

111TH CONGRESS
1ST SESSION

H. R. 1324

To amend the Child Nutrition Act of 1966 to improve the nutrition and health of schoolchildren and protect the Federal investment in the national school lunch and breakfast programs by updating the national school nutrition standards for foods and beverages sold outside of school meals to conform to current nutrition science.

IN THE HOUSE OF REPRESENTATIVES

MARCH 5, 2009

Ms. WOOLSEY (for herself, Mr. ELLISON, Mr. STARK, Mr. HINCHEY, Mr. RUSH, Mr. MCGOVERN, Mr. GRIJALVA, Mr. SIRES, Mr. PAYNE, Ms. HIRONO, Mr. LOEBSACK, Mr. BISHOP of Georgia, Mr. VAN HOLLEN, Ms. BERKLEY, Mr. FILNER, Mr. CHANDLER, Mr. CONNOLLY of Virginia, Mrs. CAPPS, Mr. COHEN, Ms. BALDWIN, Ms. ESHOO, Mr. DOYLE, Mr. ISRAEL, Ms. WASSERMAN SCHULTZ, Mr. GUTIERREZ, Mr. BISHOP of New York, Ms. MOORE of Wisconsin, Mr. McDERMOTT, Ms. SLAUGHTER, Mr. BACA, Mrs. MALONEY, Mr. SARBANES, Mr. KENNEDY, Ms. MCCOLLUM, Mr. CUMMINGS, Mr. CARSON of Indiana, Mr. TIERNEY, Ms. JACKSON-LEE of Texas, Mr. ROTHMAN of New Jersey, Ms. BORDALLO, Mr. RYAN of Ohio, Mr. PALLONE, Mr. WU, Mr. WAXMAN, Mr. KAGEN, Mr. SESTAK, Mr. POLIS of Colorado, Ms. LEE of California, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. COURTNEY, Mrs. LOWEY, Mr. HARE, Mr. BOSWELL, Mr. CONYERS, Mr. JOHNSON of Georgia, Mr. MOORE of Kansas, Mr. BRADY of Pennsylvania, Ms. SUTTON, Mr. HONDA, Ms. SHEA-PORTER, Mr. SMITH of Washington, Mr. FARR, Mr. KUCINICH, Mr. ANDREWS, Ms. CLARKE, Mrs. DAVIS of California, Mr. DAVIS of Illinois, Mr. HINOJOSA, Mr. HOLT, Mr. JACKSON of Illinois, Ms. KAPTUR, Mr. KILDEE, Mr. LEWIS of Georgia, Mr. MORAN of Virginia, Mr. NADLER of New York, Mr. OLVER, Ms. ROYBAL-ALLARD, Ms. SCHAKOWSKY, Mrs. TAUSCHER, Ms. WATSON, Mr. SCOTT of Virginia, Ms. WATERS, Mr. BLUMENAUER, Ms. KILPATRICK of Michigan, Mr. DEFazio, Mr. WEXLER, Mr. CARNEY, Mr. GORDON of Tennessee, Mr. YOUNG of Alaska, and Ms. DEGETTE) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend the Child Nutrition Act of 1966 to improve the nutrition and health of schoolchildren and protect the Federal investment in the national school lunch and breakfast programs by updating the national school nutrition standards for foods and beverages sold outside of school meals to conform to current nutrition science.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Child Nutrition Pro-
 5 motion and School Lunch Protection Act of 2009”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) for a school food service program to receive
 9 Federal reimbursements under the Child Nutrition
 10 Act of 1966 (42 U.S.C. 1771 et seq.) or the Richard
 11 B. Russell National School Lunch Act (42 U.S.C.
 12 1751 et seq.), school meals served by the program
 13 must meet science-based nutrition standards estab-
 14 lished by Congress and the Secretary of Agriculture;

15 (2) foods sold outside the reimbursable school
 16 meal programs (including food and beverages sold in
 17 vending machines, a la carte in cafeterias, school
 18 stores, and snack bars) are not required to meet
 19 comparable nutritional standards;

1 (3) in order to promote child nutrition and
2 health, Congress—

3 (A) has authorized the Secretary to estab-
4 lish nutrition standards in the school lunchroom
5 during meal time; and

6 (B) since 1979, has prohibited the sale of
7 food of minimal nutritional value, as defined by
8 the Secretary, in areas where school meals are
9 sold or eaten;

10 (4) federally reimbursed school meals and child
11 nutrition and health are undermined by the uneven
12 authority of the Secretary to apply nutrition stand-
13 ards throughout the school campus and over the
14 course of the school day;

15 (5) as of the date of enactment of this Act, the
16 definition of the term “food of minimal nutritional
17 value” is the national nutrition standard for foods
18 sold outside of school meals;

19 (6) since 1979, when the Secretary defined the
20 term “food of minimal nutritional value” and pro-
21 mulgated regulations for the sale of those foods dur-
22 ing meal times, nutrition science has evolved and ex-
23 panded;

24 (7) because some children purchase foods other
25 than balanced meals provided through the school

1 lunch program established under the Richard B.
2 Russell National School Lunch Act (42 U.S.C. 1751
3 et seq.) and the school breakfast program estab-
4 lished by section 4 of the Child Nutrition Act of
5 1966 (42 U.S.C. 1773), the efforts of parents to en-
6 sure that their children consume healthful diets are
7 undermined;

8 (8) experts in nutrition science have found
9 that—

10 (A) since the 1970s, obesity rates have tri-
11 pled among children ages 6 to 19;

12 (B) children's sodium intake is 214 per-
13 cent above recommended levels;

14 (C) 85 percent of children consume more
15 saturated fat than is recommended in the most
16 recent Dietary Guidelines for Americans pub-
17 lished under section 301 of the National Nutri-
18 tion Monitoring and Related Research Act of
19 1990 (7 U.S.C. 5341);

20 (D) over $\frac{2}{3}$ of all foods consumed by
21 schoolchildren are foods that are recommended
22 for occasional intake;

23 (E) overweight and obesity are leading
24 modifiable risk factors that have led to the

1 growing number of children with type 2 diabe-
2 tes; and

3 (F) $\frac{1}{4}$ of children ages 5 to 10 show early
4 warning signs of heart disease, such as elevated
5 blood cholesterol or high blood pressure;

6 (9) in 1996, children aged 2 to 18 years con-
7 sumed an average of 118 more calories per day than
8 children did in 1978, which is the equivalent of 12
9 pounds of weight gain annually, if not compensated
10 for through increased physical activity; and

11 (10) the national estimated cost of obesity is
12 \$123,000,000,000 a year, $\frac{1}{2}$ of which is paid
13 through the Medicare program under title XVIII of
14 the Social Security Act (42 U.S.C. 1395 et seq.) and
15 the Medicaid program under title XIX of that Act
16 (42 U.S.C. 1396 et seq.).

17 **SEC. 3. NATIONAL SCHOOL NUTRITION STANDARDS.**

18 Section 10 of the Child Nutrition Act of 1966 (42
19 U.S.C. 1779) is amended—

20 (1) by striking the section heading and all that
21 follows through “(a) The Secretary” and inserting
22 the following:

23 **“SEC. 10. REGULATIONS.**

24 **“(a) IN GENERAL.—**The Secretary”; and

(2) by striking subsections (b) and (c) and inserting the following:

“(b) NATIONAL SCHOOL NUTRITION STANDARDS.—

“(1) PROPOSED REGULATIONS.—

“(A) IN GENERAL.—The Secretary shall—

“(i) establish science-based nutrition standards for foods served in schools other than foods provided under this Act and the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.); and

“(ii) not later than 1 year after the date of enactment of this paragraph, promulgate proposed regulations to carry out clause (i).

“(B) APPLICATION.—The nutrition standards shall apply to all foods sold—

“(i) outside the school meal programs;

“(ii) on the school campus; and

“(iii) at any time during the extended school day, including the official school day and the time before and after the official school day when events or activities are primarily under the control of the school or a third party on behalf of the school.

1 “(C) REQUIREMENTS.—In establishing nu-
2 trition standards under this paragraph, the Sec-
3 retary shall consider—

4 “(i) recommendations made by au-
5 thoritative scientific organizations con-
6 cerning appropriate nutrition standards for
7 foods sold outside of the reimbursable meal
8 programs in schools;

9 “(ii) both the positive and negative
10 contributions of nutrients, ingredients, and
11 foods (including calories, portion size, satu-
12 rated fat, trans fat, sodium, and added
13 sugars) to the diets of children;

14 “(iii) evidence concerning the relation-
15 ship between consumption of certain nutri-
16 ents, ingredients, and foods to both pre-
17 venting and promoting the development of
18 overweight, obesity, and other chronic ill-
19 nesses; and

20 “(iv) special exemptions for school-
21 sponsored fundraisers (other than fund-
22 raising through vending machines, school
23 stores, snack bars, a la carte sales, and
24 any other exclusions determined by the
25 Secretary), if the fundraisers are approved

1 by the school and are infrequent within the
2 school.

3 “(D) UPDATING STANDARDS.—As soon as
4 practicable after the date of publication by the
5 Department of Agriculture and the Department
6 of Health and Human Services of a new edition
7 of the Dietary Guidelines for Americans under
8 section 301 of the National Nutrition Moni-
9 toring and Related Research Act of 1990 (7
10 U.S.C. 5341), the Secretary shall review and
11 update as necessary the school nutrition stand-
12 ards and requirements established under this
13 subsection.

14 “(2) IMPLEMENTATION.—

15 “(A) EFFECTIVE DATE.—

16 “(i) IN GENERAL.—Except as pro-
17 vided in clause (ii), the proposed regula-
18 tions under paragraph (1) shall take effect
19 at the beginning of the school year fol-
20 lowing the date on which the regulations
21 are finalized.

22 “(ii) EXCEPTION.—If the regulations
23 are finalized on a date that is not more
24 than 90 days before the beginning of the
25 school year, the proposed regulations shall

1 take effect at the beginning of the fol-
2 lowing school year.

3 “(B) REPORTING.—The Secretary shall
4 submit to the Committee on Agriculture, Nutri-
5 tion, and Forestry of the Senate and the Com-
6 mittee on Education and Labor of the House of
7 Representatives a quarterly report that de-
8 scribes progress made toward promulgating
9 final regulations under this subsection.”.

○