

2015 -- H 5382

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO EDUCATION-UNHEALTHY FOOD AND BEVERAGE ADVERTISING

Introduced By: Representatives McNamara, Solomon, Bennett, Azzinaro, and
Naughton

Date Introduced: February 11, 2015

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Legislative Findings:

2 (a) Childhood obesity rates in the United States have risen dramatically over the past
3 thirty (30) years and today almost one-third (1/3) of American children are obese or overweight.
4 In 2013, sixteen percent (16%) of Rhode Island high school students were overweight and eleven
5 percent (11%) were obese. Poor diet and physical inactivity increase the risk for certain chronic
6 health conditions, including high blood pressure, type 2 diabetes, and obesity.

7 (b) The medical costs of obesity are rising rapidly in the United States and are estimated
8 to be \$147 billion per year. Roughly half of these obesity-related costs are paid by Medicare and
9 Medicaid, indicating that taxpayers foot the bill for obesity's medical costs. Obesity-related
10 health-care spending accounts for eight and one-half percent (8.5%) of Medicare spending, eleven
11 and eight-tenths percent (11.8%) of Medicaid spending, and twelve and nine tenths percent
12 (12.9%) of private payer spending.

13 (c) The marketing of foods of poor nutritional value to American children contributes to
14 the rise in obesity by affecting children's food preferences, choices, and diet. The amount of
15 money that the food industry currently spends on marketing and advertising to influence what
16 children choose to eat is twice the amount spent a decade ago. Young children ages twelve (12)
17 and under are especially vulnerable to these marketing and advertising strategies because they are
18 developmentally less able to comprehend their intent.

19 (d) The mission of our schools is to educate our children. Increasingly, studies

1 demonstrate a relationship between healthy eating, regular physical activity, and students'
2 academic success. The Federal Centers for Disease Control and Prevention reports that students
3 who are physically active, and eat a nutritious diet receive higher grades than their classmates
4 who are physically inactive and eat foods that are less nutritious. Helping students to stay healthy
5 promotes academic success.

6 (e) While national, state, and local efforts have improved the nutritional quality of foods
7 provided and sold in schools, some schools permit the marketing of foods high in calories, fat,
8 and sugar and of minimal nutritional value. That marketing includes sales, free samples, and
9 advertising of unhealthy foods; corporate-sponsored fundraising programs which encourage
10 students and their families to sell, purchase, and consume foods and beverages with little
11 nutritional value; incentive programs, which reward children with free or discounted foods or
12 beverages when they reach certain academic goals; sponsorship of school programs or events;
13 and branded educational materials.

14 (f) Permitting the advertising of foods and beverages at schools that may not be sold there
15 interferes with school messages promoting good health and academic success. If children are
16 taught through school health and nutrition curriculum to limit their intake of these foods and at
17 the same time the foods are promoted by school-based advertising and marketing, the lessons of
18 school health and nutrition curricula are undermined. The marketing also undermines parents'
19 efforts to feed their children a healthy diet.

20 SECTION 2. Chapter 16-21 of the General Laws entitled "Health and Safety of Pupils" is
21 hereby amended by adding thereto the following section:

22 **16-21-7.1. Unhealthy food and beverage advertising prohibited in schools. -- (a)**
23 **Except as provided in subsection (b) of this section, a school district shall prohibit at any school**
24 **within the district:**

25 **(1) The advertising of any food or beverage that may not be sold on the school campus**
26 **during the school day or of any corporate brand, unless every food and beverage product**
27 **manufactured, sold, or distributed under the corporate brand name can be served or sold on the**
28 **school campus during the school day. For purposes of this statute, food and beverages that may**
29 **not be sold on the school campus during the school day are those that do not meet the minimum**
30 **nutrition standards as set forth by the United States Department of Agriculture under the Healthy,**
31 **Hunger-Free Kids Act of 2010 Pub. L. No. 111-296, and federal regulations implementing the act**
32 **42 U.S.C. § 1779(b), and as set forth by the local school committee. Advertising is prohibited on**
33 **any property or facility owned or leased by the school district or school and used at any time for**
34 **school-related activities, including, but not limited to, school buildings, athletic fields, facilities,**

1 signs, scoreboards, parking lots, school buses or other vehicles, equipment, vending machines,
2 uniforms, educational material, or supplies.

3 (2) The participation in a corporate incentive program that rewards children with free or
4 discounted foods or beverages that may not be sold on the school campus during the school day
5 when they reach certain academic goals; or

6 (3) The participation in corporate-sponsored programs that provide funds to schools in
7 exchange for consumer purchases of foods and beverages that may not be sold on the school
8 campus during the school day.

9 (b) Exceptions. The restriction on advertising in subsection (a) of this section shall not
10 apply to:

11 (1) Advertising on broadcast, digital, or print media, unless the media are produced or
12 controlled by the local education agency, school, faculty, or its students;

13 (2) Advertising on clothing with brand images worn on school grounds; or

14 (3) Advertising contained on product packaging.

15 (c) Definitions as used in this section.

16 (1) "Advertising" means an oral, written, or graphic statement or representation,
17 including a company logo or trademark, made for the purpose of promoting the use or sale of a
18 product by the producer, manufacturer, distributor, seller, or any other entity with a commercial
19 interest in the product.

20 (2) "Brand" means a corporate or product name, a business image, or a mark, regardless
21 of whether it may legally qualify as a trademark used by a seller or manufacturer to identify
22 goods or services and to distinguish them from competitors' goods.

23 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO EDUCATION-UNHEALTHY FOOD AND BEVERAGE ADVERTISING

1 This act would prohibit on any school campus the advertising of any food or beverage
2 that may not be sold on the school campus during the school day or of any corporate brand,
3 unless every food and beverage product manufactured, sold, or distributed under the corporate
4 brand name can be served or sold on the school campus during the school day.

5 This act would take effect upon passage.

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