

110TH CONGRESS
1ST SESSION

S. 771

To amend the Child Nutrition Act of 1966 to improve the nutrition and health of schoolchildren by updating the definition of “food of minimal nutritional value” to conform to current nutrition science and to protect the Federal investment in the national school lunch and breakfast programs.

IN THE SENATE OF THE UNITED STATES

MARCH 6, 2007

Mr. HARKIN (for himself, Ms. MURKOWSKI, Mr. DURBIN, Mr. VOINOVICH, Mr. MENENDEZ, Ms. CANTWELL, Mr. LIEBERMAN, Mr. CARPER, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Child Nutrition Act of 1966 to improve the nutrition and health of schoolchildren by updating the definition of “food of minimal nutritional value” to conform to current nutrition science and to protect the Federal investment in the national school lunch and breakfast programs.

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 2007”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) for a school food service program to receive
4 Federal reimbursements under the Child Nutrition
5 Act of 1966 (42 U.S.C. 1771 et seq.) or the Richard
6 B. Russell National School Lunch Act (42 U.S.C.
7 1751 et seq.), school meals served by that program
8 must meet science-based nutritional standards estab-
9 lished by Congress and the Secretary of Agriculture;

10 (2) foods sold individually outside the school
11 meal programs (including foods sold in vending ma-
12 chines, a la carte or snack lines, school stores, and
13 snack bars) are not required to meet comparable nu-
14 tritional standards;

15 (3) in order to promote child nutrition and
16 health, Congress—

17 (A) has authorized the Secretary to estab-
18 lish nutritional standards in the school lunch-
19 room during meal time; and

20 (B) since 1979, has prohibited the sale of
21 food of minimal nutritional value, as defined by
22 the Secretary, in areas where school meals are
23 sold or eaten;

24 (4) Federally-reimbursed school meals and child
25 nutrition and health are undermined by the uneven
26 authority of the Secretary to set nutritional stand-

1 ards throughout the school campus and over the
2 course of the school day;

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

8 (6) the current definition of “food of minimal
9 nutritional value” is inconsistent with current knowl-
10 edge about nutrition and health;

11 (7) because some children purchase foods other
12 than balanced meals provided through the school
13 lunch program established under the Richard B.
14 Russell National School Lunch Act (42 U.S.C. 1751
15 et seq.) and the school breakfast program estab-
16 lished by section 4 of the Child Nutrition Act of
17 1966 (42 U.S.C. 1773), the efforts of parents to en-
18 sure that their children consume healthful diets are
19 undermined;

20 (8) experts in nutrition science have found
21 that—

22 (A) since 1963, rates of obesity have quad-
23 rupled among children ages 6 to 11 and tripled
24 among children ages 12 to 19;

1 (B) since 1971, obesity rates have tripled
2 among children ages 2 to 5;

3 (C) only 2 percent of children eat a healthy
4 diet that is consistent with Federal nutrition
5 recommendations;

6 (D) 3 out of 4 high school students do not
7 eat the minimum recommended number of
8 servings of fruits and vegetables each day; and

9 (E) type 2 diabetes, which is primarily due
10 to poor diet and physical inactivity, is rising
11 rapidly in children;

12 (9) in 1996, children aged 2 to 18 years con-
13 sumed an average of 118 more calories per day than
14 similar children did in 1978, which is the equivalent
15 of 12 pounds of weight gain annually, if not com-
16 pensated for through increased physical activity; and

17 (10) according to the Surgeon General, the di-
18 rect and indirect costs of obesity in the United
19 States are \$117,000,000,000 per year.

20 **SEC. 3. FOOD OF MINIMAL NUTRITIONAL VALUE.**

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

23 (1) by striking the section heading and all that
24 follows through “(a) The Secretary” and inserting
25 the following:

1 **“SEC. 10. REGULATIONS.**

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

3 (2) by striking subsections (b) and (c) and in-
4 serting the following:

5 “(b) FOOD OF MINIMAL NUTRITIONAL VALUE.—

6 “(1) PROPOSED REGULATIONS.—

7 “(A) IN GENERAL.—Not later than 180
8 days after the date of enactment of this para-
9 graph, the Secretary shall promulgate proposed
10 regulations to revise the definition of ‘food of
11 minimal nutritional value’ that is used to carry
12 out this Act and the Richard B. Russell Na-
13 tional School Lunch Act (42 U.S.C. 1751 et
14 seq.).

15 “(B) APPLICATION.—The revised defini-
16 tion of ‘food of minimal nutritional value’ shall
17 apply to all foods sold—

18 “(i) outside the school meal programs;

19 “(ii) on the school campus; and

20 “(iii) at any time during the school
21 day.

22 “(C) REQUIREMENTS.—In revising the
23 definition, the Secretary shall consider—

24 “(i) both the positive and negative
25 contributions of nutrients, ingredients, and
26 foods (including calories, portion size, satu-

1 rated fat, trans fat, sodium, and added
2 sugars) to the diets of children;

3 “(ii) evidence concerning the relation-
4 ship between consumption of certain nutri-
5 ents, ingredients, and foods to both pre-
6 venting and promoting the development of
7 overweight, obesity, and other chronic ill-
8 nesses;

9 “(iii) recommendations made by au-
10 thoritative scientific organizations con-
11 cerning appropriate nutritional standards
12 for foods sold outside of the reimbursable
13 meal programs in schools; and

14 “(iv) special exemptions for school-
15 sponsored fundraisers (other than fund-
16 raising through vending machines, school
17 stores, snack bars, a la carte sales, and
18 any other exclusions determined by the
19 Secretary), if the fundraisers are approved
20 by the school and are infrequent within the
21 school.

22 “(2) IMPLEMENTATION.—

23 “(A) EFFECTIVE DATE.—

24 “(i) IN GENERAL.—Except as pro-
25 vided in clause (ii), the proposed regula-

1 tions shall take effect at the beginning of
2 the school year following the date on which
3 the regulations are finalized.

4 “(ii) EXCEPTION.—If the regulations
5 are finalized on a date that is not more
6 than 60 days before the beginning of the
7 school year, the proposed regulations shall
8 take effect at the beginning of the fol-
9 lowing school year.

10 “(B) FAILURE TO PROMULGATE.—If, on
11 the date that is 1 year after the date of enact-
12 ment of this paragraph, the Secretary has not
13 promulgated final regulations, the proposed reg-
14 ulations shall be considered to be final regula-
15 tions.”.

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