

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 1162 (Senator Salling)
Education, Health, and Environmental Affairs

Education - Career Exploration and Development Activities - Caffeinated
Beverages (Java Act)

This bill prohibits an Executive Branch agency from banning or regulating the sale of caffeinated beverages in conjunction with a career exploration and development activity in a public high school in the State.

The bill takes effect July 1, 2016.

Fiscal Summary

State Effect: None. The State Board of Education and the Maryland State Department of Education (MSDE) can amend the Maryland Nutrition Standards for All Foods Sold in School using existing resources. The other Executive Branch agencies are not affected.

Local Effect: Minimal. Revenues for local school systems that choose to sell caffeinated beverages in conjunction with a career exploration and development activity in a public school may increase minimally.

Small Business Effect: None.

Analysis

Current Law: Local school systems are subject to federal law and regulations through participation in federal food and nutrition programs, including (among others) the National School Lunch Program, School Breakfast Program, and other programs for free and reduced-price meals and free milk in schools. The federal Healthy, Hunger-Free Kids Act of 2010 requires schools to offer nutritious, well-balanced, and age-appropriate meals to

all the children they serve to improve their diets and safeguard their health. Children age five and older must be offered lunches that meet the following nutrition standards for their age/grade group: specified food components and food quantities; zero grams of trans fat per serving or a minimal amount of naturally occurring trans fat; less than 10% of total calories from saturated fat; reduced amount of sodium; and following the applicable recommendations from the 2010 Dietary Guidelines for Americans.

MSDE monitors local school compliance with federal law regarding school food and nutrition programs. The Maryland Code of Regulations indicates that local school systems are subject to administrative review by MSDE and/or the U.S. Department of Agriculture (USDA) for the purpose of evaluating the administration of a food and nutrition program.

USDA prohibits schools from selling foods of minimal nutritional value (FMNV) during meal periods anywhere reimbursable meals are sold or eaten. Chapter 312 of 2005, the Student Health Promotion Act of 2005, requires Maryland public school vending machines that sell FMNV to have and use timing devices that automatically prohibit or allow access to vending machines in accordance with policies established by local boards of education.

According to the Maryland Nutrition Standards for All Foods Sold in Schools adopted by the State Board of Education on June 27, 2014, and effective July 1, 2014, all foods and beverages sold to students on the public school campus, including cafeteria a la carte items, vending machines, school stores, and fundraising activities, from 12:01 a.m. until 30 minutes after the end of the official school day must meet specified nutrition standards. Beverages must meet the standards shown in **Exhibit 1**.

Exhibit 1
Beverage Standards for Maryland Schools

	Elementary	Middle	High School
Plain Water or Plain Carbonated Water	Any Size	Any Size	Any Size
Low-fat Milk, unflavored Nonfat Milk, flavored or unflavored	≤ 8 fl oz	≤ 12 fl oz	≤ 12 fl oz
100% Fruit/Vegetable Juice	≤ 8 fl oz	≤ 12 fl oz	≤ 12 fl oz
100% Fruit/Vegetable Juice -diluted with water, with or without carbonation -with no added sweeteners	≤ 8 fl oz	≤ 12 fl oz	≤ 12 fl oz
Other flavored and/or carbonated beverages -soda is not allowed	Not allowed	Not allowed	If ≤ 12 fl oz must meet: ≤40 calories/8 oz ≤60 calories/ 12 oz If ≤ 20 fl oz must meet: ≤5 calories/8 oz ≤10 calories/ 12 oz
Caffeine, beyond naturally occurring trace amounts	Not allowed	Not allowed	Not allowed

Source: Maryland State Department of Education

Background: In regards to caffeine, the Maryland Nutrition Standards for All Foods Sold in Schools by MSDE goes beyond the requirements for the federal Healthy, Hunger-Free Kids Act of 2010. The Maryland Nutrition Standards for All Foods Sold in Schools prohibits caffeine, beyond naturally occurring trace amounts in elementary, middle, and high schools. The federal regulations for the Healthy, Hunger-Free Kids Act of 2010 prohibit caffeine beyond naturally occurring trace amounts in elementary and middle schools, but permit caffeine beverages in high schools.

Students in a special education program at Patapsco High School (Baltimore County) were operating a coffee shop at their school as part of a vocational training program. The coffee shop was closed after the implementation of new beverage standards for Maryland schools that were adopted by the State Board of Education in 2014. MSDE advises that the State board policy restricts the sale of caffeinated beverages to students, but it does not regulate the sale of caffeinated beverages to adults. The coffee shop has been replaced with a “shop” selling slushies, made of fruit concentrates and no added sugar.

Additional Information

Prior Introductions: None.

Cross File: HB 349 (Delegate Grammer, *et al.*) - Ways and Means.

Information Source(s): Governor's Office; Maryland State Department of Education; Maryland Higher Education Commission; Department of Health and Mental Hygiene; Department of Labor, Licensing, and Regulation; U.S. Department of Agriculture; *Baltimore Sun*; Department of Legislative Services

Fiscal Note History: First Reader - March 16, 2016
md/rhh

Analysis by: Caroline L. Boice

Direct Inquiries to:
(410) 946-5510
(301) 970-5510