

STATE OF NEW YORK

5750

2021-2022 Regular Sessions

IN ASSEMBLY

February 24, 2021

Introduced by M. of A. DINOWITZ, GOTTFRIED, COOK, GALEF, GLICK,
L. ROSENTHAL, JEAN-PIERRE, PHEFFER AMATO, DICKENS, EPSTEIN, BYRNE --
Multi-Sponsored by -- M. of A. SIMON, STECK -- read once and referred
to the Committee on Governmental Operations

AN ACT to amend the public health law, in relation to enacting the New
York healthy vending act

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. The public health law is amended by adding a new article 18
2 to read as follows:

ARTICLE 18

NEW YORK HEALTHY VENDING ACT

Section 1800. Definitions.

1801. Applicability.

1802. Vending machine requirements.

1803. Enforcement and reports.

1804. Violations and penalties.

10 § 1800. Definitions. For the purposes of this article, the following
11 terms shall have the following meanings:

12 1. "Food and beverage vending machine" means a self-service machine
13 offered for public use that, on insertion of a coin, paper currency,
14 token, card, or key, or by optional manual operation, dispenses servings
15 of food or beverages in bulk or in packages, or prepared by the machine,
16 without the necessity of replenishing the device between each vended
17 operation.

18 2. "Packaged" means bottled, canned, securely bagged, or securely
19 wrapped, whether packaged in a food establishment or a food processing
20 plant.

21 3. "Healthy food or beverage option" means a packaged food or beverage
22 that meets the requirements to be a healthy food option or a healthy

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 beverage option established in section eighteen hundred two of this
2 article.

3 § 1801. Applicability. 1. All food and beverages sold by state agen-
4 cies, including through vending machines located on property owned or
5 leased by the state, shall meet minimum nutrition and procurement stand-
6 ards as set forth in section eighteen hundred two of this article.

7 2. If a food and beverage vending machine is located on state property
8 that has been leased to a private entity, the department shall encourage
9 the tenant to meet the requirements of this article.

10 § 1802. Vending machine requirements. 1. Any packaged snack food and
11 beverage option offered in a food and beverage vending machine shall
12 contain:

13 (a) zero grams of trans fat per serving; and

14 (b) no more than two hundred milligrams of sodium per package.

15 2. At a minimum, seventy-five percent of entree food items must meet
16 the following calorie, sodium, fat, and sugar standards:

17 (a) No more than four hundred calories per package/item;

18 (b) No more than four hundred eighty milligrams of sodium per
19 package/item;

20 (c) No more than thirty-five percent of calories from fat per
21 package/item (one gram fat = nine calories, therefore no more than
22 fifteen grams for a four hundred-calorie item);

23 (d) No more than ten percent of calories from saturated fat per
24 package/item (one gram fat = nine calories, therefore no more than four
25 grams for a four hundred-calorie item);

26 (e) Zero grams trans fat per package/item; and

27 (f) No more than thirty-five percent of calories from total sugars,
28 with a maximum of fifteen grams of total sugars per package/item (one
29 gram sugar = four calories).

30 3. Each entree item must meet at least two of the following positive
31 nutritional value standards:

32 (a) Contain one-fourth cup of fruit, non-fried vegetable, or fat-
33 free/low-fat dairy;

34 (b) Contain one ounce of nuts or seeds or one tablespoon of nut
35 butter;

36 (c) At least fifty percent of the grain ingredients are whole grain;
37 and

38 (d) Contain at least ten percent of the daily value of a naturally
39 occurring nutrient of public health concern (calcium, potassium, vitamin
40 D, or fiber).

41 4. Upon the effective date of this section, at least twenty-five
42 percent of the packaged food and beverage options offered in a food and
43 beverage vending machine shall be healthy food or beverage options.
44 Within two years from the effective date of this section, at least fifty
45 percent of the packaged food and beverage options offered in a food and
46 beverage vending machine shall be healthy food or beverage options.
47 Within three years from the effective date of this section and thereaft-
48 er, at least seventy-five percent of the packaged food and beverage
49 options offered in a food and beverage vending machine shall be healthy
50 food or beverage options.

51 5. The following beverages are considered a healthy beverage option:

52 (a) fat free milk;

53 (b) one percent low fat dairy milk;

54 (c) calcium or vitamin D fortified soy milk with fewer than two
55 hundred calories per container; and

1 (d) packages containing twelve ounces or less of one hundred percent
2 fruit juice, vegetable juice, or fruit juice combined with water, with
3 no added caloric sweeteners and no more than two hundred milligrams of
4 sodium per container.

5 6. Except as provided in subdivision five of this section, a healthy
6 beverage option may not contain more than forty calories per package.

7 7. A healthy food option shall contain:

8 (a) no more than two hundred calories per package;

9 (b) less than thirty-five percent of calories from fat, except for
10 foods containing one hundred percent nuts or seeds;

11 (c) less than ten percent of calories from saturated fat; and

12 (d) no more than thirty-five percent of calories from total sugars,
13 excluding fruits and vegetables with no added calorie sweeteners or fats
14 and yogurt with less than thirty grams of total sugar per eight ounces.

15 8. Sugarless chewing gum and mints are considered a healthy food
16 option.

17 9. A healthy food or beverage option offered for sale in a food and
18 beverage vending machine shall be displayed in a way that is easily
19 visible and distinguishable from foods and beverages that are not
20 considered healthy food or beverage options.

21 10. A healthy food or beverage option shall be stocked in a position
22 with the highest selling potential.

23 11. An operator of a food and beverage vending machine shall post a
24 sign in close proximity to each food or beverage option or the selection
25 button for the food or beverage option that includes a clear and
26 conspicuous statement disclosing the number of calories contained in the
27 food or beverage option if a food or beverage option sold from the vend-
28 ing machine:

29 (a) is packaged in a way that does not allow the prospective purchaser
30 to examine the nutrition facts panel before purchasing the food or
31 beverage; or

32 (b) does not otherwise provide visible nutrition information at the
33 point of purchase.

34 12. This article may not be construed to require a unit of state
35 government to place a food and beverage vending machine on state proper-
36 ty.

37 § 1803. Enforcement and reports. 1. On or before the first of January,
38 two thousand twenty-six, and every five years thereafter, the department
39 shall review and, if necessary, revise and update the requirements for
40 healthy food options and healthy beverage options established in section
41 eighteen hundred two of this article to reflect advancements in nutri-
42 tion science, dietary data, and product availability.

43 2. To enforce this article, the department may:

44 (a) inspect food and beverage vending machines that are subject to
45 this article; and

46 (b) receive reports from persons regarding potential noncompliance
47 with this article.

48 3. The department shall disseminate information and conduct trainings
49 on the requirements of this article.

50 4. On or before the first of January, two thousand twenty-two, and
51 every two years thereafter, the department shall report to the governor
52 on:

53 (a) the implementation of this article, including successes, chal-
54 lenges, and barriers;

55 (b) an assessment of the compliance of food and beverage vending
56 machine operators with this article; and

1 (c) recommendations for improving the healthy food or beverage option
2 standards and food and beverage vending machine operator compliance, if
3 necessary.

4 § 1804. Violations and penalties. 1. A person who violates this arti-
5 cle is subject to:

6 (a) for a first violation, a civil fine of no less than one hundred
7 dollars paid by the food and beverage vending machine operator; and

8 (b) for each subsequent violation, a civil fine of not less than five
9 hundred dollars paid by the food and beverage vending machine operator.

10 2. A person who commits five or more violations within a six month
11 period:

12 (a) may not operate a food and beverage vending machine on state prop-
13 erty; and

14 (b) is subject to a civil fine of not less than one thousand dollars.

15 § 2. This act shall take effect on the one hundred eightieth day after
16 it shall have become a law.