

Date of Hearing: April 9, 2025

ASSEMBLY COMMITTEE ON EDUCATION
Al Muratsuchi, Chair
AB 1264 (Gabriel) – As Amended March 28, 2025

[Note: This bill is double referred to the Assembly Environmental Safety & Toxic Materials Committee and will be heard by that Committee as it relates to issues under its jurisdiction.]

SUBJECT: Pupil nutrition: ultraprocessed food

SUMMARY: Requires the Office of Environmental Health Hazard Assessment (OEHHA) to establish the definition of particularly harmful ultraprocessed foods (UPFs) by July 1, 2026; and prohibits, commencing January 1, 2032, a vendor from offering particularly harmful UPFs to schools. Specifically, **this bill:**

- 1) Requires, no later than January 1, 2028, a school to begin to phase out particularly harmful UPFs.
- 2) Prohibits, beginning January 1, 2032, a vendor from offering particularly harmful UPFs to a school.
- 3) Requires, on or before July 1, 2026, the OEHHA to adopt regulations to define “particularly harmful UPF” that consider all of the following factors:
 - a) Whether the substance or group of substances are banned or restricted in other local, state, federal, or international jurisdictions due to concerns about adverse health consequences;
 - b) Whether the products include or require a warning label in other local, state, federal, or international jurisdictions due to concerns about adverse health consequences;
 - c) Whether, based on reputable peer-reviewed scientific evidence, a substance or group of substances are linked to health harms or adverse health consequences, including, but not limited to, any of the following;
 - i) Cancer;
 - ii) Cardiovascular disease;
 - iii) Metabolic disease;
 - iv) Developmental or behavioral issues;
 - v) Reproductive harm;
 - vi) Obesity;

- vii) Type 2 diabetes; and
 - viii) Other health harms associated with UPF consumption.
- d) Whether, based on reputable peer-reviewed scientific evidence, a substance or group of substances may be hyperpalatable, or may contribute to food addiction; and
- e) Whether the food has been modified to be high in fat, sugar, or salt.
- 4) Requires OEHHA to adopt regulations to update the definition of a particularly harmful UPF every two years to accommodate any relevant advances in scientific knowledge, the development of better agricultural or manufacturing practices, or other changes that require revision of the definition. Requires OEHAA to adopt these regulations in consultation with the State Department of Public Health, the Department of Education (CDE), the University of California, and all appropriate state agencies after providing an opportunity for all interested parties to comment.
- 5) Requires, beginning February 1, 2027, and on an annual basis thereafter, any vendor of food or food products to a school, except cottage food operations, microenterprise home kitchens or small businesses, as defined, to report the following information to the OEHHA for each food product sold to a school in the past calendar year, to the extent it is known to the vendor:
- a) The total quantity of that food product sold to schools;
 - b) The name of the food product;
 - c) Whether the food product is an UPF;
 - d) Whether the food product is a particularly harmful UPF;
 - e) The Global Trade Item Number (GTIN) of the food product, if applicable;
 - f) The category or categories of food to which the food product belongs;
 - g) The average total calories in each food product sold to schools that year;
 - h) The average price charged for each food product sold to schools that year;
 - i) The ingredient list of the food product; and
 - j) The nutritional facts of the food product.
- 6) Requires on or before July 1, 2027, and on an annual basis thereafter, the OEHHA, in consultation with the CDE, using information reported, to submit to the Legislature a written report containing all of the following information:
- a) A summary and analysis of information reported for the prior year;

- b) A summary and analysis of the progress of the UPF phaseout;
 - c) Estimates of the amount of UPF items sold or served to pupils on campus during the schoolday;
 - d) Estimates of the amount of foods that are not UPF items and are sold or served to pupils on campus during the schoolday in elementary, middle, and high schools;
 - e) Estimates of the amount of ultraproprocessed competitive foods sold to pupils on campus during the schoolday in elementary, middle, and high schools;
 - f) Estimates of the portion of the average elementary school, middle school, and high school student's school food intake, in calories, that is composed of UPFs;
 - g) A strategy for reducing the consumption of UPFs and particularly harmful UPFs in schools;
 - h) Analysis of the feasibility of reducing the sale or service of UPFs and particularly harmful UPFs in schools;
 - i) Any actions the OEHHA or the CDE plans to take regarding UPFs and particularly harmful UPFs; and
 - j) Recommendations for state and local legislative actions that could reduce the consumption of UPFs and particularly harmful UPFs in schools.
- 7) Defines "Ultraprocessed food" or "UPF" to mean any food or beverage that contains one or more substances not available in the United States Food and Drug Administration (FDA) Substances Added to Food database but having any of the following FDA-defined technical effects: Surface-active agents, stabilizers and thickeners, propellants, aerating agents, and gases, color and coloring adjuncts, emulsifiers and emulsifier salts, flavoring agents and adjuvants, excluding spices and other natural seasonings and flavorings, flavor enhancers, surface-finishing agents, and non-nutritive sweeteners.
- 8) Defines "Food" to mean all food and beverages intended for sale or to be served to school pupils on campus during the schoolday.
- 9) Defines "Food product" to mean a finished product of food with a unique universal product code (UPC), other than food products reimbursed under programs authorized by the federal Richard B. Russell National School Lunch Act and the federal Child Nutrition Act of 1966, and foods provided by the United States Department of Agriculture Foods in Schools program.
- 10) Defines "School" to mean a high school, middle school, or elementary school, as those terms are defined in Section 49430 of the Education Code, or any public entity that purchases a food product to provide to pupils on campus during the schoolday in an elementary, middle, or high school.

EXISTING LAW:

- 1) Requires, commencing with the 2022–23 school year, all of the following:
 - a) A school district, county superintendent of schools, or charter school maintaining kindergarten or any of grades 1 to 12, inclusive, to provide two school meals free of charge during each schoolday to any pupil who requests a meal, without consideration of the pupil’s eligibility for a federally funded free or reduced-price meal, with a maximum of one free meal for each meal service period, except when it requires family daycare homes to be reimbursed for 75% of the meals served. Requires the meals provided to be nutritiously adequate meals that qualify for federal reimbursement; and
 - b) A local educational agency (LEA) that has a reimbursable school breakfast program to not charge any pupil enrolled in transitional kindergarten, kindergarten, or any of grades 1 to 12, inclusive, any amount for any breakfast served to that pupil, and to provide a breakfast free of charge to any pupil who requests one, without consideration of the pupil’s eligibility for a federally funded free or reduced-price meal. Requires the meals provided free of charge to be nutritiously adequate, and shall count toward the total of two school meals required to be provided each schoolday. (EC 49501.5)
- 2) Requires a school district or charter school that offers nonclassroom-based instruction to meet the requirements for any eligible pupil on any schoolday where the pupil is scheduled for educational activities lasting two or more hours at a schoolsite, resource center, meeting space, or other satellite facility operated by the charter school. (EC 49501.5)
- 3) Requires a school district or county office of education (COE) to provide the same meal to any free or reduced-price eligible pupils as all other pupils. (EC 49557)
- 4) Provides that, from midnight before the start of the schoolday to one-half hour after the schoolday, the only food that may be sold to students as competitive foods include individually-sold dairy or whole grain foods, and individually-sold portions of nuts, nut butters, seeds, eggs, cheese packaged for individual sale, fruit, vegetables that have not been deep fried, and legumes. Prohibits, commencing December 31, 2027, food containing six specified food dye additives (Blue 1; Blue 2; Green 3; Red 40; Yellow 5; and Yellow 6) from being sold to students by school districts, COEs, charter schools, and state special schools. (EC 49431)
- 5) Requires the *food* described above, if sold outside of a USDA meal program at an *elementary school*, to meet all of the following standards:
 - a) Not more than 35% of its total calories shall be from fat. Exempt from this standard are individually sold portions of nuts, nut butters, seeds, eggs, cheese packaged for individual sale, fruit, vegetables that have not been deep fried, or legumes;
 - b) Not more than 10% of its total calories shall be from saturated fat. Exempt from these standards are eggs or cheese packaged for individual sale;
 - c) Not more than 35% of its total weight shall be composed of sugar, including naturally occurring and added sugar. Exempt from this standard are fruits or vegetables that have not been deep-fried; and

- d) Not more than 200 calories per individual food item. (EC 49431)
- 6) Requires, at each *middle school or high school*, a competitive *entrée* sold by the district food service department the day, or the day after it is served on the federal National School Lunch Program (NSLP) or federal School Breakfast Program menu to meet the following standards:
- a) Contains not more than 400 calories per entrée item;
 - b) Not more than 35% of its total calories shall be from fat;
 - c) Contains less than 0.5 grams of trans fat per serving; and
 - d) Is offered in the same or smaller portion sizes as in the federal NSLP or federal School Breakfast Program. (EC 49431.2)
- 7) Provides that, from midnight before the start of the schoolday to one-half hour after the schoolday at an *elementary or middle school*, only the following *beverages* may be sold:
- a) Fruit-based drinks that are composed of no less than 50% fruit juice and have no added sweetener;
 - b) Vegetable-based drinks that are composed of no less than 50% vegetable juice and have no added sweetener;
 - c) Plain water or plain carbonated water; and
 - d) 1%-fat milk, nonfat milk, soy milk, rice milk, and other similar nondairy milk.
 - e) Prohibits, commencing December 31, 2027, beverages containing six specified food dye additives (Blue 1; Blue 2; Green 3; Red 40; Yellow 5; and Yellow 6) from being sold to students by school districts, COEs, charter schools, and state special schools. (EC 49431.5)
- 8) Provides that, from midnight before the start of the schoolday to one-half hour after the schoolday, at a *high school*, only the following *beverages* may be sold:
- a) Fruit-based drinks that are composed of no less than 50% fruit juice and have no added sweetener;
 - b) Vegetable-based drinks that are composed of no less than 50% vegetable juice and have no added sweetener;
 - c) Plain water or plain carbonated water;
 - d) One-percent-fat milk, nonfat milk, soy milk, rice milk, and other similar nondairy milk;

- e) Flavored water or flavored carbonated water with no added sweetener that is labeled to contain less than 5 calories per 8 fluid ounces in a maximum serving size of 20 fluid ounces;
 - f) Flavored water or flavored carbonated water with no added sweetener that is labeled to contain no more than 40 calories per 8 fluid ounces in a maximum serving size of 12 fluid ounces;
 - g) Electrolyte replacement beverages that are labeled to contain less than 5 calories per 8 fluid ounces in a maximum serving size of 20 fluid ounces;
 - h) Electrolyte replacement beverages that are labeled to contain no more than 40 calories per 8 fluid ounces in a maximum serving size of 12 fluid ounces; and
 - i) Prohibits, commencing December 31, 2027, beverages containing six specified food dye additives (Blue 1; Blue 2; Green 3; Red 40; Yellow 5; and Yellow 6) from being sold to students by school districts, COEs, charter schools, and state special schools. (EC 49431.5)
- 9) Prohibits a school or school district from selling food containing artificial trans-fat to K-12 students from midnight before the start of the schoolday to one-half hour after the schoolday. (EC 49431.7)

FISCAL EFFECT: Unknown

COMMENTS:

Need for the bill. According to the author, “AB 1264 is a first-in-the-nation measure that would extend California’s national leadership in food safety and school nutrition by phasing out particularly harmful ultra-processed foods (UPFs) from school meals in California by 2032. AB 1264 would task state scientists – working in cooperation with leading experts from the University of California – with identifying “particularly harmful” UPFs based on scientific research linking them to cancer, cardiovascular disease, metabolic disorders, neurological or behavioral issues, and other health harms. AB 1264 is co-authored by a diverse group of legislators from across the political and ideological spectrum, including Assembly Republican Leader James Gallagher (R-East Nicolaus) and Progressive Caucus Chair Alex Lee (D-San Jose).

Our public schools should not be serving students ultra-processed food products filled with chemical additives that can harm their physical and mental health and interfere with their ability to learn. In California, Democrats and Republicans are joining forces to prioritize the health and safety of our children and we are proud to be leading the nation with a bipartisan, science-based approach. California schools are projected to provide over 1 billion meals this school year and this new legislation will ensure that schools are serving our students the healthy, nutritious meals they need and deserve.”

What does this bill do? This bill requires OEHHA to establish the definition of particularly harmful ultraprocessed foods and prohibits vendors from selling those foods to schools beginning in 2032.

This bill adds to a specified list of foods prohibited from being sold in schools. This list currently includes trans fats, soda, and food dyes.

Governor Newsom's Executive Order. On January 3, 2025, the Governor issued Executive Order N-1-25, directing state agencies to recommend potential actions to limit the harms associated with “ultra-processed foods” and food ingredients that pose a health risk to individuals. In particular, the Governor’s Executive Order directs state agencies to “identify areas where California may adopt higher standards for healthy school meals than national standards” and to “explore developing new standards and partnerships to further protect and expand universal school food programs.” The Executive Order states that “California must continue innovating to reduce the burden of chronic health conditions on all Californians, and particularly our youth” and emphasizes the “critical leadership role California must continue to play in advancing policy, responsive to the latest scientific evidence, that promotes positive health outcomes for all.” Additionally, the Order reports that “experts have estimated that more than 10,000 chemicals are currently authorized for use in the United States as food or color additives or ingredients, while just over 300 food additives are currently authorized for use in the European Union.” The Order mentions how food companies have subverted regulating their ultra-processed food products and continue “to market and sell their products without disclosing to consumers the potential harms their products may cause.”

What are school districts in California doing? According to the Tahoe Truckee Unified School District, “We serve fresh and nourishing food every day. We use locally sourced and organic ingredients whenever possible, and we avoid *highly processed foods*, high fructose corn syrup, chemicals, dyes, and food additives.”

According to the Los Angeles Unified School District, their school menus adhere to the following principles to ensure that every student finds healthy and appealing meal options at school:

- 1) Offer a variety of menu choices, including a daily vegetarian and vegan option, fresh salad, and sandwich options;
- 2) Provide only whole grain-rich products;
- 3) Offer fresh fruits and vegetables daily;
- 4) Offer only antibiotic free chicken;
- 5) Participate in Meatless Mondays, where the menu consists of only vegetarian items on Monday;
- 6) Meals have no more than 30% of total calories from fat, no more than 10% of total calories from saturated fat, and no added trans fats;
- 7) Meals contain no artificial colors, flavors, monosodium glutamate (MSG), nitrates, or sulfites; and
- 8) Use student feedback obtained from student taste-testing of all potential menu items, where only those items with a high student acceptability rating are considered for menu placement.

What does research say about UPFs? Research conducted regarding the potentially addictive nature of UPFs included the following findings:

- Ultra-processed foods high in refined carbohydrates and added fats are highly rewarding, appealing, and consumed compulsively and may be addictive;
- Behaviors around ultra-processed food may meet the criteria for diagnosis of substance use disorder in some people;
- Ultra-processed food addiction is estimated to occur in 14% of adults and 12% of children and is associated with biopsychological mechanisms of addiction and clinically significant problems; and,
- Understanding of these foods as addictive could lead to novel approaches in the realm of social justice, clinical care, and policy approaches. (Gearhardt, 2023)

A meta-analysis on food addiction in children found higher estimates of food addiction observed among children and adolescents with overweight/obesity as compared with lean/normal-weight individuals. Food addiction prevalence estimates were 15% for all samples and 19% for overweight/obese children and adolescents. Thus, targeted interventions may be particularly relevant to children and adolescents with overweight/obesity. (Yekaninejad, 2021)

Another meta-analysis on health outcomes associated with UPFs found greater exposure to UPFs was associated with a higher risk of adverse health outcomes, especially cardiometabolic, common mental disorder, and mortality outcomes. These findings provide a rationale to develop and evaluate the effectiveness of using population based and public health measures to target and reduce dietary exposure to UPFs for improved human health. (Lane, 2024)

Arguments in support. The Center for Food Safety states, “UPFs are not just highly manufactured—they are deliberately engineered to be hyper-palatable. Packed with industrial additives, these products are designed to override the body’s natural hunger cues and encourage overconsumption. Unlike whole or minimally processed foods, UPFs offer little nutritional value while contributing to chronic health conditions including cancer, cardiovascular disease and Type 2 diabetes. Most of these food additives have already been banned by the European Union.

By directing the Office of Environmental Health Hazard Assessment (OEHHA) to identify those UPFs posing the greatest health risk to school aged children, AB 1264 enlists California’s state scientists to identify which additives and combinations of additives pose the greatest risk to children’s health. California has already set the gold standard for food safety and school nutrition through when the legislature enacted AB 418 (Gabriel) and AB 2316 (Gabriel). AB 1264 will build on that foundation, giving our state another opportunity to make California’s children’s health our top priority.”

Arguments in opposition. The Consumer Brands Association states, “While the bill’s intent to improve student nutrition is commendable, it introduces significant financial and administrative burdens on school districts and the State Department of Education and will result in fewer products available, increasing costs and reducing choice. We urge you to reject this well-intentioned but impractical legislation and seek alternative incentive-based solutions that achieve nutritional goals without creating unnecessary costs and hardships.

AB 1264 mandates the categorization and regulation of "ultra-processed" foods, yet fails to clearly define which foods fall under this classification. This ambiguity could result in banning commonly used ingredients in school meal staples such as bread, dairy, and locally grown canned fruits or vegetables. Moreover, with California and the U.S. Department of Agriculture already enforcing strict school nutrition standards, these additional restrictions risk creating unnecessary redundancies and compliance challenges."

Recommended Committee Amendments. Staff recommends the bill be amended to:

- 1) Require OEHHA and CDE to report to the Legislature annually only until 2032 and remove the following reporting elements:
 - a) Estimates of the amount of foods that are not UPF items and are sold or served to pupils on campus during the schoolday in elementary, middle, and high schools; and
 - b) Estimates of the portion of the average elementary school, middle school, and high school student's school food intake, in calories, that is composed of UPFs.
- 2) Require vendors to report to OEHHA only until 2032 and include the following:
 - a) Estimates of the amount of UPF items sold or served to pupils on campus during the schoolday; and
 - b) Estimates of the amount of ultraprocessed competitive foods sold to pupils on campus during the schoolday in elementary, middle, and high schools.
- 3) Prohibit schools from offering particularly harmful UPFs to students after 2035 in the education code.

Related legislation. AB 2316 (Gabriel), Chapter 914, Statutes of 2024, prohibits, commencing December 31, 2027, food containing six specified food dye additives (Blue 1; Blue 2; Green 3; Red 40; Yellow 5; and Yellow 6) from being sold to students by school districts, county offices of education (COEs), charter schools, and state special schools.

AB 418 (Gabriel), Chapter 328, Statutes of 2023, prohibits a person or entity, commencing January 1, 2027, from manufacturing, selling, delivering, distributing, holding, or offering for sale in commerce a food product for human consumption that contains any of the following substances: Brominated vegetable oil (BVO); Potassium bromate; Propylparaben; or, Red dye 3. SB 348 (Skinner), Chapter 600, Statutes of 2023, requires schools to provide students with adequate time to eat following guidelines established by the CDE; makes various conforming changes to the school meal program to implement the free universal school breakfast and lunch program; and, requires the CDE, in partnership with the California School Nutrition Association (CSNA) to develop guidelines to reduce the sugar and sodium content in school meals if the National School Lunch Program allows more added sugar or sodium than is recommended by the most recent Dietary Guidelines for Americans at any time in the future.

SB 651 (Wieckowski) of the 2021-22 Session would have required food that contains synthetic dyes to have the following label: SAFETY WARNING: Synthetic dyes may cause or worsen behavioral problems in children. This bill was held in the Senate Health Committee.

AB 130 (Committee on Budget), Chapter 44, Statutes of 2021, establishes the California Universal Meals Program with changes to the state meal mandate and new requirements for high poverty schools to apply for a federal provision.

AB 1871 (Bonta) Chapter 480, Statutes of 2018, requires charter schools, commencing with the 2019-20 school year, to provide each low-income pupil with one nutritionally adequate free or reduced-price meal during each schoolday.

SB 138 (McGuire) Chapter 724, Statutes of 2017, requires the CDE, in consultation with the State Department of Health Care Services, to develop and implement a process to use Medi-Cal data to directly certify children whose families meet the income criteria into the school meal program; requires school districts and COEs with high poverty schools and high poverty charter schools currently participating in the breakfast or lunch program to provide breakfast and lunch free of charge to all students at those schools; and, authorizes a school district, COE, or charter school to opt-out due to fiscal hardship.

AB 1169 (McGuire), Chapter 280, Statutes of 2016, makes numerous changes to school nutrition standards for competitive food and beverages to better align with the federal Smart Snacks in Schools regulations.

AB 626 (Skinner), Chapter 706, Statutes of 2013, makes numerous changes to school nutrition standards to conform to the federal Healthy and Hunger Free Kids Act (HHFKA), makes changes relative to the use of cafeteria funds, and deletes obsolete provisions.

SB 490 (Alquist), Chapter 648, Statutes of 2007, prohibits schools and school districts, starting July 1, 2009, from making available through vending machines or school food establishments, foods containing artificial trans-fat, as defined, or from using food containing artificial trans-fat in the preparation of a food item served to pupils in grades K-12.

SB 12 (Escutia), Chapter 235, Statutes of 2005, eliminates the pilot program on nutrition standards for competitive foods and instead implements nutrition standards for competitive foods in elementary schools and extends the standards to secondary schools.

SB 19 (Escutia) Chapter 913, Statutes of 2001, establishes a pilot program for nutrition standards for competitive foods for elementary schools and limits the sale of certain beverages at secondary schools.

REGISTERED SUPPORT / OPPOSITION:

Support

A Voice for Choice Advocacy
American Diabetes Association
Breast Cancer Prevention Partners
California Podiatric Medical Association
California School Employees Association
Center for Environmental Health
Center for Food Safety

Center for Science in The Public Interest
Chef Ann Foundation
Cleaneearth4kids.org
Conscious Kitchen
Consumer Federation of America
Consumer Reports Advocacy
Crohns and Colitis Foundation
Eat Real
Environmental Working Group
Food & Water Watch
Foodfight USA
Friends of The Earth - US
Healthy Food America
Indivisible Marin
Los Angeles Community College District
Morgan Hill Unified School District
National Consumers League
The Office of Kat Taylor
United Nurses Associations of California/union of Health Care Professionals

Opposition

Consumer Brands Association

Analysis Prepared by: Chelsea Kelley / ED. / (916) 319-2087