

## **NUTRITION STANDARDS: SCHOOL FUND-RAISERS INVOLVING FOOD & BEVERAGES**

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**Senate Bill 139 (reported from House Committee as H-1)**  
**Sponsor: Sen. Patrick J. Colbeck**  
**House Committee: Education**  
**Senate Committee: Education**  
**Complete to 4-29-15**

Analysis available at  
<http://www.legislature.mi.gov>

**BRIEF SUMMARY:** The bill would require the Michigan Department of Education to establish a weekly limit—at least two—on the number and frequency of school-based fund-raising activities that allow the sale of food or beverages not meeting the nutritional standards prescribed by the USDA. (Currently, Michigan has a "no exemption" policy.)

**FISCAL IMPACT:** Senate Bill 139 would create an indeterminate, but possible increase in administrative costs to the state and could provide an indeterminate revenue increase to local school districts. See *FISCAL INFORMATION* below for additional information.

### **THE APPARENT PROBLEM:**

The prevalence of childhood obesity in Michigan exceeds the national norm: 33 percent vs. 31 percent of 10 to 17 year-olds, according to a spokesperson for Mission: Readiness, Military Leaders for Kids. Overall, the Annie E. Casey Foundation Kids Count Data Center indicates that 35 percent of Michigan boys, and 30 percent of Michigan girls are overweight or obese. Michigan's level of obesity is reported each year in Governor Snyder's Dashboard: Measuring Michigan's Performance. See *BACKGROUND INFORMATION*, below.

When the U.S. Congress passed the Healthy, Hunger-Free Kids Act of 2010 they charged the U. S. Department of Agriculture with reversing the nationwide childhood obesity epidemic by improving the nutrition standards of school food programs. See *BACKGROUND INFORMATION*, below. They challenged school leaders "to provide meals and snacks that are whole grain-rich, lower in sodium, and calorie-appropriate for all age groups, while expanding program access and the availability of fresh fruits and vegetables to all students," according to the School Nutrition Association of Michigan.

As of July 1, 2014, schools nationwide that participate in the National School Lunch Program are required to follow nutrition standards, including compliance within a category called "smart snacks"—that is, all foods sold on the school premises during the school day and intended for immediate consumption.

The Smart Snacks standards allow state governments to set a fixed number of exemptions for food fundraisers that do not meet the nutritional standards. Michigan and 28 other states have "no exemption" policy, so the number of non-compliant fundraisers is zero.

Legislation has been introduced to require the Michigan Department of Education to create a Smart Snacks exemption policy, so non-nutritional snacks can be sold during the school day.

***THE CONTENT OF THE BILL:***

Senate Bill 139 (H-1) would amend the Revised School Code to require the Michigan Department of Education to ensure maximum state and local control over the implementation of school meal programs, including, but not limited to, allowing school-based fund-raising activities that do not meet federal nutritional standards. Essentially, the bill requires that schools be allowed up to two fund-raisers per week that do not meet federal standards. A more detailed description of the bill follows.

Now, the operation of the federally-funded school-based breakfast and lunch program is established under Section 1272 of the Revised School Code. Section 1272a requires the board of a K to 12 school district to establish school breakfast and lunch programs for all full-time pupils enrolled, and in regular daily attendance, at each school in the district. Under Section 1272b, those programs must meet certain nutritional standards prescribed by the United States Department of Agriculture (USDA), in addition to other requirements.

Senate Bill 139 (H-1) would require the Michigan Department of Education to establish an upper limit on the number and frequency of school-based fund-raising activities that allow the sale of food or beverages not meeting the nutritional standards prescribed by the USDA. (Currently, Michigan has a "no exemption" policy.)

The bill specifies the upper limit be *not less than* two fund-raising activities per week that sell food or beverages for immediate consumption. Under the bill, school officials would count as a single fund-raising activity, any ongoing fund-raiser that took place at more than one time during a school day or throughout the school day.

Further, the bill requires the group conducting the fund-raiser to notify parents one week in advance. That notice would include the date, time periods, and that the sale would include food or beverages that did not meet nutritional standards, as well as a description of the products to be sold.

Finally, Senate Bill 139 would extend these statutory provisions to the "board of a school district or board of directors of a public school academy" (customarily called a charter school).

The bill would take effect 90 days after it was enacted.

MCL 380.1272b

### ***HOUSE COMMITTEE ACTION:***

The members of the House Education Committee adopted three amendments to the Senate-passed version of Senate Bill 139 (S-1).

First, committee members reduced the minimum number of fund-raisers selling "food or beverages for immediate consumption" from three per week, to two per week.

Second, the committee specified that a single fund-raising activity would take place within a single school day.

Third, the committee required parental notice one week ahead. That notice would include the date, time periods, information that the sale would include food or beverages that did not meet nutritional standards, and a description of the products to be sold.

### ***BACKGROUND INFORMATION:***

For more information about Governor Snyder's Dashboard—Measuring Michigan's Performance, visit: <https://midashboard.michigan.gov/>

For more information about the U. S. Department of Agriculture's Healthy, Hunger-Free Kids Act of 2010, visit: <http://www.fns.usda.gov/school-meals/healthy-hunger-free-kids-act>

For more information about the U.S. Department of Agriculture's recommendations for "smart snacks" at school, visit: <http://www.fns.usda.gov/healthierschoolday/tools-schools-focusing-smart-snacks>

### ***FISCAL INFORMATION:***

Currently, federal nutrition standards do not permit certain food items being sold for a fund-raiser that were meant to be eaten on the school premises; however, food items not meeting the nutritional standards that are packaged and/or large orders and meant to be eaten away from school—pizza kits, cookie dough, or packaged cookies—may be sold without breaking federal nutritional standards.

The bill would require the Department of Education to set a maximum limit on the number and frequency of fund-raising activities allowable on school premises during school hours that do not meet federal nutritional standards, with the lowest allowable maximum limit being two activities per week.

This bill may increase Department of Education administrative costs related to determining, implementing, and overseeing a statewide waiver process.

Local school districts could receive increased revenues from fund-raising activities that previously were not permitted without the waiver process.

## ***ARGUMENTS:***

### ***For:***

Proponents of the bill offer three main arguments: First, the federal government violates Michigan's long history of local control when it dictates nutrition standards for fund-raisers in local school districts. This is yet another example of the long regulatory arm of the U.S. government that concerned citizens must resist.

Second, the U.S. Department of Agriculture's nutritional standards for Smart Snacks seem incoherent—that is, some snacks that are not allowed have a higher nutritional value than snacks that are allowed.

Third, fund-raisers are a necessary source of revenue for many school organizations and extracurricular programs, such as band and sports boosters. Without popular fund-raisers that sell tasty, sugary foods and beverages, activities at schools will decline from a loss of operational revenue.

### ***Against:***

The opponents of the legislation make three main arguments: First, the smart snacks guidelines are modest—indeed, quite limited. They offer a wide array of healthy alternative snacks, and would not imperil the ability of school organizations to raise funds.

Second, the bill would place an administrative burden on the Michigan Department of Education, requiring they manage compliance with a lax nutritional standard that they neither seek nor support.

Third, far too many Michigan school children suffer health risks, because their nutrition is of poor quality, and their weight exceeds a healthy level. More than 14 percent of adolescents in Michigan are considered overweight, and almost 12 percent are considered obese (Michigan Department of Community Health, 2012). Further, according to Mission Readiness: Military Leaders for Kids, "Obesity is one of the primary drivers of a growing recruiting challenge in our armed forces. According to the Department of Defense, a shocking 71 percent of America's youth ages 17-24 are ineligible to serve in the military, due in part, to poor health. Our youth are facing a serious health crisis that threatens to undermine our national security."

## ***POSITIONS:***

The Michigan Association of School Administrators supports the bill. (4-16-15)

The Michigan Association of Secondary School Principals supports the bill. (4-16-15)

Canton Chamber of Commerce supports the bill. (4-16-15)

Healthy Kids, Healthy Michigan opposes the bill. (4-16-15)

The School Nutrition Association opposes the bill. (4-16-15)

The Michigan Fitness Foundation opposes the bill. (4-16-15)

The State Alliance of Michigan YMCAs opposes the bill. (4-16-15)

The American Cancer Society Cancer Action Network opposes the bill. (4-16-15)

Mission Readiness opposes the bill. (4-16-15)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.