

**As Introduced**

**131st General Assembly  
Regular Session  
2015-2016**

**H. B. No. 25**

**Representative Kunze**

---

**A BILL**

To amend section 3313.814 of the Revised Code to 1  
require the State Board of Education to adopt 2  
rules regarding the sale of beverages and food 3  
during the regular school day in connection with 4  
a school-sponsored fundraiser. 5

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 3313.814 of the Revised Code be 6  
amended to read as follows: 7

**Sec. 3313.814.** (A) As used in this section and sections 8  
3313.816 and 3313.817 of the Revised Code: 9

(1) "A la carte item" means an individually priced food or 10  
beverage item that is available for sale to students through any 11  
of the following: 12

(a) A school food service program; 13

(b) A vending machine located on school property; 14

(c) A store operated by the school, a student association, 15  
or other school-sponsored organization. 16

"A la carte item" does not include any food or beverage 17

item available for sale in connection with a school-sponsored fundraiser held outside of the regular school day, any other school-sponsored event held outside of the regular school day, or an interscholastic athletic event. "A la carte item" also does not include any food or beverage item that is part of a reimbursable meal and that is available for sale as an individually priced item in a serving portion of the same size as in the reimbursable meal, regardless of whether the food or beverage item is included in the reimbursable meal served on a particular school day.

(2) "Added sweeteners" means any additives that enhance the sweetness of a beverage, including processed sugar. "Added sweeteners" do not include any natural sugars found in fruit juices that are a component of the beverage.

(3) "Extended school day" means the period before and after the regular school day during which students participate in school-sponsored extracurricular activities, latchkey programs as defined in section 3313.207 of the Revised Code, or other academic or enrichment programs.

(4) "Regular school day" means the period each school day between the designated arrival time for students and the end of the final instructional period.

(5) "Reimbursable meal" means a meal that is provided to students through a school breakfast or lunch program established under the "National School Lunch Act," 60 Stat. 230 (1946), 42 U.S.C. 1751, as amended, and the "Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 1771, as amended, and that meets the criteria for reimbursement established by the United States department of agriculture.

(6) "School food service program" means a school food service program operated under section 3313.81 or 3313.813 of the Revised Code.

(B) Each school district board of education and each chartered nonpublic school governing authority shall adopt and enforce nutrition standards governing the types of food and beverages that may be sold on the premises of its schools, and specifying the time and place each type of food or beverage may be sold.

(1) In adopting the standards, the board or governing authority shall do all of the following:

(a) Consider the nutritional value of each food or beverage;

(b) Consult with a dietitian licensed under Chapter 4759. of the Revised Code, a dietetic technician registered by the commission on dietetic registration, or a school nutrition specialist certified or credentialed by the school nutrition association. The person with whom the board or governing authority consults may be an employee of the board or governing authority, a person contracted by the board or governing authority, or a volunteer, provided the person meets the requirements of this division.

(c) Consult the dietary guidelines for Americans jointly developed by the United States department of agriculture and the United States department of health and human services and, to the maximum extent possible, incorporate the guidelines into the standards.

(2) No food or beverage may be sold on any school premises except in accordance with the standards adopted by the board or

governing authority. 76

(3) The standards shall comply with sections 3313.816 and 77  
3313.817 of the Revised Code, but nothing in this section shall 78  
prohibit the standards from being more restrictive than 79  
otherwise required by those sections. 80

(C) The nutrition standards adopted under this section 81  
shall prohibit the placement of vending machines in any 82  
classroom where students are provided instruction, unless the 83  
classroom also is used to serve students meals. This division 84  
does not apply to vending machines that sell only milk, 85  
reimbursable meals, or food and beverage items that are part of 86  
a reimbursable meal and are available for sale as individually 87  
priced items in serving portions of the same size as in the 88  
reimbursable meal. 89

(D) Each board or governing authority shall designate 90  
staff to be responsible for ensuring that the school district or 91  
school meets the nutrition standards adopted under this section. 92  
The staff shall prepare an annual report regarding the 93  
district's or school's compliance with the standards and submit 94  
it to the department of education. The board or governing 95  
authority annually shall schedule a presentation on the report 96  
at one of its regular meetings. Each district or school shall 97  
make copies of the report available to the public upon request. 98

(E) The state board of education shall ~~formulate~~ do both 99  
of the following: 100

(1) Formulate and adopt guidelines, which boards of 101  
education and chartered nonpublic schools may follow in 102  
enforcing and implementing this section. 103

(2) Not later than ninety days after the effective date of 104

this amendment, adopt rules pursuant to Chapter 119. of the 105  
Revised Code regarding the sale of beverages and food during the 106  
regular school day in connection with a school-sponsored 107  
fundraiser. The rules shall specify that, if a fundraiser takes 108  
place during the regular school day for not more than the 109  
equivalent of thirty school days during a school year, the sale 110  
of beverages and food in connection with that fundraiser, shall 111  
be exempt from sections 3313.816 and 3313.817 of the Revised 112  
Code, so long as no beverages or food are sold in connection 113  
with the fundraiser during the time of a meal service in the 114  
food service area. Each school district board of education or 115  
chartered nonpublic school governing authority may incorporate 116  
the rules adopted by the state board pursuant to this division 117  
into the guidelines adopted by the district board or school 118  
governing authority under division (B) of this section. 119

**Section 2.** That existing section 3313.814 of the Revised 120  
Code is hereby repealed. 121

122