

Access to Healthy Choices in <state> Act¹

A bill to expand healthy food choices in vending machines for state employees, on state property, and in state-supported institutions.

Be it enacted by the Senate and House of Representatives of the State of _____,

Section 1. The Legislature of the State of _____ finds and declares as follows:

- (1) Approximately ___ state residents are employed by the state government.² Reducing the impact of diet-related diseases will support a more productive and valuable workforce that will pay dividends to the state economy and cultivate national competitiveness for state residents and employees;
- (2) Positive changes in the nutritional quality of food sold or provided by the state or on public property will assist people to make healthier choices;
- (3) State properties are visited by many state residents and visitors, and provide care for dependent adults and children;
- (4) Approximately ___% of state residents are overweight or obese;³
- (5) Obesity costs \$__million each year in <state> in health care cost,⁴ contributing to costly and debilitating diseases such as heart disease, cancer, stroke, and diabetes; and
- (6) Obesity is a leading modifiable risk factor contributing to the growing number of children with type 2 diabetes;⁵ and one quarter of children ages 5 to 10 show early warning signs of heart disease, such as elevated blood cholesterol or high blood pressure.⁶

Section 2. <State> Nutrition Standards

- (1) Beverage Standards:
 - a. 100% of beverages must be one or a combination of the following:
 - i. Water, including carbonated water (no added caloric sweeteners);

¹ Add your state's name to the title (for example, Access to Healthy Choices in Oklahoma Act).

² To find number of residents employed by your state, visit <http://www.census.gov/govs/apes/>

³ To find obesity rates for your state, visit <http://www.cdc.gov/obesity/data/trends.html#State>

⁴ To find cost of obesity for your state, visit http://www.cspinet.org/new/pdf/obesity_costs_by_state_9-11.pdf

⁵ Hannon et al. "Childhood Obesity and Type 2 Diabetes Mellitus." *Pediatrics* 2005, vol. 116 (no. 2), pp. 473-480.

⁶ Freedman D, Dietz W, Srinivasan S, Berenson G. "The Relation of Overweight to Cardiovascular Risk Factors among Children and Adolescents: The Bogalusa Heart Study." *Pediatrics* 1999, vol. 103, pp. 1175-1182.

- ii. Coffee or tea with no added caloric sweeteners (if condiments are provided, sugars and sugar substitutes may be provided and milk/creamer products, such as whole or two-percent milk, that have less fat than cream);
- iii. Fat-free or 1% low-fat dairy milk or calcium- and vitamin-D-fortified soymilk with less than 200 calories per container;
- iv. 100% fruit juice or fruit juice combined with water or carbonated water (limited to a maximum of 12-ounce container; no added caloric sweeteners);
- v. 100% vegetable juice (limited to a maximum of 12-ounce container, no added caloric sweeteners, and \leq 200 milligrams of sodium per container); and
- vi. Low-calorie beverages that are \leq 40 calories per container.

(2) Food Standards:

- a. 100% of snack foods (and side dishes) must meet all of the following criteria:
 - i. No more than 200 calories per item as offered (per package);
 - ii. No more than 35% calories from fat (which would be no more than 7 grams of fat for a 200 calorie snack, for example) with the exception of packages that contain 100% nuts or seeds; snack mixes that contain components other than nuts and seeds must have no more than 35% of calories from fat;
 - iii. No more than 10% calories from saturated fat (which would be no more than 2 grams of saturated fat for a 200 calorie snack, for example) with the exception of packages that contain 100% nuts or seeds; snack mixes that contain components other than nuts and seeds must have no more than 10% of calories from saturated fat;
 - iv. 0 grams *trans* fat;
 - v. No more than 35% of calories from total sugars and a maximum of no more than 10 grams of total sugars in the product, with the exception of fruits and vegetables that do not contain added sweeteners or fats; and with the exception of yogurt that contains no more than 30 grams of total sugars per 8-ounce container (and adjust proportionally for smaller containers);
 - vi. No more than 200 mg of sodium per item as offered (per package/container); and
 - vii. Each snack food item must contain at least one of the following: 1) a quarter cup of fruit, non-fried vegetable, or fat-free/low-fat dairy, or 2) 1 oz. of nuts or seeds or 1 Tbsp. of nut butter, or 3) at least 50% of

- the grain ingredients are whole grain (determined by the product having whole grain as the first ingredient, from the manufacturer, or if the product has a whole grain claim), or 4) at least 10% of the Daily Value of a naturally occurring nutrient of public health concern (calcium, potassium, vitamin D, or fiber).
- viii. Sugarless chewing gum can be sold without having to meet the above nutrition standards.
- b. 100% of entrée-type foods (e.g., sandwich, pizza, burger) must meet all of the following criteria:
- i. No more than 400 calories per item as offered (per package).
 - ii. No more than 35% calories from fat (which would be no more than 15 grams of fat for a 400 calorie item, for example);
 - iii. No more than 10% calories from saturated fat (which would be no more than 4 grams saturated fat for a 400 calorie entrée-type item, for example);
 - iv. 0 grams *trans* fat;
 - v. No more than 35% of calories from total sugars and a maximum of no more than 15 grams of total sugars in the item;
 - vi. No more than 480 mg of sodium per item as offered; and
 - vii. Each food item must contain at least two of the following: 1) a quarter cup of fruit, non-fried vegetable, or fat-free/low-fat dairy, or 2) 1 oz. of nuts or seeds or 1 Tbsp. of nut butter, or 3) at least 50% of the grain ingredients are whole grain (determined by the product having whole grain as the first ingredient, from the manufacturer, or if the product has a whole grain claim), or 4) at least 10% of the Daily Value of a naturally occurring nutrient of public health concern (calcium, potassium, vitamin D, or fiber).
- c. Point of Purchase (POP) Calorie Labeling
- i. Each vending machine must display the total calorie content for each item as sold, clearly and conspicuously, adjacent or in close proximity to each individual item or its selection button, using a font and format that is at least as prominent, in size, appearance and contrast, as that used to post either the name or price of the item and where it can be seen before the consumer selects items (labeling should be consistent with federal law for calorie labeling of vending machines once in effect).
- d. Five years after enactment of this act and every five years subsequently, the <state> Department of Health, shall review, and if necessary, revise and

update the nutrition standards set forth in (1) and (2) to reflect advancements in nutrition science, dietary data, and new product availability.

Section 3. Applicability of <State> Nutrition Standards

- (1) The <state> Nutrition Standards pursuant to Section 2 shall be applied to all foods and beverages sold through vending machines owned or operated by state agencies and institutions, and on property owned or managed by the state, including but not limited to:
 - a. All <state> government office buildings;
 - b. Road-side rest stops managed or owned by the state;
 - c. State parks and recreation centers;
 - d. State-supported hospitals; and
 - e. State colleges and universities.
- (2) Application of the Standards will be implemented and conducted in accordance with all federal, state, and local laws, including those related to procurement.

Section 4. Enforcement of <state> Nutrition Standards

- (1) The Department of Health (or agency that has responsibility over restaurant inspections) shall coordinate and supervise implementation of this Act and shall address acts of noncompliance. Noncompliance may be discovered by the Department through inspections or other means or through reports made by individuals or organizations. Any vendor who the Department finds has failed to comply with this Act shall be subject to a penalty to be assessed as follows:
 - a. The first violation shall result in a fine paid by the vending machine operator of no less than \$100;
 - b. Subsequent violations shall result in a fine paid by the vending machine operator of no less than \$500; and
 - c. "Habitual violations," which means five or more violations within a six-month period, shall result in a six-month prohibition on the sale of foods and beverages by the vending machine operator within any state facility and a fine of no less than \$1000.
 - d. Revenue collected as a result of the fines in this subsection shall be transferred to the treasury.
 - e. The Department of Health may, by rulemaking, increase the fines prescribed by this Act.
- (2) To assist in the implementation of the <state> Nutrition Standards pursuant to Section 2, Department leadership will designate an appropriate position within the Department to disseminate information and train staff on the Standards to ensure compliance.
 - a. The designated position shall monitor compliance and report back to Department leadership every year on the status of implementation. The report shall include:
 - i. An assessment of Standards compliance;
 - ii. Successes, challenges, and barriers experienced in implementation; and
 - iii. Recommendations for improvement of the Standards and compliance.

- (3) Current vendors will be contacted in order to request transition to the Standards within 6 months of enactment.
- (4) Future procurement and/or contracts shall include a provision stipulating that all beverages and food to be purchased or provided will meet the Standards.
- (5) The Standards must be in effect 24-hours a day.
- (6) The Department shall make the ultimate decision as to whether products to be vended are consistent with the Standards.
- (7) Nothing in this bill shall be construed to require a state agency, institute, property, administrator, or manager to place vending machines on their site.