



Reprinted
March 1, 2005

HOUSE BILL No. 1343

DIGEST OF HB 1343 (Updated February 28, 2005 10:59 pm - DI 77)

Citations Affected: IC 20-5; IC 20-10.1; noncode.

Synopsis: Student nutrition and physical activity. Requires school boards to establish a coordinated school health advisory councils to develop a local wellness policy that complies with certain federal requirements. Requires the department of education to provide information concerning health, nutrition, and physical activity. Requires that foods and beverages available for sale to students outside the federal school meal programs must meet certain requirements. Provides that the requirements do not apply after school hours or to fundraisers. Requires daily physical activity for elementary school students in public schools. Creates certain exceptions to the daily physical activity requirement. Allows a school to continue a vending machine contract in existence before the passage of the bill. Phases in the percent of foods and beverages that must qualify as healthy.

Effective: Upon passage; July 1, 2005.

Becker, Friend, Brown C, Budak

January 13, 2005, read first time and referred to Committee on Education.
January 27, 2005, reassigned to Committee on Public Health.
February 14, 2005, amended, reported — Do Pass.
February 28, 2005, read second time, amended, ordered engrossed.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

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HOUSE BILL No. 1343

A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 20-5-13-10 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2005]: **Sec. 10. (a) Before July 1, 2006, each school board shall**
4 **establish a coordinated school health advisory council. The**
5 **advisory council shall develop a local wellness policy that complies**
6 **with the requirements under federal Public Law 108-265 and**
7 **IC 5-22-15-24(c). The advisory council must hold at least one (1)**
8 **hearing that allows public testimony.**
9 (b) The school board shall appoint the members of the advisory
10 council, which must include parents, food service directors and
11 staff, students, nutritionists or certified dietitians, health care
12 professionals, school board members, a school administrator, and
13 representatives of interested community organizations. However,
14 a person who represents a food manufacturer or marketer or a
15 person with a conflict of interest or a financial interest in selling
16 food in schools may not serve on the advisory council.
17 (c) The school board shall adopt a school district policy on child

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1 nutrition and physical activity that takes into consideration the
2 advisory council's recommendations.

3 (d) The department shall, in consultation with the state
4 department of health, provide technical assistance to coordinated
5 school health advisory councils, including providing information
6 on health, nutrition, and physical activity, through educational
7 materials and professional development opportunities. The
8 department shall provide the information given to a coordinated
9 school health advisory council under this subsection to a school or
10 parent upon request.

11 SECTION 2. IC 20-5-13-11 IS ADDED TO THE INDIANA CODE
12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
13 1, 2005]: Sec. 11. (a) This section does not apply to a food or
14 beverage item that is:

- 15 (1) part of a school lunch program or a school breakfast
- 16 program;
- 17 (2) sold in an area that is not accessible to a student;
- 18 (3) sold after normal school hours; or
- 19 (4) sold or distributed as part of a fundraiser conducted by
- 20 students, teachers, school groups, or parent groups, if the food
- 21 or beverage is not intended for student consumption during
- 22 the school day.

23 (b) A vending machine at an elementary school that dispenses
24 food or beverages may not be accessible to a student.

25 (c) At least fifty percent (50%) of the foods and beverages
26 available for sale at school or on the school grounds must qualify
27 as a healthy food or a healthy beverage. Food and beverage items
28 must meet the following qualifications:

- 29 (1) The following do not qualify as healthy beverages:
 - 30 (A) Soft drinks, punch, iced tea, and coffee.
 - 31 (B) Fruit or vegetable based drinks that contain less than
 - 32 fifty percent (50%) real fruit or vegetable juice or that
 - 33 contain additional caloric sweeteners.
 - 34 (C) Except for low-fat and fat-free chocolate milk, drinks
 - 35 that contain caffeine.
- 36 (2) The following qualify as healthy beverages:
 - 37 (A) Fruit or vegetable based drinks that contain at least
 - 38 fifty percent (50%) real fruit or vegetable juice or that do
 - 39 not contain additional caloric sweeteners.
 - 40 (B) Water and seltzer water that do not contain additional
 - 41 caloric sweeteners.
 - 42 (C) Low-fat and fat-free milk, including chocolate milk,

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soy milk, rice milk, and other similar dairy and nondairy calcium fortified milks.

(3) Foods that meet the following standards are considered healthy foods:

(A) Not more than thirty percent (30%) of their total calories are from fat.

(B) Not more than ten percent (10%) of their total calories are from saturated and trans fat.

(C) Not more than thirty-five percent (35%) of their weight is from sugars that do not occur naturally in fruits, vegetables, or dairy products.

(D) Are limited to the following portion sizes:

(i) One and one quarter (1.25) ounces for potato chips, crackers, popcorn, cereal, trail mixes, nuts, seeds, dried fruit, and jerky.

(ii) Two (2) ounces for cookies and cereal bars.

(iii) Three (3) ounces for bakery items, including pastries, muffins, and donuts.

(iv) Three (3) fluid ounces for frozen desserts, including ice cream.

(v) Eight (8) ounces of nonfrozen yogurt.

(vi) Twelve (12) ounces for beverages, except water.

(vii) Entree items and side dish items, including french fries and onion rings, may not exceed the portions for those foods when served as part of the school lunch program or school breakfast program.

SECTION 3. IC 20-10.1-4-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 5.5. (a) This section does not apply to:**

- (1) students who are in half-day kindergarten; or**
- (2) a student who has a medical condition that precludes participation in the daily physical activity provided under this section.**

(b) Beginning in the 2005-2006 school year, the governing body of each school corporation shall provide daily physical activity for students in elementary school. The physical activity must be consistent with the curriculum and programs developed under IC 20-1-1.1-7 and may include the use of recess. On a day when there is inclement weather or unplanned circumstances have shortened the school day, the school corporation may provide physical activity alternatives or elect not to provide daily physical

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1 activity.

2 SECTION 4. [EFFECTIVE UPON PASSAGE] (a) IC 20-5-13-11,

3 as added by this act, does not apply to a contract that:

4 (1) was executed before the effective date of this SECTION;

5 (2) is in existence not later than the effective date of this

6 SECTION; and

7 (3) requires a governing body of a school corporation to allow

8 the sale of:

9 (A) soft drinks and similar beverages; and

10 (B) food;

11 with no or low nutritional value, as defined by the United

12 States Department of Agriculture, from vending machines or

13 other dispensing units during school hours.

14 However, the governing body may not renew a contract described

15 in this SECTION and, after the contract expires, must comply with

16 IC 20-5-13-11, as added by this act.

17 (b) This SECTION expires July 1, 2010.

18 SECTION 5. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding

19 IC 20-5-13-11(c), as added by this act, the following percentages of

20 foods and beverages sold at school or on school grounds must

21 qualify as a healthy food or a healthy beverage, as described in

22 IC 20-5-13-11(c), as added by this act:

23 (1) Twenty percent (20%), beginning July 1, 2005, through

24 June 30, 2006.

25 (2) Thirty-five percent (35%), beginning July 1, 2006, through

26 June 30, 2007.

27 (b) This SECTION expires July 1, 2007.

28 SECTION 6. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1343, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 3, delete "Each" and insert "**Before July 1, 2006, each**".

Page 1, line 3, delete "child".

Page 1, line 4, delete "nutrition and physical activity advisory committee." and insert "**coordinated school health advisory council**".

Page 1, line 5, delete "committee" and insert "**council**".

Page 1, line 6, delete "108-265." and insert "**108-265 and IC 5-22-15-24(c)**".

Page 1, line 7, delete "committee" and insert "**council**".

Page 1, line 10, delete "committee," and insert "**council**".

Page 1, line 11, delete "nutritionists," and insert "**nutritionists or certified dietitians**".

Page 1, line 11, after "professionals," insert "**school board members, a school administrator**".

Page 1, line 15, delete "committee." and insert "**council**".

Page 2, line 1, delete "committee's" and insert "**council's**".

Page 2, between lines 1 and 2, begin a new paragraph and insert:

"(d) The department shall, in consultation with the state department of health, provide technical assistance to coordinated school health advisory councils, including providing information on health, nutrition, and physical activity, through educational materials and professional development opportunities. The department shall provide the information given to a coordinated school health advisory council under this subsection to a school or parent upon request."

Page 2, line 8, delete "and".

Page 2, line 9, delete "hours." and insert "**hours; or**".

Page 2, between lines 9 and 10, begin a new line block indented and insert:

"(4) sold or distributed as part of a fundraiser conducted by students, teachers, school groups, or parent groups, if the food or beverage is not intended for student consumption during the school day."

Page 2, line 12, delete "sold" and insert "**available for sale**".

Page 3, line 26, delete "Available physical" and insert "**On a day when there is inclement weather or unplanned circumstances have shortened the school day, the school corporation may provide**

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physical activity alternatives or elect not to provide daily physical activity. "

Page 3, delete lines 27 through 28.

Page 3, line 29, delete "[EFFECTIVE MAY 15, 2005]" and insert "[EFFECTIVE UPON PASSAGE]".

Page 3, line 31, delete "May 15, 2005;" and insert "**the effective date of this SECTION;**".

Page 3, line 32, delete "on May 15, 2005;" and insert "**not later than the effective date of this SECTION;**".

and when so amended that said bill do pass.

(Reference is to HB 1343 as introduced.)

BECKER, Chair

Committee Vote: yeas 8, nays 1.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1343 be amended to read as follows:

- Page 2, line 31, after "Fruit" insert "**or vegetable**".
- Page 2, line 32, after "fruit" insert "**or vegetable**".
- Page 2, line 37, after "Fruit" insert "**or vegetable**".
- Page 2, line 38, after "fruit" insert "**or vegetable**".
- Page 3, line 10, delete "fruits" insert "**fruits,**".

(Reference is to HB 1343 as printed February 15, 2005.)

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1343 be amended to read as follows:

- Page 2, line 1, delete "conforms with" and insert "**takes into consideration**".
- Page 3, line 10, delete "fruits" and insert "**fruits,**".

(Reference is to HB 1343 as printed February 15, 2005.)

BECKER

HOUSE MOTION

Mr. Speaker: I move that House Bill 1343 be amended to read as follows:

- Page 3, line 10, delete "fruits" and insert "**fruits,**".
- Page 4, between lines 17 and 18, begin a new paragraph and insert: "**SECTION 5. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding IC 20-5-13-11(c), as added by this act, the following percentages of foods and beverages sold at school or on school grounds must qualify as a healthy food or a healthy beverage, as described in IC 20-5-13-11(c), as added by this act:**"
 - (1) **Twenty percent (20%), beginning July 1, 2005, through June 30, 2006.**
 - (2) **Thirty-five percent (35%), beginning July 1, 2006, through June 30, 2007.**
- (b) **This SECTION expires July 1, 2007."**



Renumber all SECTIONS consecutively.

(Reference is to HB 1343 as printed February 15, 2005.)

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