

AN ACT

relating to health education, physical activity, and food products in public primary and secondary schools.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 28.002, Education Code, is amended by amending Subsections (a), (k), and (l) and adding Subsections (1-1), (1-2), and (1-3) to read as follows:

(a) Each school district that offers kindergarten through grade 12 shall offer, as a required curriculum:

(1) a foundation curriculum that includes:

- (A) English language arts;
- (B) mathematics;
- (C) science; and
- (D) social studies, consisting of Texas, United

States, and world history, government, and geography; and

(2) an enrichment curriculum that includes:

- (A) to the extent possible, languages other than English;
- (B) health, with emphasis on the importance of proper nutrition and exercise;
- (C) physical education;
- (D) fine arts;
- (E) economics, with emphasis on the free enterprise system and its benefits;
- (F) career and technology education; and
- (G) technology applications.

(k) The State Board of Education, in consultation with the [Texas] Department of State Health Services and the Texas Diabetes Council, shall develop a diabetes education program that a school district may use in the health curriculum under Subsection

(a)(2)(B).

(l) The State Board of Education, after consulting with educators, parents, and medical professionals, by rule may require a student enrolled in kindergarten or a grade level below grade nine [~~seven in an elementary school setting~~] to participate in daily physical activity as part of a school district's physical education curriculum or through structured activity during a school campus's daily recess, except that the board may not require more than 30 minutes of daily physical activity. If the board adopts rules under this subsection, the board must ensure by rule that students enrolled in middle and junior high school settings are allowed to meet the physical activity requirement by participating in physical activity twice each week throughout the school year or the option to schedule at least two semesters overall. If the board adopts rules

under this subsection, the board must provide for an exemption for:

- (1) any [a] student who is unable to participate in daily physical activity because of illness or disability; and
- (2) a middle school or junior high school student who participates in an extracurricular activity with a physical activity component that is considered a structured activity under rules adopted by the State Board of Education.

(1-1) In adopting rules relating to an activity described by Subsection (l)(2), the State Board of Education may permit an exemption for a student who participates in a school-related activity or an activity sponsored by a private league or club only if the student provides proof of participation in the activity.

(1-2) To encourage school districts to promote physical activity for children through classroom curricula for health and physical education, the agency, in consultation with the Department of State Health Services, shall designate nationally recognized health and physical education program guidelines that a school district may use in the health curriculum under Subsection

(a)(2)(B) or the physical education curriculum under Subsection (a)(2)(C).

(1-3)(1) This subsection may be cited as "Lauren's Law."

(2) The State Board of Education, the Department of State Health Services, or a school district may not adopt any rule, policy, or program under Subsections (a), (k), (l), (1-1), or (1-2) that would prohibit a parent or grandparent of a student from providing any food product of the parent's or grandparent's choice to:

(A) children in the classroom of the child of the parent or grandparent on the occasion of the child's birthday; or

(B) children at a school-designated function.

SECTION 2. Subsection (k), Section 28.004, Education Code, is amended to read as follows:

(k) A school district shall publish in the student handbook and post on the district's Internet website, if the district has an Internet website ~~[make available for reasonable public inspection]~~:

(1) a statement of the policies adopted to ensure that ~~[students in]~~ elementary school, middle school, and junior high school students ~~[grades]~~ engage in at least 30 minutes per school day or 135 minutes per school week of physical activity; and

(2) a statement of:

(A) the number of times during the preceding year the district's school health advisory council has met;

(B) whether the district has adopted and enforces policies to ensure that district campuses comply with agency vending machine and food service guidelines for restricting student access to vending machines; and

(C) whether the district has adopted and enforces policies and procedures that prescribe penalties for the use of tobacco products by students and others on school campuses or at school-sponsored or school-related activities.

SECTION 3. The heading to Section 38.013, Education Code, is amended to read as follows:

Sec. 38.013. COORDINATED HEALTH PROGRAM FOR ELEMENTARY, MIDDLE, AND JUNIOR HIGH SCHOOL STUDENTS.

SECTION 4. Section 38.013, Education Code, is amended by amending Subsections (a) and (a-1) and adding Subsection (c) to read as follows:

(a) The agency shall make available to each school district one or more coordinated health programs designed to prevent obesity, cardiovascular disease, and Type 2 diabetes in elementary school, middle school, and junior high school students. Each program must provide for coordinating:

- (1) health education;
- (2) physical education and physical activity;
- (3) nutrition services; and
- (4) parental involvement.

(a-1) The commissioner by rule shall adopt criteria for evaluating a coordinated health program before making the program available under Subsection (a). Before adopting the criteria, the commissioner shall request review and comment concerning the criteria from the ~~[Texas]~~ Department of State Health Services ~~[Health's]~~ School Health Advisory Committee. The commissioner may make available under Subsection (a) only those programs that meet criteria adopted under this subsection.

(c) The commissioner by rule shall adopt criteria for evaluating the nutritional services component of a program under this section that includes an evaluation of program compliance with the Department of Agriculture guidelines relating to foods of minimal nutritional value.

SECTION 5. The heading to Section 38.014, Education Code, is amended to read as follows:

Sec. 38.014. IMPLEMENTATION OF COORDINATED HEALTH PROGRAM FOR ELEMENTARY, MIDDLE, AND JUNIOR HIGH SCHOOL STUDENTS.

SECTION 6.

Subsection (a), Section 38.014, Education Code, is amended to read as follows:

(a) Each school district shall:

- (1) participate in appropriate training for the implementation of the program approved by the agency under Section 38.013; and
- (2) implement the program in each elementary school, middle school, and junior high school in the district.

SECTION 7. Subchapter A, Chapter 38, Education Code, is amended by adding Section 38.0141 to read as follows:

Sec. 38.0141. REPORTING OF CERTAIN HEALTH AND SAFETY INFORMATION REQUIRED. Each school district shall provide to the agency information as required by the commissioner, including statistics and data, relating to student health and physical activity and information described by Section 28.004(k), presented in a form determined by the commissioner. The district shall provide the information required by this section for the district and for each campus in the district.

SECTION 8. Subsection (a), Section 39.182, Education Code, is amended to read as follows:

(a) Not later than December 1 of each year, the agency shall prepare and deliver to the governor, the lieutenant governor, the speaker of the house of representatives, each member of the legislature, the Legislative Budget Board, and the clerks of the standing committees of the senate and house of representatives with primary jurisdiction over the public school system a comprehensive report covering the preceding school year and containing:

(1) an evaluation of the achievements of the state educational program in relation to the statutory goals for the public education system under Section 4.002;

(2) an evaluation of the status of education in the state as reflected by the academic excellence indicators adopted under Section 39.051;

(3) a summary compilation of overall student performance on academic skills assessment instruments required by Section 39.023 with the number and percentage of students exempted from the administration of those instruments and the basis of the exemptions, aggregated by grade level, subject area, campus, and district, with appropriate interpretations and analysis, and disaggregated by race, ethnicity, gender, and socioeconomic status;

(4) a summary compilation of overall performance of students placed in a disciplinary [an] alternative education program established under Section 37.008 on academic skills assessment instruments required by Section 39.023 with the number of those students exempted from the administration of those instruments and the basis of the exemptions, aggregated by district, grade level, and subject area, with appropriate interpretations and analysis, and disaggregated by race, ethnicity, gender, and socioeconomic status;

(5) a summary compilation of overall performance of students at risk of dropping out of school, as defined by Section 29.081(d), on academic skills assessment instruments required by Section 39.023 with the number of those students exempted from the administration of those instruments and the basis of the exemptions, aggregated by district, grade level, and subject area, with appropriate interpretations and analysis, and disaggregated by race, ethnicity, gender, and socioeconomic status;

(6) an evaluation of the correlation between student grades and student performance on academic skills assessment instruments required by Section 39.023;

(7) a statement of the dropout rate of students in grade levels 7 through 12, expressed in the aggregate and by grade level, and a statement of the completion rates of students for grade levels 9 through 12;

(8) a statement of:

(A) the completion rate of students who enter grade level 9 and graduate not more than four years later;

(B) the completion rate of students who enter grade level 9 and graduate, including students who require more than four years to graduate;

(C) the completion rate of students who enter grade level 9 and not more than four years later receive a high school equivalency certificate;

(D) the completion rate of students who enter grade level 9 and receive a high school equivalency certificate, including students who require more than four years to receive a certificate; and

(E) the number and percentage of all students who have not been accounted for under Paragraph (A), (B), (C), or (D);

(9) a statement of the projected cross-sectional and longitudinal dropout rates for grade levels 9 through 12 for the next five years, assuming no state action is taken to reduce the dropout rate;

(10) a description of a systematic, measurable plan for reducing the projected cross-sectional and longitudinal dropout rates to five percent or less for the 1997-1998 school year;

(11) a summary of the information required by Section 29.083 regarding grade level retention of students and information concerning:

(A) the number and percentage of students retained; and

(B) the performance of retained students on assessment instruments required under Section 39.023(a);

(12) information, aggregated by district type and disaggregated by race, ethnicity, gender, and socioeconomic status, on:

(A) the number of students placed in a disciplinary [am] alternative education program established under Section 37.008;

(B) the average length of a student's placement in a disciplinary [am] alternative education program established under Section 37.008;

(C) the academic performance of students on assessment instruments required under Section 39.023(a) during the year preceding and during the year following placement in a disciplinary [am] alternative education program; and

(D) the dropout rates of students who have been placed in a disciplinary [am] alternative education program established under Section 37.008;

(13) a list of each school district or campus that does not satisfy performance standards, with an explanation of the actions taken by the commissioner to improve student performance in the district or campus and an evaluation of the results of those actions;

(14) an evaluation of the status of the curriculum taught in public schools, with recommendations for legislative changes necessary to improve or modify the curriculum required by Section 28.002;

(15) a description of all funds received by and each activity and expenditure of the agency;

(16) a summary and analysis of the instructional expenditures ratios and instructional employees ratios of school districts computed under Section 44.0071;

(17) a summary of the effect of deregulation, including exemptions and waivers granted under Section 7.056 or 39.112;

(18) a statement of the total number and length of reports that school districts and school district employees must submit to the agency, identifying which reports are required by federal statute or rule, state statute, or agency rule, and a summary of the agency's efforts to reduce overall reporting requirements;

(19) a list of each school district that is not in compliance with state special education requirements, including:

(A) the period for which the district has not been in compliance;

(B) the manner in which the agency considered the district's failure to comply in determining the district's accreditation status; and

(C) an explanation of the actions taken by the commissioner to ensure compliance and an evaluation of the results of those actions;

(20) a comparison of the performance of open-enrollment charter schools and school districts on the academic excellence indicators specified in Section 39.051(b) and accountability measures adopted under Section 39.051(g), with a separately aggregated comparison of the performance of open-enrollment charter schools predominantly serving students at risk of dropping out of school, as defined by Section 29.081(d), with the performance of school districts; [am]

(21) a summary of the information required by Section 38.0141 regarding student health and physical activity from each school district; and

(22) any additional information considered important by the commissioner or the State Board of Education.

SECTION 9. Subchapter D, Chapter 1001, Health and Safety Code, is amended by adding Section 1001.0711 to read as follows:

Sec. 1001.0711. SCHOOL HEALTH ADVISORY COMMITTEE. (a) The commission by rule shall establish a School Health Advisory Committee at the department to provide assistance to the council in establishing a leadership role for the department in support for and delivery of coordinated school health programs and school health services.

(b) The committee shall include at least:

(1) one representative from the Department of Agriculture, appointed by the commissioner of agriculture; and

(2) one representative from the Texas Education Agency, appointed by the commissioner of education.

(c) Section 2110.008, Government Code, does not apply to a committee created under this section.

SECTION 10. Section 38.013, Education Code, as amended by this Act, applies only to approval of a coordinated health program evaluated on or after the effective date of this Act. The Texas Education Agency shall continue to make available to school districts a coordinated health program evaluated and approved before the effective date of this Act under Section 38.013, Education Code, as that section existed before amendment by this Act, until the approval of the program expires as provided by 19 T.A.C. Section 102.1031.

SECTION 11. Except as provided by Section 10 of this Act, this Act applies beginning with the 2006-2007 school year.

SECTION 12. Not later than January 1, 2006, the Health and Human Services Commission shall adopt rules to establish the School Health Advisory Committee as provided by Section 1001.0711, Health and Safety Code, as added by this Act.

SECTION 13. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

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President of the Senate

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Speaker of the House

I hereby certify that S.B. No. 42 passed the Senate on April 21, 2005, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 27, 2005, by the following vote: Yeas 29, Nays 0.

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Secretary of the Senate

I hereby certify that S.B. No. 42 passed the House, with amendments, on May 25, 2005, by the following vote: Yeas 143, Nays 0, one present not voting.

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Chief Clerk of the House

Approved:

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Date

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Governor