

# House Bill 3363

Sponsored by Representative REARDON; Representative NOSSE

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits school district from allowing certain promotional activities for food or beverage items that do not meet minimum nutritional standards.

Declares emergency, effective July 1, 2015.

## A BILL FOR AN ACT

1  
2 Relating to school nutritional standards; creating new provisions; amending ORS 336.423; and de-  
3 claring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 336.423 is amended to read:

6 336.423. (1) As used in this section:

7 (a) **“Advertising” means any oral, written or graphic statement or presentation, including**  
8 **a company logo or trademark, that is made:**

9 (A) **For the purpose of promoting the use or sale of a product; and**

10 (B) **By the producer, manufacturer, distributor or seller of the product or by any other**  
11 **entity with a commercial interest in the product.**

12 (b) **“Brand” means a corporate or product name, a business image or a mark that is used**  
13 **by a producer, manufacturer or seller to identify and distinguish products.**

14 [(a)] (c) **“Entree” means a food that is generally regarded as being the primary food in a meal**  
15 **and includes, but is not limited to, sandwiches, burritos, pasta and pizza.**

16 (d) **“School property” means any property or facility owned, leased or controlled by a**  
17 **school district and used at any time for school-related activities, including school buses and**  
18 **other school vehicles, equipment, vending machines, uniforms, educational materials and**  
19 **supplies.**

20 [(b)] (e) **“Snack” means a food that is generally regarded as supplementing a meal and includes,**  
21 **but is not limited to, chips, crackers, onion rings, nachos, french fries, doughnuts, cookies, pastries,**  
22 **cinnamon rolls and candy.**

23 (2) Except as provided in [subsection (6)] **subsections (5)(b) and (6)** of this section, all food and  
24 beverage items sold in a public kindergarten through grade 12 school must at a minimum meet the  
25 standards required by **subsections (3) and (4)** of this section.

26 (3) The following shall apply to all food sold in a school during the times described in subsection  
27 (5)(a) of this section:

28 (a) A snack item may be sold only in a single-serving size and:

29 (A) May not have more than 35 percent of the total calories from fat. This requirement does not  
30 apply to snack items that are legumes, nuts, nut butters, seeds, eggs, nonfried vegetables [and] **or**  
31 **cheese.**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [italic and bracketed] is existing law to be omitted.  
New sections are in **boldfaced** type.

1 (B) May not have more than 10 percent of the total calories from saturated fat. This requirement  
2 does not apply to snack items that are nuts, eggs [and] or cheese.

3 (C) May not contain more than 35 percent sugar by weight. This requirement does not apply  
4 to fruit and vegetables.

5 (D) May not contain more than 0.5 grams of trans fat per serving.

6 (E) May not contain more than 150 total calories if sold in a school in which the highest grade  
7 level in the school is grade 5 or less.

8 (F) May not contain more than 180 total calories if sold in a school in which the highest grade  
9 level in the school is grade 6, 7 or 8.

10 (G) May not contain more than 200 total calories if sold in a school in which the highest grade  
11 level in the school is grade 9, 10, 11 or 12.

12 (b) An entree item that is sold individually:

13 (A) May not contain more than four grams of fat per 100 calories.

14 (B) May not contain more than 450 total calories.

15 (4) The following shall apply to all beverages sold in a school during the times described in  
16 subsection (5)(a) of this section:

17 (a) If the beverage is sold in a school in which the highest grade level in the school is grade 5  
18 or less, the beverage may be only:

19 (A) Water.

20 (B) Fruit or vegetable juice, provided the beverage item is not more than eight ounces, is 100  
21 percent juice with no added sweeteners and contains no more than 120 calories per eight ounces.

22 (C) Milk or a nutritionally equivalent milk alternative, provided the beverage item is not more  
23 than eight ounces, is fat free or low fat and, if flavored, contains no more than 150 calories per eight  
24 ounces.

25 (b) If the beverage is sold in a school in which the highest grade level in the school is grade  
26 6, 7 or 8, the beverage may be only:

27 (A) Water.

28 (B) Fruit or vegetable juice, provided the beverage item is not more than 10 ounces, is 100  
29 percent juice with no added sweeteners and contains no more than 120 calories per eight ounces.

30 (C) Milk or a nutritionally equivalent milk alternative, provided the beverage item is not more  
31 than 10 ounces, is fat free or low fat and, if flavored, contains no more than 150 calories per eight  
32 ounces.

33 (c) If the beverage is sold in a school in which the highest grade level in the school is grade  
34 9, 10, 11 or 12, the beverage may be only:

35 (A) Water.

36 (B) Fruit or vegetable juice, provided the beverage item is not more than 12 ounces, is 100  
37 percent juice with no added sweeteners and contains no more than 120 calories per eight ounces.

38 (C) Milk or a nutritionally equivalent milk alternative, provided the beverage item is not more  
39 than 12 ounces, is fat free or low fat and, if flavored, contains no more than 150 calories per eight  
40 ounces.

41 (D) A no-calorie or low-calorie beverage if the beverage contains no more than 10 calories per  
42 eight ounces.

43 (E) A beverage that is not more than 12 ounces and contains no more than 66 calories per eight  
44 ounces.

45 (5)(a) The standards required by **subsections (3) and (4) of** this section apply to food and

1 beverage items sold in a school at all times during the regular or extended school day when the  
 2 activities in the school are primarily under the control of the school district board. This includes,  
 3 but is not limited to, the time before or after classes are in session and the time when the school  
 4 is being used for activities such as clubs, yearbook, band or choir practice, student government,  
 5 drama rehearsals or child care programs.

6 (b) The standards required by **subsections (3) and (4) of this section** do not apply to food and  
 7 beverage items sold in a school at times when the school is being used for school-related events or  
 8 nonschool-related events for which parents and other adults are a significant part of an audience  
 9 or are selling food or beverage items before, during or after the event, such as a sporting event or  
 10 another interscholastic activity, a play or a band or choir concert.

11 (6) The standards required by **subsections (3) and (4) of this section** do not apply to food and  
 12 beverage items sold in a school as part of the United States Department of Agriculture’s National  
 13 School Lunch Program or School Breakfast Program.

14 **(7)(a) If a food or beverage item does not meet the standards required by subsections (3)**  
 15 **and (4) of this section, a school district may not allow:**

16 **(A) Advertising for the item or display of the brand for the item:**

17 **(i) On school property; or**

18 **(ii) In newspapers, yearbooks, newsletters, flyers, correspondence, websites or other**  
 19 **printed or electronic forms of communications that are produced by the students, staff or**  
 20 **volunteers of a school on behalf of the school.**

21 **(B) Promotional activity for the item on school property, if the promotional activity is**  
 22 **sponsored by a corporation and provides:**

23 **(i) Students with coupons for the item or provides students the item for free or at a**  
 24 **discount.**

25 **(ii) Schools with funds or other rewards in exchange for consumer purchases of the item.**

26 **(b) Notwithstanding paragraph (a)(A) of this subsection, a school district may allow ad-**  
 27 **vertising or the display of a brand for a food or beverage item that does not meet the stan-**  
 28 **dards required by subsections (3) and (4) of this section if the advertising or display is:**

29 **(A) Made during or in relation to an event described in subsection (5)(b) of this section;**

30 **(B) Used for educational activities that are not intended to promote the use or sale of**  
 31 **the item;**

32 **(C) On products, clothing or other personal item that are brought to the school property**  
 33 **by students, staff or guests for their own use; or**

34 **(D) On packaging for a food or beverage item that meets the standards required by sub-**  
 35 **sections (3) and (4) of this section, unless the packaging is substantially similar to the**  
 36 **packaging for an item that does not meet the standards. For the purpose of this subpara-**  
 37 **graph, packaging is substantially similar if it uses the same spokesperson or character,**  
 38 **product name or product color.**

39 [(7)] **(8) A school district board may adopt standards that are more restrictive than the stan-**  
 40 **dards specified by subsections (3), (4) and (7) of this section.**

41 [(8)] **(9) Each school year, a school district board shall determine whether the school district is**  
 42 **in compliance with the standards required by subsections (3), (4) and (7) of this section and report**  
 43 **the results of that determination to the Department of Education. The department may monitor**  
 44 **whether school districts are in compliance with the standards required by subsections (3), (4) and**  
 45 **(7) of this section.**

