

HOUSE BILL No. 2870

By Representatives Carter and Watkins

2-9

9 AN ACT relating to schools; relating to nutritional food in school.

10

11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. This act may be cited as “the school nutrition act.”

13 Sec. 2. Effective August 1, 2007, all Kansas public schools shall com-
14 ply with the nutrition policies in this act.

15 Sec. 3. For the purposes of this act:

16 (a) “A la carte” means individually priced food items provided by the
17 school food service department. These items may or may not be part of
18 the reimbursable meal.

19 (b) “Competitive foods” means foods and beverages sold or made
20 available to students that compete with the school’s operation of the na-
21 tional school lunch program, school breakfast program and after school
22 snack program. This definition includes, but is not limited to, food and
23 beverages sold or provided in school stores. This definition specifically
24 excludes food and beverages sold or provided in vending machines, school
25 fundraisers and treats provided in the classrooms to celebrate birthdays,
26 provide incentive or reward, to celebrate holidays or for educational pur-
27 poses. School fundraisers include food sold by school administrators or
28 staff (principals, coaches, teachers, etc.), students or student groups, par-
29 ents or parent groups or similar organizations.

30 (c) “FMNV or foods of minimal nutritional value” means the four
31 categories of foods and beverages (soda water, water ices, chewing gum
32 and certain candies) that are restricted by the United States department
33 of agriculture under the child nutrition programs. This definition specif-
34 ically excludes those foods and beverages that are dispensed in vending
35 machines, school fundraisers and treats provided in the classroom to cel-
36 ebrate birthdays, provide incentive or reward, to celebrate holidays or for
37 educational purposes.

38 (d) “Food service” means the school’s operation of the national school
39 program, school breakfast program and after school snack programs and
40 includes all food service operations conducted by the school principally
41 for the benefit of school children, all of the revenue from which is used
42 solely for the operation or improvement of such food services.

43 (e) “Fried foods” means foods that are cooked by total immersion

1 into hot oil or other fat, commonly referred to as “deep fat frying.” This
2 definition does not include foods that are stir-fried or sauteed.

3 (f) “Fruit or vegetable drink” means beverages labeled as containing
4 fruit or vegetable juice in amounts less than 100%.

5 (g) “Fruit or vegetable juice” means beverages labeled as containing
6 100% fruit or vegetable juice.

7 (h) “School day” means the school day that begins with the start of
8 the first breakfast period and continues until the end of the last instruction
9 period of the day (last bell).

10 (i) “School meals” means meals provided under the national school
11 lunch program, school breakfast program and after school snack program
12 for which schools receive reimbursement in accordance with all applica-
13 ble federal regulations, policies, instructions and guidelines.

14 (j) “Snacks” means either competitive foods or a la carte, as defined
15 above, depending on whether or not they are provided by the school food
16 service department.

17 (k) “Trans fat” means fat which occurs in foods when manufacturers
18 use hydrogenation, a process in which hydrogen is added to vegetable oil
19 to turn the oil into a more solid (saturated) fat. Trans fats may be found
20 in such foods as margarine, crackers, candies, cookies, snack foods, fried
21 foods, baked goods, salad dressings and other processed foods.

22 Sec. 4. *Elementary schools.* Each public elementary school shall fol-
23 low the following nutrition requirements:

24 (a) (1) Elementary school campuses may not serve or provide access
25 for students to FMNV or any other forms of candy at any time anywhere
26 on school premises until the end of the last scheduled class.

27 (2) FMNV foods and beverages may not be sold or given away to
28 students on school premises by school administrators or staff (principals,
29 coaches, teachers, etc.), students or student groups, parents or parent
30 groups or any other person, company or organization. Notwithstanding
31 the foregoing, teachers, coaches and students may give students FMNV
32 and beverages for the purposes of celebrating birthdays and half-birth-
33 days, incentive or reward for student conduct or achievement, celebrating
34 holidays or for educational purposes such as teaching about other
35 cultures.

36 (b) The following specific nutrition standards pertain to all foods and
37 beverages served or made available to students on elementary school cam-
38 puses. This includes school meals, a la carte and the nutritious classroom
39 snacks.

40 (1) Fats and fried foods:

41 (A) Schools and other vendors may not serve food items containing
42 more than 28 grams of fat per serving more than twice per week. Begin-
43 ning with the 2009-2010 school year, schools and other vendors may not

1 serve food items containing more than 23 grams of fat per serving.
2 (B) French fries and other fried potato products must not exceed
3 three ounces per serving, may not be offered more than once per week,
4 and students may only purchase one serving at a time. This does not
5 pertain to potato chips, which are mentioned in paragraph (2), of this
6 subsection. It is recommended that all such products be baked instead of
7 fried.
8 (C) Baked potato products such as wedges, slices, whole or new po-
9 tatoes that are produced from raw potatoes and have not been pre-fried,
10 flash-fried or deep fat-fried in any way may be served without restriction.
11 (D) Schools should eliminate frying as a method of on-site prepara-
12 tion for foods served as part of school meals, a la carte, snack lines and
13 competitive foods. This policy shall be implemented by the 2007-2008
14 school year in schools that do not need to make equipment changes or
15 facility modifications to do so. A transition period for implementation shall
16 be allowed for schools needing to make equipment changes or facility
17 modifications, but all schools must be in compliance by the 2010-2011
18 school year.
19 (E) Foods that have been flash-fried by the manufacturer may be
20 served but should be baked or heated by another method other than
21 frying.
22 (F) Beginning with the 2007-2008 school year, schools should include
23 a request for trans fat information in all product specifications. Beginning
24 with the 2009-2010 school year, schools shall attempt to eliminate the
25 purchase of all products containing trans fats where practical.
26 (2) Portion sizes:
27 (A) The following maximum portion size restrictions pertain to all
28 foods and beverages served or made available to students on elementary
29 school campuses with the exception of school meals, which are governed
30 by USDA regulations.

31 Food or Beverage	Portion Size
32 Chips (regular)	1 ounce
33 Chips (baked or no more than 7.5 grams of fat per bag), crackers, popcorn, 34 cereal, trail mix, nuts, seeds, dried fruit, jerky and pretzels	1.5 ounces
35 Cookies/cereal bars	2 ounces
36 Bakery items (e.g., pastries, muffins). This excludes items that count as 37 two-bread components served/sold only at breakfast	3 ounces
38 Frozen desserts, ice cream, pudding and jello.....	4 ounces
39 Yogurt	8 ounces
40 Whole Milk, flavored or unflavored. (Flavored milks may contain no more 41 than 30 grams total sugar per 8 ounce serving.).....	8 ounces
42	
43	

1 Reduced fat milk (2 percent or less), flavored or unflavored (Flavored
2 milks may contain no more than 30 grams total sugar per 8 ounce
3 serving 16 ounces

4 Beverages (other than milk) and those restricted as FMNVs may contain
5 no more than 30 grams total sugar per 8 ounce serving. No limit on
6 non-carbonated, unflavored bottled water. 12 ounces

7 Frozen fruit slushes (must contain a minimum of 50 percent fruit
8 juice). 6 ounces

9 (B) The maximum portion size restrictions provided by this policy do
10 not apply to distribution or sale through vending machines.

11 (3) Other:

12 (A) Fruit or vegetables, or both, should be offered daily on all points
13 of service. Fruits and vegetables should be fresh whenever possible. Fro-
14 zen and canned fruits should be packed in natural juice, water or light
15 syrup.

16 (B) Schools must offer 2%, 1% or skim milk at all points where milk
17 is served.

18 (C) It is the goal of this policy that all beverages served in elementary
19 schools will be milk, unflavored water and 100% fruit or vegetable juice
20 by the start of the 2007-2008 school year.

21 (D) Schools serving chips should use reduced fat (no more than five
22 grams of fat per ounce) or baked varieties whenever possible.

23 (c) (1) An elementary school campus may not serve competitive
24 foods, or provide access to them through direct or indirect sales, to stu-
25 dents anywhere on school premises throughout the school day until the
26 end of the last scheduled class.

27 (2) Elementary classrooms may allow one nutritious snack per day
28 under the teacher’s supervision. The snack may be in the morning or
29 afternoon but may not be at the same time as the regular meal periods
30 for that class. The snack may be provided by the school food service, the
31 teacher, parents or other groups and should be at no cost to students.

32 (3) The snack must comply with the fat and sugar limits of the school
33 nutrition act and may not contain any FMNVs or consist of candy or
34 dessert type items such as, but not limited to, cookies, cakes, cupcakes,
35 pudding, ice cream or frozen desserts.

36 Sec. 5. *Middle or junior high schools.* For purposes of this section, a
37 middle school campus is defined as a campus containing grades 6, 7 and
38 8. A junior high school campus may contain either grades 7 and 8, or
39 grades 7, 8 and 9. Each public middle or junior high school shall follow
40 the following nutritional guidelines:

41 (a) Middle school and junior high school campuses may not serve or
42 provide access for students to FMNV or any other forms of candy at any
43 time anywhere on school premises until after the end of the last lunch

1 period.

2 (b) The following specific nutrition standards pertain to all foods and
3 beverages served or made available in school meals, a la carte and com-
4 petitive foods to students on middle or junior high school campuses.

5 (1) Fats and fried foods:

6 (A) Schools and other vendors may not serve food items containing
7 more than 28 grams of fat per serving more than twice per week. Begin-
8 ning with the 2009-2010 school year, schools and other vendors may not
9 serve food items containing more than 23 grams of fat per serving.

10 (B) French fries and other fried potato products must not exceed
11 three ounces per serving, may not be offered more than three times per
12 week, and students may only purchase one serving at a time. This does
13 not pertain to potato chips, which are mentioned specifically in paragraph
14 (2) of this subsection. It is recommended that all such products be baked
15 instead of fried.

16 (C) Baked potato products such as wedges, slices, whole or new po-
17 tatoes that are produced from raw potatoes and have not been pre-fried,
18 flash-fried or deep-fat fried in any way may be served without restriction.

19 (D) Schools should eliminate frying as a method of on-site prepara-
20 tion for foods served as part of school meals, a la carte, snack lines and
21 competitive foods. This policy shall be implemented by the 2007-2008
22 school year in schools that do not need to make equipment changes or
23 facility modifications to do so. A transition period for implementation shall
24 be allowed for schools needing to make equipment changes or facility
25 modifications, but all schools must be in compliance by the 2010-2011
26 school year.

27 (E) Foods that have been flash-fried by the manufacturer may be
28 served but should be baked or heated by another method other than
29 frying.

30 (F) Beginning with the 2007-2008 school year, schools should include
31 a request for trans fat information in all product specifications. Beginning
32 with the 2009-2010 school year, schools shall attempt to eliminate the
33 purchase of all products containing trans fats where practical.

34 (2) Portion sizes:

35 (A) The following maximum portion size restrictions pertain to all
36 foods and beverages served or made available to students on middle or
37 junior high school campuses with the exception of school meals, which
38 are governed by USDA regulations.

39 Food or Beverage	Portion Size
40 Chips (regular)	1 ounce
41 Chips (baked or no more than 7.5 grams of fat per bag), crackers, popcorn, 42 cereal, trail mix, nuts, seeds, dried fruit, jerky and pretzels	1.5 ounces
43 Cookies/cereal bars	2 ounces

1	Bakery items (e.g., pastries, muffins). This excludes items that count as	
2	two-bread components served/sold only at breakfast	3 ounces
3	Frozen desserts, ice cream, pudding and jello.....	4 ounces
4	Yogurt	8 ounces
5	Whole Milk, flavored or unflavored. (Flavored milks may contain no more	
6	than 30 grams total sugar per 8 ounce serving.).....	8 ounces
7	Reduced fat milk (2 percent or less), flavored or unflavored (Flavored	
8	milks may contain no more than 30 grams total sugar per 8 ounce	
9	serving.....	no limit
10	Beverages (other than milk) and those restricted as FMNVs may contain	
11	no more than 30 grams total sugar per 8 ounce serving. No limit on	
12	non-carbonated, unflavored bottled water.	12 ounces
13	Candy bars and packaged candies.....	1.5 ounces
14	Frozen fruit slushes (must contain a minimum of 50 percent fruit	
15	juice).....	12 ounces
16	(B) The maximum portion size restrictions provided by this policy do	
17	not apply to distribution or sale through vending machines.	
18	(3) Other:	
19	(A) Fruit or vegetables, or both, should be offered daily on all points	
20	of service. Fruits and vegetables should be fresh whenever possible. Fro-	
21	zen and canned fruits should be packed in natural juice, water or light	
22	syrup.	
23	(B) Schools must offer 2%, 1% or skim milk at all points where milk	
24	is served.	
25	(C) Schools serving chips should use reduced fat (no more than five	
26	grams of fat per ounce) or baked varieties whenever possible.	
27	(c) A middle or junior high school campus may not serve competitive	
28	foods, or provide access to them through direct or indirect sales, to stu-	
29	dents anywhere on school premises during meal periods. The competitive	
30	foods included in this policy do not include FMNVs or vending machines,	
31	which are not allowed until after the last lunch period.	
32	Sec. 6. <i>High schools.</i> For the purposes of this section, a high school	
33	campus is defined as any campus containing a combination of grades 9,	
34	10, 11 and 12. Each public high school shall follow the following nutri-	
35	tional guidelines:	
36	(a) (1) High schools may not serve or provide access to FMNV dur-	
37	ing meal periods in areas where reimbursable meals are served, consumed	
38	or both. New contracts and contract renewals executed after March 3,	
39	2007, must expressly prohibit the sale of sugared, carbonated beverages	
40	in containers larger than 12 ounces.	
41	(2) It is the legislature's goal that, by the 2007-2008 school year, sug-	
42	ared, carbonated beverages should be limited to containers holding no	
43	more than 12 ounces.	

1 (b) The following specific nutrition standards pertain to all foods and
 2 beverages served or made available in school meals, a la carte and com-
 3 petitive foods to students on high school campuses.

4 (1) Fats and fried foods:

5 (A) Schools and other vendors may not serve food items containing
 6 more than 28 grams of fat per serving more than twice per week. Begin-
 7 ning with the 2009-2010 school year, schools and other vendors may not
 8 serve food items containing more than 23 grams of fat per serving.

9 (B) French fries and other fried potato products must not exceed
 10 three ounces per serving, and students may only purchase one serving at
 11 a time. This does not pertain to potato chips which are mentioned spe-
 12 cifically in paragraph (2) of this subsection. It is recommended that all
 13 such products be baked instead of fried.

14 (C) Baked potato products such as wedges, slices, whole or new po-
 15 tatoes that are produced from raw potatoes and have not been pre-fried,
 16 flash-fried or deep fat-fried in any way may be served without restriction.

17 (D) Schools should eliminate frying as a method of on-site prepara-
 18 tion for foods served as part of school meals, a la carte, snack lines and
 19 competitive foods. This policy shall be implemented by the 2007-2008
 20 school year in schools that do not need to make equipment changes or
 21 facility modifications to do so. A transition period for implementation shall
 22 be allowed for schools needing to make equipment changes or facility
 23 modifications, but all schools must be in compliance by the 2010-2011
 24 school year.

25 (E) Foods that have been flash-fried by the manufacturer may be
 26 served but should be baked or heated by another method other than
 27 frying.

28 (F) Beginning with the 2007-2008 school year, schools should include
 29 a request for trans fat information in all product specifications. Beginning
 30 with the 2009-2010 school year, schools shall attempt to eliminate the
 31 purchase of all products containing trans fats where practical.

32 (2) Portion sizes:

33 (A) The following maximum portion size restrictions pertain to all
 34 foods and beverages served or made available to students on school cam-
 35 puses with the exception of school meals, which are governed by USDA
 36 regulations.

Food or Beverage	Portion Size
37 Chips (regular)	1.25 ounces
38 Chips (baked or no more than 7.5 grams of fat per bag), crackers, popcorn, 39 cereal, trail mix, nuts, seeds, dried fruit, jerky and pretzels	1.5 ounces
40 Cookies/cereal bars	2 ounces
41 Bakery items (e.g., pastries, muffins). This excludes items that count as 42 two-bread components served/sold only at breakfast	3 ounces

1	Frozen desserts, ice cream, pudding and jello.....	4 ounces
2	Yogurt	8 ounces
3	Whole Milk, flavored or unflavored. (Flavored milks may contain no more	
4	than 30 grams total sugar per 8 ounce serving.).....	8 ounces
5	Reduced fat milk (2 percent or less), flavored or unflavored (Flavored	
6	milks may contain no more than 30 grams total sugar per 8 ounce	
7	serving.....	No limit
8	Beverages (other than milk) and those restricted as FMNVs may contain	
9	no more than 30 grams total sugar per 8 ounce serving. No limit on	
10	non-carbonated, unflavored bottled water.	12 ounces
11	Candy bars and packaged candies.....	1.5 ounces
12	Frozen fruit slushes (must contain a minimum of 50 percent fruit	
13	juice).....	12 ounces
14	(B) The maximum portion size restrictions provided by this policy do	
15	not apply to distribution or sale through vending machines.	
16	(3) Other:	
17	(A) Fruit or vegetables, or both, should be offered daily on all points	
18	of service. Fruits and vegetables should be fresh whenever possible. Fro-	
19	zen and canned fruits should be packed in natural juice, water or light	
20	syrup.	
21	(B) Schools must offer 2%, 1% or skim milk at all points where milk	
22	is served.	
23	(C) Schools serving chips should use reduced fat (no more than five	
24	grams of fat per ounce) or baked varieties whenever possible.	
25	(c) High schools may not serve or provide access to competitive foods	
26	during meal periods in areas where reimbursable meals are served, con-	
27	sumed or both. All competitive foods sold or provided to students must	
28	meet the nutrition standards listed in subsection (b) of this section.	
29	Sec. 7. <i>Foods of minimal nutritional value (FMNV)</i> . Federal regu-	
30	lations prohibit the sale of certain foods, determined to be of minimal	
31	nutritional value, in the food service area during meal periods.	
32	(a) <i>Restricted foods</i> . Foods and beverages that are restricted from sale	
33	to students during meal periods are classified in the following four cate-	
34	gories:	
35	(1) Soda water: Any carbonated beverage. No product shall be ex-	
36	cluded from this definition because it contains discrete nutrients added	
37	to the food such as vitamins, minerals and protein.	
38	(2) Water ices: Any frozen, sweetened water such as "...sicles" and	
39	flavored ice with the exception of products that contain fruit or fruit juice.	
40	(3) Chewing gum: Any flavored products from natural or synthetic	
41	gums and other ingredients that form an insoluble mass for chewing.	
42	(4) Certain candies: Any processed foods made predominantly from	
43	sweeteners or artificial sweeteners with a variety of minor ingredients that	

1 characterize the following types:

2 (A) Hard candy: A product made predominantly from sugar (sucrose)
3 and corn syrup that may be flavored and colored, and is characterized by
4 a hard, brittle texture. Includes such items as sour balls, lollipops, fruit
5 balls, candy sticks, starlight mints, after dinner mints, jaw breakers, sugar
6 wafers, rock candy, cinnamon candies, breath mints and cough drops.

7 (B) Jellies and gums: A mixture of carbohydrates that are combined
8 to form a stable gelatinous system of jelly-like character and are generally
9 flavored and colored, and include gum drops, jelly beans, jellied and fruit-
10 flavored slices.

11 (C) Marshmallow candies: An aerated confection composed of sugar,
12 corn syrup, invert sugar, 20 percent water and gelatin or egg white to
13 which flavors and colors may be added.

14 (D) Fondant: A product consisting of microscopic-sized sugar crystals
15 that are separated by a thin film of sugar or invert sugar, or both, in a
16 solution such as candy corn or soft mints.

17 (E) Licorice: A product made predominantly from sugar and corn
18 syrup that is flavored with an extract made from the licorice root.

19 (F) Spun candy: A product that is made from sugar that has been
20 boiled at high temperature and spun at a high speed in a special machine.

21 (G) Candy coated popcorn: Popcorn that is coated with a mixture
22 made predominantly from sugar and corn syrup.

23 (b) FMNV and Policy exemptions.

24 (1) This policy does not apply to school nurses using FMNV's during
25 the course of providing health care to individual students.

26 (2) Special needs students whose individualized education program
27 (IEP) plan indicates the use of an FMNV or candy for behavior modifi-
28 cation or other suitable need may be given FMNV or candy items.

29 (3) Schools and parents may provide one additional nutritious snack
30 per day for students taking school assessment tests. The snack must com-
31 ply with the fat and sugar limits of the school nutrition act and may not
32 contain any foods of minimal nutritional value or consist of candy, chips
33 or desert type items (cookies, cakes, cupcakes, pudding, ice cream or
34 frozen desserts, etc.).

35 (4) For instructional purposes, teachers may use foods as long as the
36 food items are not considered FMNV or candy. Students may consume
37 food prepared in class for instructional purposes. However, this should
38 be on an occasional basis, and food may not be provided or sold to other
39 students or classes. Food provided for students as part of a class or school
40 cultural heritage event for instructional or enrichment purposes would
41 be exempt from the policy. However, FMNV may not be served during
42 meal periods in the areas where school meals are being served or con-
43 sumed, and regular meal service (breakfast and lunch) must continue to

1 be available to all students.

2 (5) School-approved field trips are exempt from the nutrition policy.
3 A school official must approve the dates and purposes of the field trips
4 in advance.

5 (6) The nutrition policy does not apply to students who leave campus
6 to travel to athletic, band or other competitions. The school day is con-
7 sidered to have ended for these students. School activities, including, but
8 not limited to, athletic functions that occur after the normal school day
9 are not covered by the policy.

10 (c) This policy does not restrict what parents may provide for their
11 own child's lunch or snacks. Parents may provide FMNV or candy items
12 for their own child's consumption, but they may not provide restricted
13 items to other children at school. A school may adopt a more restrictive
14 rule, however, as local policy.

15 Sec. 8. *Compliance and penalties.* (a) The Kansas state department
16 of education administers the National School Lunch Program, School
17 Breakfast Program and After School Snack Program through its child
18 nutrition and wellness team. Its responsibilities include processing claims
19 for reimbursement, procurement assistance to promote more nutritious
20 eating habits and conducting on-site compliance monitoring.

21 (b) The Kansas state department of education shall aggressively en-
22 force and diligently monitor the school nutrition act to ensure compliance.
23 When violations of sections 1 through 8, and amendments thereto, are
24 noted, the state department of education shall disallow all meal reim-
25 bursement for the day and require the school to reimburse the food serv-
26 ice account for the lost reimbursement. A documented corrective action
27 plan shall be required and the violating school will be monitored diligently
28 to ensure continued compliance.

29 Sec. 9. This act shall take effect and be in force from and after its
30 publication in the statute book.