

# SENATE BILL No. 91

January 26, 2005, Introduced by Senators BERNERO, GOSCHKA, CHERRY, SCHAUER, OLSHOVE, HAMMERSTROM, SCOTT, CLARK-COLEMAN, GEORGE, CLARKE, BARCIA, LELAND, EMERSON, PRUSI and BRATER 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 LATER  
4        THAN APRIL 1, 2005. THE POLICY SHALL APPLY ONLY TO FOOD AND  
5        BEVERAGE PRODUCTS SOLD OR DISTRIBUTED AT SCHOOL THAT ARE NOT PART  
6        OF A FEDERALLY REGULATED CHILD NUTRITION PROGRAM. SUBJECT TO  
7        SUBSECTION (7), THE LOCAL SCHOOL NUTRITION POLICY SHALL MEET ALL OF  
8        THE FOLLOWING:

9        (A) FOR AN ELEMENTARY OR MIDDLE SCHOOL, THE POLICY SHALL

1 PROHIBIT THE SALE OR DISTRIBUTION AT SCHOOL AT ANY TIME OF A FOOD  
2 OR BEVERAGE THAT MEETS ANY OF THE FOLLOWING:

3 (i) IS CLASSIFIED BY THE UNITED STATES DEPARTMENT OF  
4 AGRICULTURE AS A FOOD OF MINIMAL NUTRITIONAL VALUE (FMNV).

5 (ii) MORE THAN 30% OF THE CALORIES ARE FROM FAT OR MORE THAN  
6 10% OF THE CALORIES ARE FROM SATURATED FAT.

7 (iii) CONTAINS 40% OR MORE SUGAR OR OTHER SWEETENER BY VOLUME.

8 (iv) IS A JUICE DRINK CONTAINING LESS THAN 50% FRUIT OR  
9 VEGETABLE JUICE.

10 (B) FOR A HIGH SCHOOL, THE POLICY SHALL PROHIBIT THE SALE OR  
11 DISTRIBUTION OF A FOOD OR BEVERAGE DESCRIBED IN SUBDIVISION (A) AT  
12 SCHOOL DURING SCHOOL HOURS.

13 (2) TO ASSIST IN ACHIEVING STATEWIDE IMPLEMENTATION OF THE  
14 STATE SCHOOL NUTRITION POLICY ADOPTED BY THE STATE BOARD, NOT LATER  
15 THAN AUGUST 1, 2005, THE BOARD OF A SCHOOL DISTRICT OR BOARD OF  
16 DIRECTORS OF A PUBLIC SCHOOL ACADEMY SHALL ESTABLISH A COORDINATED  
17 SCHOOL HEALTH TEAM AND A HEALTHY SCHOOL PLAN OF ACTION FOR THE  
18 SCHOOL DISTRICT OR PUBLIC SCHOOL ACADEMY. THE SCHOOL DISTRICT OR  
19 PUBLIC SCHOOL ACADEMY SHALL SUBMIT THE HEALTHY SCHOOL PLAN OF  
20 ACTION TO THE DEPARTMENT. THE COORDINATED SCHOOL HEALTH TEAM SHALL  
21 DO ALL OF THE FOLLOWING:

22 (A) COORDINATE THE IMPLEMENTATION OF THE HEALTHY SCHOOL PLAN  
23 OF ACTION AND THE STATE BOARD SCHOOL NUTRITION POLICY IN THE SCHOOL  
24 DISTRICT OR PUBLIC SCHOOL ACADEMY.

25 (B) REVIEW AND APPROVE THE SALE AND DISTRIBUTION OF FOOD AND  
26 BEVERAGE PRODUCTS AT SCHOOL, EXCEPT FOR FOODS AND BEVERAGES THAT  
27 ARE PART OF A FEDERALLY REGULATED CHILD NUTRITION PROGRAM. SUBJECT

1 TO SUBSECTION (8), BEGINNING AUGUST 1, 2005, THE BOARD OF A SCHOOL  
2 DISTRICT OR BOARD OF DIRECTORS OF A PUBLIC SCHOOL ACADEMY SHALL  
3 ENSURE THAT A FOOD OR BEVERAGE PRODUCT IS NOT SOLD OR DISTRIBUTED  
4 AT SCHOOL UNLESS THE SALE OR DISTRIBUTION HAS BEEN APPROVED BY THE  
5 COORDINATED SCHOOL HEALTH TEAM OR THE FOOD OR BEVERAGE IS PART OF A  
6 FEDERALLY REGULATED CHILD NUTRITION 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 PUBLIC  
9 SCHOOL ACADEMY'S COMPLIANCE WITH THE LOCAL SCHOOL NUTRITION POLICY  
10 ADOPTED UNDER SUBSECTION (1) AND WITH THE STATE SCHOOL NUTRITION  
11 POLICY ADOPTED BY THE STATE BOARD. AT LEAST EVERY 2 YEARS, THE  
12 BOARD OR BOARD OF DIRECTORS SHALL SUBMIT TO THE STATE BOARD A  
13 RESOLUTION ADOPTED BY THE BOARD OR BOARD OF DIRECTORS AT A BOARD  
14 MEETING THAT EITHER CONFIRMS THAT THE SCHOOL DISTRICT OR PUBLIC  
15 SCHOOL ACADEMY IS IN COMPLIANCE WITH THOSE POLICIES OR DESCRIBES  
16 AREAS OF NONCOMPLIANCE AND A PLAN OF ACTION FOR ACHIEVING  
17 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 SCHOOL  
24 NUTRITION POLICY ADOPTED UNDER SUBSECTION (1) OR THE STATE SCHOOL  
25 NUTRITION POLICY IN A SCHOOL DISTRICT OR PUBLIC SCHOOL ACADEMY, HE  
26 OR SHE SHALL REPORT THIS FINDING TO THE SUPERINTENDENT OF PUBLIC  
27 INSTRUCTION. IF, AFTER PROVIDING NOTICE AND AN OPPORTUNITY FOR A

1 HEARING, THE SUPERINTENDENT OF PUBLIC INSTRUCTION FINDS THAT THERE  
2 HAS BEEN A VIOLATION OF EITHER THE LOCAL SCHOOL NUTRITION POLICY  
3 ADOPTED UNDER SUBSECTION (1) OR THE STATE SCHOOL NUTRITION POLICY  
4 IN A SCHOOL DISTRICT OR PUBLIC SCHOOL ACADEMY, THE SUPERINTENDENT  
5 OF PUBLIC INSTRUCTION MAY IMPOSE AGAINST A SCHOOL ADMINISTRATOR  
6 DETERMINED TO BE RESPONSIBLE FOR THE VIOLATION AN ADMINISTRATIVE  
7 FINE OF NOT MORE THAN \$100.00 FOR EACH VIOLATION.

8 (5) THE DIRECTOR SHALL ADVISE THE ATTORNEY GENERAL OF THE  
9 FAILURE OF ANY PERSON TO PAY AN ADMINISTRATIVE FINE IMPOSED UNDER  
10 THIS SECTION. THE ATTORNEY GENERAL SHALL BRING A CIVIL ACTION IN A  
11 COURT OF COMPETENT JURISDICTION TO RECOVER THE FINE. ADMINISTRATIVE  
12 FINES COLLECTED SHALL BE PAID TO THE STATE SCHOOL AID FUND.

13 (6) IF AN ADMINISTRATIVE FINE IS IMPOSED AGAINST A SCHOOL  
14 ADMINISTRATOR UNDER THIS SECTION, THE BOARD OR BOARD OF DIRECTORS  
15 SHALL NOT PROVIDE TO THE SCHOOL ADMINISTRATOR ANY COMPENSATION OR  
16 ADDITIONAL WORK ASSIGNMENT THAT IS INTENDED TO REIMBURSE THE SCHOOL  
17 ADMINISTRATOR FOR THE ADMINISTRATIVE FINE IMPOSED UNDER THIS  
18 SECTION OR THAT IS INTENDED TO ALLOW THE SCHOOL ADMINISTRATOR TO  
19 RECOVER THE ADMINISTRATIVE FINE IMPOSED UNDER THIS SECTION.

20 (7) THIS SECTION DOES NOT DO ANY OF THE FOLLOWING, AND DOES  
21 NOT REQUIRE A SCHOOL NUTRITION POLICY UNDER SUBSECTION (1) TO DO  
22 ANY OF THE FOLLOWING:

23 (A) PROHIBIT A FOOD OR BEVERAGE DESCRIBED IN SUBSECTION (1) (A)  
24 FROM BEING SOLD OR DISTRIBUTED IN AN EMPLOYEE LUNCHROOM OR OTHER  
25 AREA OF A SCHOOL THAT IS INACCESSIBLE TO PUPILS.

26 (B) PROHIBIT THE DISTRIBUTION OF SPORTS DRINKS APPROVED BY THE  
27 SCHOOL ATHLETIC DIRECTOR AT A SCHOOL-SPONSORED ATHLETIC EVENT OR

1 PRACTICE OCCURRING AT ANY TIME.

2 (8) IF A SCHOOL DISTRICT OR PUBLIC SCHOOL ACADEMY HAS A  
3 CONTRACT IN EFFECT ON THE EFFECTIVE DATE OF THIS SECTION THAT IS  
4 INCONSISTENT WITH THE REQUIREMENTS OF THIS SECTION, THE SCHOOL  
5 DISTRICT OR PUBLIC SCHOOL ACADEMY IS NOT REQUIRED TO IMPLEMENT THE  
6 POLICY UNDER SUBSECTION (1) OR ANY OTHER INCONSISTENT PROVISION OF  
7 THIS SECTION UNTIL THE EXPIRATION OF THAT CONTRACT. BEGINNING ON  
8 THE EFFECTIVE DATE OF THIS SECTION, A SCHOOL DISTRICT OR PUBLIC  
9 SCHOOL ACADEMY SHALL NOT ENTER INTO, RENEW, OR EXTEND A CONTRACT  
10 THAT IS INCONSISTENT WITH THE REQUIREMENTS OF THIS SECTION.

11 (9) AS USED IN THIS SECTION, "AT SCHOOL" MEANS IN A CLASSROOM,  
12 IN A SCHOOL CAFETERIA OR LUNCH ROOM, ELSEWHERE ON SCHOOL PREMISES,  
13 ON A SCHOOL BUS OR OTHER SCHOOL-RELATED VEHICLE, OR AT A SCHOOL-  
14 SPONSORED ACTIVITY OR EVENT WHETHER OR NOT IT IS HELD ON SCHOOL  
15 PREMISES.