



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB2361

Introduced 2/16/2005, by Rep. David E. Miller

#### SYNOPSIS AS INTRODUCED:

105 ILCS 5/10-20.40 new  
105 ILCS 5/34-18.32 new  
30 ILCS 805/8.29 new

Amends the School Code. Limits the type and size of beverage items that may be sold in a public school during school hours. Prohibits a public school or school board from entering into a contract with a beverage vending company if the contract contains certain provisions. Provides for a penalty. Amends the State Mandates Act to require implementation without reimbursement.

LRB094 04042 RAS 34059 b

FISCAL NOTE ACT  
MAY APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The School Code is amended by adding Sections  
5 10-20.40 and 34-18.32 as follows:

6 (105 ILCS 5/10-20.40 new)

7 Sec. 10-20.40. Beverage sales.

8 (a) In this Section, "added sweetener" means any additive  
9 that enhances the sweetness of a beverage, including, but not  
10 limited to, added sugar, but does not include the natural sugar  
11 or sugars that are contained within fruit juice if fruit juice  
12 is a component of the beverage.

13 (b) Beverage items sold in school during school hours must  
14 be limited to the following:

15 (1) Fruit juices that are composed of no less than 50%  
16 fruit juice and that have no added sweeteners.

17 (2) Drinking water.

18 (3) Milk, including, but not limited to, chocolate  
19 milk, soy milk, rice milk, and other similar dairy or  
20 nondairy milk.

21 (4) Electrolyte replacement beverages that do not  
22 contain more than 42 grams of added sweetener per 20 ounce  
23 serving.

24 A school may not provide for sale carbonated beverages  
25 during school hours.

26 (c) No beverage that exceeds 12 ounces may be sold in  
27 school during school hours, except the following:

28 (1) Drinking water.

29 (2) Milk, including, but not limited to, chocolate  
30 milk, soy milk, rice milk, and other similar dairy or  
31 nondairy milk.

32 (3) Electrolyte replacement beverages. An electrolyte

1 replacement beverage, however, may not exceed 20 ounces.

2 (d) Except as otherwise provided in subsection (e) of this  
3 Section, a school or school board may not enter into a contract  
4 with a beverage vending company if the contract does any of the  
5 following:

6 (1) Provides for the exclusive sale during school hours  
7 of any beverage brand that is not in accordance with the  
8 requirements of subsections (b) and (c) of this Section and  
9 for which the school or district receives any monetary or  
10 in-kind remuneration.

11 (2) Requires students to witness any commercial  
12 advertising or marketing within the scope of educational  
13 processes or extracurricular activities, unless the  
14 advertising is clearly related to the coursework or  
15 activity at hand.

16 (3) Requires the release by the school or district of  
17 any personal information about students, including, but  
18 not limited to, names, addresses, and phone numbers.

19 (4) Requires students to complete surveys to provide  
20 marketing information to vendors.

21 (5) Requires or advises students to purchase a specific  
22 brand of product for specified school supplies.

23 (6) Prohibits sampling sales, service, or dispensing  
24 of competitive products.

25 (7) Includes sales incentives based on the amount of  
26 beverages sold per student.

27 (8) Does not allow the school or school board to  
28 control the number or location of vending machines in  
29 school or on school property.

30 (9) Includes stipulations that would cause beverages  
31 that are not in accordance with subsections (b) and (c) of  
32 this Section to be sold as part of or in competition with  
33 federally funded school meal programs under regulations of  
34 the United States Department of Agriculture.

35 (e) This Section applies to a school or school board  
36 beginning on the effective date of this amendatory Act of the

1 94th General Assembly if the school or school board is not  
2 under an existing contractual obligation made before the  
3 effective date of this amendatory Act of the 94th General  
4 Assembly. If a school or school board is under an existing  
5 contractual obligation made before the effective date of this  
6 amendatory Act of the 94th General Assembly, then this Section  
7 does not apply to the school or school board until the earlier  
8 of (i) the voluntary termination of the existing contract or  
9 (ii) the expiration of the existing contract.

10 (f) Any contract entered into by a school or school board  
11 on or after the effective date of this amendatory Act of the  
12 94th General Assembly that is in violation of this Section is  
13 null, void, and unenforceable by law.

14 (g) If the State Board of Education determines that a  
15 school or school board has violated this Section, then the  
16 State Board of Education shall issue an appropriate notice to  
17 cease and desist to the school or school board. If the State  
18 Board of Education determines that the school or school board  
19 continues to violate this Section after receipt of a cease and  
20 desist notice, then (i) in the case of a school, the school  
21 district shall forfeit an amount equal to 1% of its total State  
22 aid allocation under Section 18-8.05 of this Code attributable  
23 to that school for the school year in which the violation  
24 occurs or (ii) in the case of a school board, the school  
25 district shall forfeit an amount equal to 1% of its total State  
26 aid allocation under Section 18-8.05 of this Code for the  
27 school year in which the violation occurs.

28 (105 ILCS 5/34-18.32 new)

29 Sec. 34-18.32. Beverage sales.

30 (a) In this Section, "added sweetener" means any additive  
31 that enhances the sweetness of a beverage, including, but not  
32 limited to, added sugar, but does not include the natural sugar  
33 or sugars that are contained within fruit juice if fruit juice  
34 is a component of the beverage.

35 (b) Beverage items sold in school during school hours must

1 be limited to the following:

2 (1) Fruit juices that are composed of no less than 50%  
3 fruit juice and that have no added sweeteners.

4 (2) Drinking water.

5 (3) Milk, including, but not limited to, chocolate  
6 milk, soy milk, rice milk, and other similar dairy or  
7 nondairy milk.

8 (4) Electrolyte replacement beverages that do not  
9 contain more than 42 grams of added sweetener per 20 ounce  
10 serving.

11 A school may not provide for sale carbonated beverages  
12 during school hours.

13 (c) No beverage that exceeds 12 ounces may be sold in  
14 school during school hours, except the following:

15 (1) Drinking water.

16 (2) Milk, including, but not limited to, chocolate  
17 milk, soy milk, rice milk, and other similar dairy or  
18 nondairy milk.

19 (3) Electrolyte replacement beverages. An electrolyte  
20 replacement beverage, however, may not exceed 20 ounces.

21 (d) Except as otherwise provided in subsection (e) of this  
22 Section, a school or the board may not enter into a contract  
23 with a beverage vending company if the contract does any of the  
24 following:

25 (1) Provides for the exclusive sale during school hours  
26 of any beverage brand that is not in accordance with the  
27 requirements of subsections (b) and (c) of this Section and  
28 for which the school or district receives any monetary or  
29 in-kind remuneration.

30 (2) Requires students to witness any commercial  
31 advertising or marketing within the scope of educational  
32 processes or extracurricular activities, unless the  
33 advertising is clearly related to the coursework or  
34 activity at hand.

35 (3) Requires the release by the school or district of  
36 any personal information about students, including, but

1 not limited to, names, addresses, and phone numbers.

2 (4) Requires students to complete surveys to provide  
3 marketing information to vendors.

4 (5) Requires or advises students to purchase a specific  
5 brand of product for specified school supplies.

6 (6) Prohibits sampling sales, service, or dispensing  
7 of competitive products.

8 (7) Includes sales incentives based on the amount of  
9 beverages sold per student.

10 (8) Does not allow the school or board to control the  
11 number or location of vending machines in school or on  
12 school property.

13 (9) Includes stipulations that would cause beverages  
14 that are not in accordance with subsections (b) and (c) of  
15 this Section to be sold as part of or in competition with  
16 federally funded school meal programs under regulations of  
17 the United States Department of Agriculture.

18 (e) This Section applies to a school or the board beginning  
19 on the effective date of this amendatory Act of the 94th  
20 General Assembly if the school or the board is not under an  
21 existing contractual obligation made before the effective date  
22 of this amendatory Act of the 94th General Assembly. If a  
23 school or the board is under an existing contractual obligation  
24 made before the effective date of this amendatory Act of the  
25 94th General Assembly, then this Section does not apply to the  
26 school or the board until the earlier of (i) the voluntary  
27 termination of the existing contract or (ii) the expiration of  
28 the existing contract.

29 (f) Any contract entered into by a school or the board on  
30 or after the effective date of this amendatory Act of the 94th  
31 General Assembly that is in violation of this Section is null,  
32 void, and unenforceable by law.

33 (g) If the State Board of Education determines that a  
34 school or the board has violated this Section, then the State  
35 Board of Education shall issue an appropriate notice to cease  
36 and desist to the school or the board. If the State Board of

1 Education determines that the school or the board continues to  
2 violate this Section after receipt of a cease and desist  
3 notice, then (i) in the case of a school, the school district  
4 shall forfeit an amount equal to 1% of its total State aid  
5 allocation under Section 18-8.05 of this Code attributable to  
6 that school for the school year in which the violation occurs  
7 or (ii) in the case of the board, the school district shall  
8 forfeit an amount equal to 1% of its total State aid allocation  
9 under Section 18-8.05 of this Code for the school year in which  
10 the violation occurs.

11 Section 90. The State Mandates Act is amended by adding  
12 Section 8.29 as follows:

13 (30 ILCS 805/8.29 new)

14 Sec. 8.29. Exempt mandate. Notwithstanding Sections 6 and 8  
15 of this Act, no reimbursement by the State is required for the  
16 implementation of any mandate created by this amendatory Act of  
17 the 94th General Assembly.