

SENATE BILL No. 1189

May 11, 2004, Introduced by Senators BERNERO, BISHOP, BRATER, McMANUS, HARDIMAN, PATTERSON, CHERRY, SCHAUER, HAMMERSTROM, GOSCHKA, BASHAM, GEORGE, SCOTT, CASSIS, ALLEN, BARCIA, PRUSI, JACOBS, CLARK-COLEMAN, CLARKE, SWITALSKI, OLSHOVE, LELAND and EMERSON and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
(MCL 380.1 to 380.1852) by adding section 1271.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1271. (1) Subject to subsection (8), the board of a
2 school district or board of directors of a public school academy
3 shall adopt and implement a local school nutrition policy not
4 later than April 1, 2005. The policy shall apply only to food
5 and beverage products sold or distributed at school that are not
6 part of a federally regulated child nutrition program. Subject
7 to subsection (7), the local school nutrition policy shall meet
8 all of the following:

9 (a) For an elementary or middle school, the policy shall
10 prohibit the sale or distribution at school at any time of a food
11 or beverage that meets any of the following:

1 (i) Is classified by the United States department of
2 agriculture as a food of minimal nutritional value (FMNV).

3 (ii) More than 30% of the calories are from fat or more than
4 10% of the calories are from saturated fat.

5 (iii) Contains 40% or more sugar or other sweetener by
6 volume.

7 (iv) Is a juice drink containing less than 50% fruit or
8 vegetable juice.

9 (b) For a high school, the policy shall prohibit the sale or
10 distribution of a food or beverage described in subdivision (a)
11 at school during school hours.

12 (2) To assist in achieving statewide implementation of the
13 state school nutrition policy adopted by the state board, not
14 later than August 1, 2005, the board of a school district or
15 board of directors of a public school academy shall establish a
16 coordinated school health team and a healthy school plan of
17 action for the school district or public school academy. The
18 school district or public school academy shall submit the healthy
19 school plan of action to the department. The coordinated school
20 health team shall do all of the following:

21 (a) Coordinate the implementation of the healthy school plan
22 of action and the state board school nutrition policy in the
23 school district or public school academy.

24 (b) Review and approve the sale and distribution of food and
25 beverage products at school, except for foods and beverages that
26 are part of a federally regulated child nutrition program.

27 Subject to subsection (8), beginning August 1, 2005, the board of

1 a school district or board of directors of a public school
2 academy shall ensure that a food or beverage product is not sold
3 or distributed at school unless the sale or distribution has been
4 approved by the coordinated school health team or the food or
5 beverage is part of a federally regulated child nutrition
6 program.

7 (3) The board of a school district or board of directors of a
8 public school academy shall monitor the school district's or
9 public school academy's compliance with the local school
10 nutrition policy adopted under subsection (1) and with the state
11 school nutrition policy adopted by the state board. At least
12 every 2 years, the board or board of directors shall submit to
13 the state board a resolution adopted by the board or board of
14 directors at a board meeting that either confirms that the school
15 district or public school academy is in compliance with those
16 policies or describes areas of noncompliance and a plan of action
17 for achieving compliance.

18 (4) The director of the school meals office in the department
19 shall monitor compliance by school districts and public school
20 academies with local school nutrition policies adopted under
21 subsection (1) and with the state school nutrition policy adopted
22 by the state board. If the director of the school meals office
23 finds that there are repeated violations of either the local
24 school nutrition policy adopted under subsection (1) or the state
25 school nutrition policy in a school district or public school
26 academy, he or she shall report this finding to the
27 superintendent of public instruction. If, after providing notice

1 and an opportunity for a hearing, the superintendent of public
2 instruction finds that there has been a violation of either the
3 local school nutrition policy adopted under subsection (1) or the
4 state school nutrition policy in a school district or public
5 school academy, the superintendent of public instruction may
6 impose against a school administrator determined to be
7 responsible for the violation an administrative fine of not more
8 than \$100.00 for each violation.

9 (5) The director shall advise the attorney general of the
10 failure of any person to pay an administrative fine imposed under
11 this section. The attorney general shall bring a civil action in
12 a court of competent jurisdiction to recover the fine.
13 Administrative fines collected shall be paid to the state school
14 aid fund.

15 (6) If an administrative fine is imposed against a school
16 administrator under this section, the board or board of directors
17 shall not provide to the school administrator any compensation or
18 additional work assignment that is intended to reimburse the
19 school administrator for the administrative fine imposed under
20 this section or that is intended to allow the school
21 administrator to recover the administrative fine imposed under
22 this section.

23 (7) This section does not do any of the following, and does
24 not require a school nutrition policy under subsection (1) to do
25 any of the following:

26 (a) Prohibit a food or beverage described in subsection
27 (1) (a) from being sold or distributed in an employee lunchroom or

1 other area of a school that is inaccessible to pupils.

2 (b) Prohibit the distribution of sports drinks approved by
3 the school athletic director at a school-sponsored athletic event
4 or practice occurring at any time.

5 (8) If a school district or public school academy has a
6 contract in effect on the effective date of this section that is
7 inconsistent with the requirements of this section, the school
8 district or public school academy is not required to implement
9 the policy under subsection (1) or any other inconsistent
10 provision of this section until the expiration of that contract.
11 Beginning on the effective date of this section, a school
12 district or public school academy shall not enter into, renew, or
13 extend a contract that is inconsistent with the requirements of
14 this section.

15 (9) As used in this section, "at school" means in a
16 classroom, in a school cafeteria or lunch room, elsewhere on
17 school premises, on a school bus or other school-related vehicle,
18 or at a school-sponsored activity or event whether or not it is
19 held on school premises.