healthful food choices in appropriate portion sizes throughout the school day. At a minimum, this includes the provision of:

(II) ~~Healthful items in vending machines, pursuant to section 22-32-134~~ BEVERAGES SOLD TO STUDENTS ON SCHOOL CAMPUSES, PURSUANT TO SECTION 22-32-134.5; and

**SECTION 5.** 22-30.5-505, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**22-30.5-505. State charter school institute - institute board - appointment - powers and duties - rules.** (13) PURSUANT TO SECTION 22-30.5-517, THE INSTITUTE SHALL ADOPT AND IMPLEMENT A POLICY THAT REGULATES THE SALE OF BEVERAGES TO STUDENTS AT AN INSTITUTE CHARTER SCHOOL.

**SECTION 6.** Part 5 of article 30.5 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**22-30.5-517. Institute charter school nutritional beverage policy.** (1) ON OR BEFORE JULY 1, 2009, THE STATE CHARTER SCHOOL INSTITUTE SHALL ADOPT AND IMPLEMENT A POLICY THAT PROHIBITS, EXCEPT AS DESCRIBED IN SUBSECTION (2) OF THIS SECTION, AN INSTITUTE CHARTER SCHOOL FROM PERMITTING THE SALE OF BEVERAGES TO STUDENTS FROM ANY SOURCE, INCLUDING BUT NOT LIMITED TO:

- (a) SCHOOL CAFETERIAS;
- (b) VENDING MACHINES;
- (c) SCHOOL STORES; AND
- (d) FUND-RAISING ACTIVITIES CONDUCTED ON SCHOOL CAMPUSES.

(2) (a) ON OR BEFORE NOVEMBER 15, 2008, THE INSTITUTE BOARD SHALL PROMULGATE RULES DESCRIBING BEVERAGES THAT INSTITUTE CHARTER SCHOOLS MAY PERMIT TO BE SOLD TO STUDENTS. EACH BEVERAGE DESCRIBED BY THE RULES SHALL SATISFY MINIMUM NUTRITIONAL STANDARDS FOR BEVERAGES, WHICH STANDARDS ARE SCIENCE-BASED AND ESTABLISHED BY A NATIONAL ORGANIZATION THAT:

(I) ESTABLISHES AND PROMOTES MINIMUM NUTRITIONAL STANDARDS FOR BEVERAGES SERVED TO STUDENTS IN SCHOOLS; AND

(II) HAS SET FORTH A MEMORANDUM OF UNDERSTANDING BETWEEN VARIOUS INTERESTED ENTITIES, INCLUDING REPRESENTATIVES OF THE BEVERAGE INDUSTRY, WHICH MEMORANDUM OF UNDERSTANDING SETS FORTH GUIDELINES FOR POLICIES CONCERNING BEVERAGES THAT SCHOOL DISTRICTS AND SCHOOLS MAY PERMIT TO BE SOLD TO STUDENTS.

(b) ON OR BEFORE NOVEMBER 15, 2008, THE INSTITUTE BOARD SHALL PROMULGATE RULES DESCRIBING SPECIFIC EVENTS OCCURRING OUTSIDE OF THE REGULAR AND EXTENDED SCHOOL DAY, INCLUDING BUT NOT LIMITED TO EXTRACURRICULAR COMPETITIONS AND PERFORMANCES, AT WHICH AN INSTITUTE CHARTER SCHOOL MAY PERMIT TO BE SOLD TO STUDENTS BEVERAGES OTHER THAN THE BEVERAGES DESCRIBED BY THE RULES PROMULGATED BY THE INSTITUTE BOARD PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2).

(3) (a) THE POLICY ADOPTED BY THE STATE CHARTER SCHOOL INSTITUTE PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL APPLY TO ALL BEVERAGES SOLD ON INSTITUTE CHARTER SCHOOL CAMPUSES DURING REGULAR AND EXTENDED SCHOOL DAYS.

(b) FOR THE PURPOSES OF THIS SUBSECTION (3), "EXTENDED SCHOOL DAY" MEANS THE REGULAR HOURS OF OPERATION FOR AN INSTITUTE CHARTER SCHOOL PLUS ANY TIME SPENT BY STUDENTS AFTER SUCH REGULAR HOURS OF OPERATION FOR ANY PURPOSE, INCLUDING BUT NOT LIMITED TO PARTICIPATION IN EXTRACURRICULAR ACTIVITIES OR CHILDCARE PROGRAMS.

(4) THE PROVISIONS OF THIS SECTION SHALL APPLY TO CONTRACTS ENTERED INTO OR RENEWED BY THE STATE CHARTER SCHOOL INSTITUTE OR AN INSTITUTE CHARTER SCHOOL ON OR AFTER JULY 1, 2009.

**SECTION 7. Effective date.** This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: April 25, 2008