

**PROPOSED AMENDMENTS TO  
HOUSE BILL 3363**

1 On page 1 of the printed bill, line 2, after the first semicolon delete the  
2 rest of the line and line 3 and insert “amending ORS 336.423.”.

3 After line 3, insert:

4 “Whereas childhood obesity rates in the United States have risen dra-  
5 matically over the past 30 years; and

6 “Whereas, in Oregon, approximately 26 percent of children are overweight  
7 or obese; and

8 “Whereas poor diet and physical inactivity increase the risk for certain  
9 chronic health conditions, including high blood pressure, type 2 diabetes and  
10 obesity; and

11 “Whereas the marketing of foods and beverages of poor nutritional value  
12 to American children contributes to the rise in obesity by affecting children’s  
13 food preferences, choices and diet; and

14 “Whereas, in 2009, the food industry spent approximately \$1.8 billion on  
15 marketing food to youth, the majority of which was of poor nutritional value;  
16 and

17 “Whereas children are particularly vulnerable to advertising because  
18 people’s cognitive abilities are not fully formed until their early twenties;  
19 and

20 “Whereas the mission of our schools is to educate our children, and  
21 studies demonstrate a relationship between healthy eating, regular physical  
22 activity and students’ academic success; and

1 “Whereas permitting the advertising of food and beverage items at schools  
2 when the food and beverage items may not be sold at the schools interferes  
3 with school messages promoting good health and academic success; now,  
4 therefore,”.

5 Delete lines 5 through 31 and delete pages 2 through 4 and insert:

6 “**SECTION 1.** ORS 336.423 is amended to read:

7 “336.423. (1) As used in this section:

8 “(a) ‘Entree’ means a food that is generally regarded as being the primary  
9 food in a meal and includes, but is not limited to, sandwiches, burritos, pasta  
10 and pizza.

11 “(b) ‘Snack’ means a food that is generally regarded as supplementing a  
12 meal and includes, but is not limited to, chips, crackers, onion rings, nachos,  
13 french fries, doughnuts, cookies, pastries, cinnamon rolls and candy.

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

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

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

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

24 “(B) May not have more than 10 percent of the total calories from satu-  
25 rated fat. This requirement does not apply to snack items that are nuts, eggs  
26 [*and*] **or** cheese.

27 “(C) May not contain more than 35 percent sugar by weight. This re-  
28 quirement does not apply to fruit and vegetables.

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

30 “(E) May not contain more than 150 total calories if sold in a school in

1 which the highest grade level in the school is grade 5 or less.

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

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

6 “(b) An entree item that is sold individually:

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

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

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

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

13 “(A) Water.

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

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

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

22 “(A) Water.

23 “(B) Fruit or vegetable juice, provided the beverage item is not more than  
24 10 ounces, is 100 percent juice with no added sweeteners and contains no  
25 more than 120 calories per eight ounces.

26 “(C) Milk or a nutritionally equivalent milk alternative, provided the  
27 beverage item is not more than 10 ounces, is fat free or low fat and, if fla-  
28 vored, contains no more than 150 calories per eight ounces.

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

1       “(A) Water.

2       “(B) Fruit or vegetable juice, provided the beverage item is not more than  
3 12 ounces, is 100 percent juice with no added sweeteners and contains no  
4 more than 120 calories per eight ounces.

5       “(C) Milk or a nutritionally equivalent milk alternative, provided the  
6 beverage item is not more than 12 ounces, is fat free or low fat and, if fla-  
7 vored, contains no more than 150 calories per eight ounces.

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

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

12       “(5)(a) The standards required by this section apply to food and beverage  
13 items sold in a school at all times during the regular or extended school day  
14 when the activities in the school are primarily under the control of the  
15 school district board. This includes, but is not limited to, the time before or  
16 after classes are in session and the time when the school is being used for  
17 activities such as clubs, yearbook, band or choir practice, student govern-  
18 ment, drama rehearsals or child care programs.

19       “(b) The standards required by this section do not apply to food and  
20 beverage items sold in a school at times when the school is being used for  
21 school-related events or nonschool-related events for which parents and other  
22 adults are a significant part of an audience or are selling food or beverage  
23 items before, during or after the event, such as a sporting event or another  
24 interscholastic activity, a play or a band or choir concert.

25       “(6) The standards required by this section do not apply to food and  
26 beverage items sold in a school as part of the United States Department of  
27 Agriculture’s National School Lunch Program or School Breakfast Program.

28       “(7) A school district board may adopt standards that are more restrictive  
29 than the standards specified by this section.

30       “(8) Each school year, a school district board shall determine whether the

1 school district is in compliance with the standards required by this section  
2 and report the results of that determination to the Department of Education.  
3 The department may monitor whether school districts are in compliance with  
4 the standards required by this section.

5 **“(9)(a) To the extent allowed by law, the State Board of Education**  
6 **shall adopt rules that limit the marketing of food and beverage items**  
7 **that do not meet the standards required by subsections (3) and (4) of**  
8 **this section. The rules shall apply only:**

9 **“(A) To kindergarten through grade 12 schools that participate in**  
10 **the United States Department of Agriculture’s National School Lunch**  
11 **Program or School Breakfast Program;**

12 **“(B) At times when the standards required by this section apply to**  
13 **food and beverage items, as described in subsection (5) of this section;**  
14 **and**

15 **“(C) For purposes of marketing on signage, to signage that is newly**  
16 **placed or that replaces older signage.**

17 **“(b) For the purpose of this subsection, ‘marketing’ means:**

18 **“(A) Any oral, written or graphic statement or representation, in-**  
19 **cluding a company logo or trademark, that is made:**

20 **“(i) For the purpose of promoting the use or sale of a food or**  
21 **beverage item; and**

22 **“(ii) By the producer, manufacturer, distributor or seller of a food**  
23 **or beverage item, or by any other entity that has a commercial inter-**  
24 **est in the food or beverage item and that is not a student, school dis-**  
25 **trict employee or school district volunteer; or**

26 **“(B) A program that is sponsored by a business entity and that:**

27 **“(i) Provides students with free or discounted food or beverage**  
28 **items, or coupons for free or discounted food or beverage items, as a**  
29 **reward, including but not limited to, reaching specified academic**  
30 **goals; or**

1       **“(ii) Provides funding to schools or school districts in exchange for**  
2 **purchases of food or beverage items.**

3       **“(c) Nothing in this section limits:**

4       **“(A) The marketing of food and beverage items that meet the**  
5 **standards required by subsections (3) and (4) of this section; or**

6       **“(B) The ability of a business entity to make donations related to**  
7 **a school or school district and to have the donations recognized at the**  
8 **school, if the recognition uses only the name of the business entity.”.**

9

---