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AB-841 Pupil nutrition: food and beverages: advertising: corporate incentive programs. (2017-2018)

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Assembly Bill No. 841

CHAPTER 843

An act to add Section 49431.9 to the Education Code, relating to pupil nutrition.

[Approved by Governor October 15, 2017. Filed with Secretary of State October 15, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 841, Weber. Pupil nutrition: food and beverages: advertising: corporate incentive programs.

Existing law requires, as a condition of receipt of funds to reimburse a school for free and reduced-price meals sold or served to pupils, a school or school district to comply with specified requirements and prohibitions, including not selling or serving a food item that contains artificial trans fat. Existing law provides that the only competitive snack foods that may be sold to pupils are fruit, vegetable, dairy, protein, or whole grain-rich food items, in an elementary, middle, or high school, as provided, and imposes other nutritional standards on competitive foods, snacks, and beverages that may be sold to pupils in an elementary, middle, or high school.

This bill would prohibit, except as provided, a school, school district, or charter school from advertising food or beverages during the schoolday, as provided, and from participating in a corporate incentive program that rewards pupils with free or discounted foods or beverages that do not comply with those nutritional standards when the pupils reach certain academic goals. The bill would provide that it is the intent of the Legislature that the governing board or body of a school district and a charter school annually review their compliance with these provisions.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 49431.9 is added to the Education Code, to read:

49431.9. (a) For purposes of this section, and unless the context requires otherwise, the following terms have the following meanings:

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

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

(3) "Food or beverage" means any food or beverage that does not comply with the nutrition standards for food or beverages pursuant to this article.

(4) "Schoolday" means the period from the midnight before to 30 minutes after the end of the official schoolday.

(b) Except as provided in subdivision (c), a school, school district, or charter school that participates in the federal National School Lunch Program or federal School Breakfast Program shall not do either of the following:

(1) Advertise any food or beverage during the schoolday unless the food or beverage product manufactured, sold, or distributed under the corporate brand name can be served or sold on the school campus during the schoolday. This prohibition includes the advertising during the schoolday on any property or facility owned or leased by the school district or school and used for school-related activities, including, but not limited to, school buildings, athletic fields, facilities, signs, scoreboards, or parking lots, or any schoolbuses or other vehicles, equipment, vending machines, uniforms, educational material, or supplies.

(2) Participate in a corporate incentive program that rewards pupils with free or discounted foods or beverages that do not comply with the nutritional standards required pursuant to this article when the pupils reach certain academic goals.

(c) The restriction on advertising in subdivision (b) does not apply to any of the following:

(1) Advertising on broadcast, digital, or print media, unless the media are produced or controlled by the local educational agency, school, faculty, or its pupils.

(2) Advertising on clothing with brand images worn on school grounds.

(3) Advertising contained in product packaging.

(4) Advertising of infrequent school fundraising events, involving food or beverages that do not meet the nutritional standards pursuant to this article.

(d) This section does not require a school, school district, or charter school to replace durable, nonconsumable items that are not in compliance with this section, including, but not limited to, scoreboards or team uniforms, in use as of January 1, 2018, but requires a school, school district, or charter school to comply with this section as these items are replaced or contracts are renegotiated.

(e) It is the intent of the Legislature that the governing board or body of a school district and a charter school annually review their compliance with this section.