

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2005-253
SENATE BILL 961**

AN ACT TO ESTABLISH A STATEWIDE STANDARD FOR VENDING PRODUCTS SOLD DURING THE SCHOOL DAY, AS RECOMMENDED BY THE STUDY COMMITTEE FOR CHILDHOOD OVERWEIGHT/OBESITY OF THE HEALTH AND WELLNESS TRUST FUND.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-264 reads as rewritten:

"§ 115C-264. (Effective August 1, 2005) Operation.

(a) In the operation of their public school ~~food~~-nutrition programs, the public schools shall participate in the National School Lunch Program established by the federal government. The program shall be under the jurisdiction of the Division of School ~~Food Support~~, Child Nutrition Services of the Department of Public Instruction and in accordance with federal guidelines as established by the ~~Child Nutrition Division Food and Nutrition Service~~ of the United States Department of Agriculture.

(b) For nutritional purposes, the public schools shall not (i) use cooking oils in their school food programs that contain trans-fatty acids or (ii) sell processed foods containing trans-fatty acids that were formed during the commercial processing of the foods.

~~Each school may, with the approval of the local board of education, sell soft drinks to students so long as soft drinks are not sold (i) during the lunch period, (ii) at elementary schools, or (iii) contrary to the requirements of the National School Lunch Program.~~

(c) All school food services shall be operated on a nonprofit basis, and any earnings therefrom over and above the cost of operation as defined herein shall be used to reduce the cost of food, to serve better food, or to provide free or reduced-price lunches to indigent children and for no other purpose. The term "cost of operation" ~~shall be defined as~~ means the actual cost incurred in the purchase and preparation of food, the salaries of all personnel directly engaged in providing food services, and the cost of nonfood supplies as outlined under standards adopted by the State Board of Education. "Personnel" ~~shall be defined as food service~~ means child nutrition supervisors or directors, bookkeepers directly engaged in food service record keeping and those persons directly involved in preparing and serving food: ~~Provided, that food service food. Child nutrition personnel shall be paid from the funds of food services only for services rendered in behalf of lunchroom services.~~ the child nutrition program. Any cost incurred in the provisions and maintenance of school food services over and beyond the cost of operation shall be included in the budget request filed annually by local boards

of education with boards of county commissioners. Public schools are not required to comply with G.S. 115C-522(a) in the purchase of supplies and food for such school food services."

SECTION 2. Part 2 of Article 17 of Chapter 115C of the General Statutes is amended by adding the following new section to read:

"§ 115C-264.2. Vending machine sales.

(a) Each school may, with the approval of the local board of education, sell to students beverages in vending machines during the school day so long as:

- (1) Soft drinks are not sold (i) during the breakfast and lunch periods, (ii) at elementary schools, or (iii) contrary to the requirements of the National School Lunch Program;
- (2) Sugared carbonated soft drinks, including mid-calorie carbonated soft drinks, are not offered for sale in middle schools;
- (3) Not more than fifty percent (50%) of the offerings for sale to students in high schools are sugared carbonated soft drinks;
- (4) Diet carbonated soft drinks are not considered in the same category as sugared carbonated soft drinks; and
- (5) Bottled water products are available in every school that has beverage vending.

(b) Nothing in subsection (a) of this section prohibits a school from adopting stricter policies with respect to beverage vending.

(c) Snack vending in all schools shall, by school year 2006-2007, meet the Proficient Level of the NC Eat Smart Nutrition Standards, such that in elementary schools, no snack vending is available to students, and in middle and high schools, seventy-five percent (75%) of snack vending products have not more than 200 calories per portion or snack vending package."

SECTION 3. This act becomes effective August 1, 2005, and applies to contracts for vending services executed or renewed on and after that date.

In the General Assembly read three times and ratified this the 28th day of July, 2005.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ Richard T. Morgan
Speaker Pro Tempore of the House of Representatives

s/ Michael F. Easley
Governor

Approved 10:30 a.m. this 5th day of August, 2005