

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 09-0344.01 Richard Sweetman

SENATE BILL 09-046

SENATE SPONSORSHIP

Sandoval,

HOUSE SPONSORSHIP

(None),

Senate Committees
Education

House Committees

A BILL FOR AN ACT

101 **CONCERNING HEALTHY SNACK FOODS IN SCHOOLS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Requires each school district board of education and the state charter school institute to adopt and implement a policy that prohibits the sale of snack foods to students from any source. Creates exceptions to the policy for sales of snack foods that satisfy minimum nutritional requirements and sales of snack foods that occur off school campuses or at certain school-sponsored events.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

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

2 **SECTION 1.** Article 32 of title 22, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW SECTION to read:

4 **22-32-134.7. Healthy snack foods - definitions - policy**
5 **required.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
6 OTHERWISE REQUIRES:

7 (a) "EXTENDED SCHOOL DAY" SHALL HAVE THE SAME MEANING AS
8 PROVIDED IN SECTION 22-32-134.5 (3) (b).

9 (b) "RECOMMENDED DAILY INTAKE" MEANS THE DAILY DIETARY
10 INTAKE AMOUNT OF A NUTRIENT THAT IS CONSIDERED BY THE UNITED
11 STATES DEPARTMENT OF AGRICULTURE TO BE SUFFICIENT TO MEET THE
12 REQUIREMENTS OF NEARLY ALL HEALTHY INDIVIDUALS.

13 (c) "SNACK FOOD" MEANS ANY FOOD THAT IS AVAILABLE FOR SALE
14 ON A SCHOOL CAMPUS, EXCEPT:

15 (I) BEVERAGES; OR

16 (II) FOOD THAT IS AVAILABLE TO STUDENTS AS PART OF A
17 REGULARLY SCHEDULED SCHOOL MEAL PROGRAM.

18 (2) ON OR BEFORE JULY 1, 2010, EACH SCHOOL DISTRICT BOARD
19 OF EDUCATION SHALL ADOPT AND IMPLEMENT A POLICY THAT PROHIBITS
20 THE SALE OF SNACK FOODS TO STUDENTS DURING THE EXTENDED SCHOOL
21 DAY, EXCEPT AS DESCRIBED IN SUBSECTION (3) OF THIS SECTION. THE
22 PROHIBITION SHALL INCLUDE BUT NEED NOT BE LIMITED TO THE
23 FOLLOWING SOURCES:

24 (a) SCHOOL CAFETERIAS;

25 (b) VENDING MACHINES;

26 (c) SCHOOL STORES; AND

27 (d) FUND-RAISING ACTIVITIES CONDUCTED ON SCHOOL CAMPUSES.

1 (3) A SCHOOL DISTRICT POLICY ADOPTED PURSUANT TO
2 SUBSECTION (2) OF THIS SECTION SHALL PERMIT THE SALE OF ONLY THOSE
3 SNACK FOODS THAT SATISFY ONE OR MORE OF THE FOLLOWING
4 DESCRIPTIONS:

5 (a) UNPACKAGED FRUIT IN ANY AMOUNT WITH NO ADDED
6 SWEETENERS OR FRUIT THAT IS DRIED OR PACKAGED IN ITS OWN JUICE AND
7 OFFERED IN SERVING SIZES NOT EXCEEDING THE FOLLOWING AMOUNTS:

8 (I) FOR SALE IN AN ELEMENTARY SCHOOL, ONE HUNDRED FIFTY
9 CALORIES PER SERVING;

10 (II) FOR SALE IN A MIDDLE SCHOOL OR JUNIOR HIGH SCHOOL, ONE
11 HUNDRED EIGHTY CALORIES PER SERVING; AND

12 (III) FOR SALE IN A HIGH SCHOOL, TWO HUNDRED CALORIES PER
13 SERVING;

14 (b) NONFRIED, UNPACKAGED VEGETABLES IN ANY AMOUNT OR
15 NONFRIED VEGETABLES THAT ARE DRIED OR PACKAGED IN THEIR OWN
16 JUICE AND OFFERED IN SERVING SIZES NOT EXCEEDING THE FOLLOWING
17 AMOUNTS:

18 (I) FOR SALE IN AN ELEMENTARY SCHOOL, ONE HUNDRED FIFTY
19 CALORIES PER SERVING;

20 (II) FOR SALE IN A MIDDLE SCHOOL OR JUNIOR HIGH SCHOOL, ONE
21 HUNDRED EIGHTY CALORIES PER SERVING; AND

22 (III) FOR SALE IN A HIGH SCHOOL, TWO HUNDRED CALORIES PER
23 SERVING;

24 (c) REDUCED-FAT, PART-SKIM, OR SKIM CHEESE OFFERED IN
25 SERVING SIZES NOT EXCEEDING ONE AND ONE-HALF OUNCES;

26 (d) A SINGLE EGG OR EGG EQUIVALENT WITH NO ADDED FAT;

27 (e) NUTS, SEEDS, AND NUT BUTTERS THAT CONTAIN NO MORE THAN

1 THIRTY-FIVE PERCENT OF TOTAL CALORIES FROM FAT;
2 (f) LOW-FAT OR FAT-FREE DAIRY PRODUCTS CONTAINING NO MORE
3 THAN FOUR HUNDRED EIGHTY MILLIGRAMS OF SODIUM PER SERVING;
4 (g) ANY FOOD OF WHICH A SINGLE SERVING SATISFIES ALL OF THE
5 FOLLOWING LIMITATIONS:
6 (I) NO MORE THAN THIRTY-FIVE PERCENT OF THE TOTAL CALORIES
7 IN THE SERVING ARE FROM FAT;
8 (II) NO MORE THAN TEN PERCENT OF THE TOTAL CALORIES IN THE
9 SERVING ARE FROM SATURATED FAT AND NO MORE THAN ONE GRAM IS
10 SATURATED FAT;
11 (III) THE SERVING CONTAINS ZERO GRAMS OF TRANS FATS AS
12 LABELED;
13 (IV) THE SERVING CONTAINS NO MORE THAN THIRTY-FIVE
14 PERCENT SUGAR, AS MEASURED BY WEIGHT;
15 (V) THE SERVING CONTAINS NO MORE THAN TWO HUNDRED THIRTY
16 MILLIGRAMS OF SODIUM; EXCEPT THAT A SERVING OF SOUP OR A SERVING
17 OF VEGETABLES WITH SAUCE MAY CONTAIN NO MORE THAN FOUR
18 HUNDRED EIGHTY MILLIGRAMS OF SODIUM IF THE SERVING ALSO CONTAINS
19 AT LEAST:
20 (A) TWO GRAMS OF FIBER;
21 (B) FIVE GRAMS OF PROTEIN;
22 (C) TEN PERCENT OF THE RECOMMENDED DAILY INTAKE OF
23 VITAMIN A, VITAMIN C, VITAMIN E, FOLATE, CALCIUM, MAGNESIUM,
24 POTASSIUM, OR IRON; OR
25 (D) ONE-QUARTER CUP OF FRUIT OR VEGETABLES;
26 (VI) THE SERVING CONTAINS NO MORE THAN ONE HUNDRED TOTAL
27 CALORIES; EXCEPT THAT A SERVING OF SOUP OR A SERVING OF

1 VEGETABLES WITH SAUCE MAY EXCEED THE ONE-HUNDRED-CALORIE LIMIT
2 IF THE SERVING INCLUDES AT LEAST TWO OF THE FOLLOWING: TWO GRAMS
3 OF FIBER; FIVE GRAMS OF PROTEIN; TEN PERCENT OF THE RECOMMENDED
4 DAILY INTAKE OF VITAMIN A, VITAMIN C, VITAMIN E, FOLATE, CALCIUM,
5 MAGNESIUM, POTASSIUM, OR IRON; OR AT LEAST ONE-QUARTER CUP OF
6 FRUIT OR VEGETABLES, AND IF THE SERVING MEETS THE FOLLOWING
7 CALORIE LIMITS:

8 (A) FOR SALE IN AN ELEMENTARY SCHOOL, ONE HUNDRED FIFTY
9 CALORIES PER SERVING;

10 (B) FOR SALE IN A MIDDLE SCHOOL OR JUNIOR HIGH SCHOOL, ONE
11 HUNDRED EIGHTY CALORIES PER SERVING; AND

12 (C) FOR SALE IN A HIGH SCHOOL, TWO HUNDRED CALORIES PER
13 SERVING.

14 (4) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
15 THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO:

16 (a) SALES OF SNACK FOODS THAT OCCUR OFF A SCHOOL CAMPUS,
17 BUT NOT WHILE STUDENTS ARE IN TRANSIT TO OR FROM SCHOOL, AS PART
18 OF FUND-RAISING ACTIVITIES THAT ARE SPONSORED BY A SCHOOL OR BY
19 A GROUP OF STUDENTS THAT IS ASSOCIATED WITH A SCHOOL; OR

20 (b) SALES OF SNACK FOODS BY BOOSTER CLUBS OR OTHER PARENT
21 GROUPS AT SCHOOL-SPONSORED EVENTS WHERE PARENTS AND OTHER
22 ADULTS CONSTITUTE A SIGNIFICANT PORTION OF THE POPULATION THAT IS
23 PRESENT, INCLUDING BUT NOT LIMITED TO INTERSCHOLASTIC ATHLETIC
24 EVENTS, SCHOOL PLAYS, AND MUSICAL CONCERTS.

25 (5) THE PROVISIONS OF THIS SECTION SHALL APPLY TO CONTRACTS
26 ENTERED INTO OR RENEWED BY A SCHOOL DISTRICT OR A CHARTER
27 SCHOOL ON OR AFTER JULY 1, 2010.

1 **SECTION 2.** 22-32-136 (4) and (5) (b), Colorado Revised
2 Statutes, are amended to read:

3 **22-32-136. Children's nutrition - healthful alternatives -**
4 **information - facilities - local wellness policy - competitive foods.**

5 (4) Each school district board of education is encouraged to establish
6 rules specifying the time and place at which competitive foods may be
7 sold on school property in order to encourage the selection of healthful
8 food choices by students. RULES ESTABLISHED PURSUANT TO THIS
9 SUBSECTION (4) SHALL CONFORM TO THE POLICY ADOPTED AND
10 IMPLEMENTED BY THE SCHOOL DISTRICT BOARD OF EDUCATION PURSUANT
11 TO SECTION 22-32-134.7.

12 (5) On or before July 1, 2006, each school district board of
13 education is encouraged to adopt a local wellness policy as provided for
14 in the federal "Child Nutrition and WIC Reauthorization Act of 2004",
15 Public Law 108-265, which provides, in part, that, not later than the first
16 day of the school year beginning after June 30, 2006, each school district
17 participating in a program authorized by the Richard B. Russell national
18 school lunch act, 42 U.S.C. 1751 et seq., or the children's nutrition act of
19 1966, 42 U.S.C. 1771 et seq., shall establish a local school wellness
20 policy for schools under the local educational agency that, at a minimum:

21 (b) Includes nutrition guidelines selected by the local school
22 district for all foods available on each school campus during the school
23 day with objectives of promoting student health and reducing ~~childhood~~
24 ~~obesity and overweight and~~ THE NUMBER OF CHILDREN WHO ARE
25 OVERWEIGHT OR WHO HAVE type 2 diabetes. THE NUTRITION GUIDELINES
26 SHALL COMPLY WITH SECTION 22-32-134.7.

27 **SECTION 3.** 22-30.5-505, Colorado Revised Statutes, is

1 amended BY THE ADDITION OF A NEW SUBSECTION to read:

2 **22-30.5-505. State charter school institute - institute board -**
3 **appointment - powers and duties - rules.** (14) PURSUANT TO SECTION
4 22-30.5-518, THE INSTITUTE SHALL ADOPT AND IMPLEMENT A POLICY
5 THAT REGULATES THE SALE OF SNACK FOODS TO STUDENTS AT AN
6 INSTITUTE CHARTER SCHOOL.

7 **SECTION 4.** Part 5 of article 30.5 of title 22, Colorado Revised
8 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
9 read:

10 **22-30.5-518. Institute charter school healthy snack foods -**
11 **definitions - policy.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
12 OTHERWISE REQUIRES:

13 (a) "EXTENDED SCHOOL DAY" SHALL HAVE THE SAME MEANING AS
14 PROVIDED IN SECTION 22-32-134.5 (3) (b).

15 (b) "RECOMMENDED DAILY INTAKE" MEANS THE DAILY DIETARY
16 INTAKE AMOUNT OF A NUTRIENT THAT IS CONSIDERED BY THE UNITED
17 STATES DEPARTMENT OF AGRICULTURE TO BE SUFFICIENT TO MEET THE
18 REQUIREMENTS OF NEARLY ALL HEALTHY INDIVIDUALS.

19 (c) "SNACK FOOD" MEANS ANY FOOD THAT IS AVAILABLE FOR SALE
20 ON A SCHOOL CAMPUS, EXCEPT:

21 (I) BEVERAGES; OR

22 (II) FOOD THAT IS AVAILABLE TO STUDENTS AS PART OF A
23 REGULARLY SCHEDULED SCHOOL MEAL PROGRAM.

24 (2) ON OR BEFORE JULY 1, 2010, THE STATE CHARTER SCHOOL
25 INSTITUTE SHALL ADOPT AND IMPLEMENT A POLICY THAT PROHIBITS THE
26 SALE OF SNACK FOODS TO STUDENTS DURING THE EXTENDED SCHOOL DAY,
27 EXCEPT AS DESCRIBED IN SUBSECTION (3) OF THIS SECTION. THE

1 PROHIBITION SHALL INCLUDE BUT NEED NOT BE LIMITED TO THE
2 FOLLOWING SOURCES:

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

7 (3) THE POLICY ADOPTED PURSUANT TO SUBSECTION (2) OF THIS
8 SECTION SHALL PERMIT THE SALE OF ONLY THOSE SNACK FOODS THAT
9 SATISFY ONE OR MORE OF THE FOLLOWING DESCRIPTIONS:

10 (a) UNPACKAGED FRUIT, IN ANY AMOUNT, WITH NO ADDED
11 SWEETENERS OR FRUIT THAT IS DRIED OR PACKAGED IN ITS OWN JUICE AND
12 OFFERED IN SERVING SIZES NOT EXCEEDING THE FOLLOWING AMOUNTS:

13 (I) FOR SALE IN AN ELEMENTARY SCHOOL, ONE HUNDRED FIFTY
14 CALORIES PER SERVING;

15 (II) FOR SALE IN A MIDDLE SCHOOL OR JUNIOR HIGH SCHOOL, ONE
16 HUNDRED EIGHTY CALORIES PER SERVING; AND

17 (III) FOR SALE IN A HIGH SCHOOL, TWO HUNDRED CALORIES PER
18 SERVING;

19 (b) NONFRIED, UNPACKAGED VEGETABLES IN ANY AMOUNT OR
20 NONFRIED VEGETABLES THAT ARE DRIED OR PACKAGED IN THEIR OWN
21 JUICE AND OFFERED IN SERVING SIZES NOT EXCEEDING THE FOLLOWING
22 AMOUNTS:

23 (I) FOR SALE IN AN ELEMENTARY SCHOOL, ONE HUNDRED FIFTY
24 CALORIES PER SERVING;

25 (II) FOR SALE IN A MIDDLE SCHOOL OR JUNIOR HIGH SCHOOL, ONE
26 HUNDRED EIGHTY CALORIES PER SERVING; AND

27 (III) FOR SALE IN A HIGH SCHOOL, TWO HUNDRED CALORIES PER

1 SERVING;

2 (c) REDUCED-FAT, PART-SKIM, OR SKIM CHEESE OFFERED IN
3 SERVING SIZES NOT EXCEEDING ONE AND ONE-HALF OUNCES;

4 (d) A SINGLE EGG OR EGG EQUIVALENT WITH NO ADDED FAT;

5 (e) NUTS, SEEDS, AND NUT BUTTERS THAT CONTAIN NO MORE THAN
6 THIRTY-FIVE PERCENT OF TOTAL CALORIES FROM FAT;

7 (f) LOW-FAT OR FAT-FREE DAIRY PRODUCTS CONTAINING NO MORE
8 THAN FOUR HUNDRED EIGHTY MILLIGRAMS OF SODIUM PER SERVING;

9 (g) ANY FOOD OF WHICH A SINGLE SERVING SATISFIES ALL OF THE
10 FOLLOWING LIMITATIONS:

11 (I) NO MORE THAN THIRTY-FIVE PERCENT OF THE TOTAL CALORIES
12 IN THE SERVING ARE FROM FAT;

13 (II) NO MORE THAN TEN PERCENT OF THE TOTAL CALORIES IN THE
14 SERVING ARE FROM SATURATED FAT AND NO MORE THAN ONE GRAM IS
15 SATURATED FAT;

16 (III) THE SERVING CONTAINS ZERO GRAMS OF TRANS FATS AS
17 LABELED;

18 (IV) THE SERVING CONTAINS NO MORE THAN THIRTY-FIVE
19 PERCENT SUGAR, AS MEASURED BY WEIGHT;

20 (V) THE SERVING CONTAINS NO MORE THAN TWO HUNDRED THIRTY
21 MILLIGRAMS OF SODIUM; EXCEPT THAT A SERVING OF SOUP OR A SERVING
22 OF VEGETABLES WITH SAUCE MAY CONTAIN NO MORE THAN FOUR
23 HUNDRED EIGHTY MILLIGRAMS OF SODIUM IF THE SERVING ALSO CONTAINS
24 AT LEAST:

25 (A) TWO GRAMS OF FIBER;

26 (B) FIVE GRAMS OF PROTEIN;

27 (C) TEN PERCENT OF THE RECOMMENDED DAILY INTAKE OF

1 VITAMIN A, VITAMIN C, VITAMIN E, FOLATE, CALCIUM, MAGNESIUM,
2 POTASSIUM, OR IRON; OR

3 (D) AT LEAST ONE-QUARTER CUP OF FRUIT OR VEGETABLES;

4 (VI) THE SERVING CONTAINS NO MORE THAN ONE HUNDRED TOTAL
5 CALORIES; EXCEPT THAT A SERVING OF SOUP OR A SERVING OF
6 VEGETABLES WITH SAUCE MAY EXCEED THE ONE HUNDRED-CALORIE LIMIT
7 IF THE SERVING INCLUDES AT LEAST TWO OF THE FOLLOWING: TWO GRAMS
8 OF FIBER; FIVE GRAMS OF PROTEIN; TEN PERCENT OF THE RECOMMENDED
9 DAILY INTAKE OF VITAMIN A, VITAMIN C, VITAMIN E, FOLATE, CALCIUM,
10 MAGNESIUM, POTASSIUM, OR IRON; OR AT LEAST ONE-QUARTER CUP OF
11 FRUIT OR VEGETABLES, AND IF THE SERVING MEETS THE FOLLOWING
12 CALORIE LIMITS:

13 (A) FOR SALE IN AN ELEMENTARY SCHOOL, ONE HUNDRED FIFTY
14 CALORIES PER SERVING;

15 (B) FOR SALE IN A MIDDLE SCHOOL OR JUNIOR HIGH SCHOOL, ONE
16 HUNDRED EIGHTY CALORIES PER SERVING; AND

17 (C) FOR SALE IN A HIGH SCHOOL, TWO HUNDRED CALORIES PER
18 SERVING.

19 (4) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
20 THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO:

21 (a) SALES OF SNACK FOODS THAT TRANSPIRE OFF A SCHOOL
22 CAMPUS, BUT NOT WHILE STUDENTS ARE IN TRANSIT TO OR FROM SCHOOL,
23 AS PART OF FUND-RAISING ACTIVITIES THAT ARE SPONSORED BY A SCHOOL
24 OR BY A GROUP OF STUDENTS THAT IS ASSOCIATED WITH A SCHOOL; OR

25 (b) SALES OF SNACK FOODS BY BOOSTER CLUBS OR OTHER PARENT
26 GROUPS AT SCHOOL-SPONSORED EVENTS WHERE PARENTS AND OTHER
27 ADULTS CONSTITUTE A SIGNIFICANT PORTION OF THE POPULATION THAT IS

1 PRESENT, INCLUDING BUT NOT LIMITED TO INTERSCHOLASTIC ATHLETIC
2 EVENTS, SCHOOL PLAYS, AND MUSICAL CONCERTS.

3 (5) THE PROVISIONS OF THIS SECTION SHALL APPLY TO CONTRACTS
4 ENTERED INTO OR RENEWED BY THE STATE CHARTER SCHOOL INSTITUTE
5 OR BY AN INSTITUTE CHARTER SCHOOL ON OR AFTER JULY 1, 2010.

6 **SECTION 5. Act subject to petition - effective date.** This act
7 shall take effect at 12:01 a.m. on the day following the expiration of the
8 ninety-day period after final adjournment of the general assembly that is
9 allowed for submitting a referendum petition pursuant to article V,
10 section 1 (3) of the state constitution, (August 4, 2009, if adjournment
11 sine die is on May 6, 2009); except that, if a referendum petition is filed
12 against this act or an item, section, or part of this act within such period,
13 then the act, item, section, or part, if approved by the people, shall take
14 effect on the date of the official declaration of the vote thereon by
15 proclamation of the governor.