SENATE COMMITTEE ON ENVIRONMENTAL QUALITY
Senator Blakespear, Chair
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Urgency:	No	**Fiscal:**	Yes
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SUBJECT: Pupil nutrition: particularly harmful ultraprocessed food: prohibition

DIGEST: This bill requires, on or before July 1, 2026, the Office of Environmental Health Hazard Assessment (OEHHA) to adopt regulations to define "particularly harmful" ultra-processed food (UPF) and prohibits the inclusion of "particularly harmful" ultra-processed food in school meals beginning January 1, 2035.

ANALYSIS:

Existing federal law:

1) Prohibits, pursuant to the federal Food, Drug & Cosmetic Act (FD&C Act), the movement in interstate commerce of adulterated and misbranded food, drugs, devices, and cosmetics. (21 Code of Federal Regulations § 701.3)

Existing state law:

1) Establishes the Sherman Food, Drug, and Cosmetic Law (Sherman Law), which makes it unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any food that is adulterated, as specified. (Health and Safety Code (HSC) § 109875 et. seq.; HSC § 110620)

2) Provides that any food is adulterated if it bears or contains any poisonous or deleterious substance that may render it injurious to the health of humans that may consume it. (HSC § 110545)

3) Defines "food" as any article, including a component of any article, used or intended for use for food, drink, confection, condiment, or chewing gum by man or other animal. (HSC § 109935)

4) Defines "person" as any individual, firm, partnership, trust, corporation, limited liability company, company, estate, public or private institution, association, organization, group, city, county, city and county, political subdivision of this

state, other governmental agency within the state, and any representative, agent, or agency of any of the foregoing. (HSC § 109995)

5) Defines "food additive" as any substance, the intended use of which results or may reasonably be expected to result, directly or indirectly, in the substance becoming a component of the food or otherwise affecting characteristics of the food. This includes any substance or radiation source intended for use in producing, manufacturing, packing, treating, packaging, transporting, or holding any food. (HSC § 109940)

6) Establishes OEHHA in the California Environmental Protection Agency to perform activities related to the assessment of the human health risk of chemicals. (HSC § 59000 et. seq.)

7) Prohibits, under the California Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65), a person, in the course of doing business, from knowingly and intentionally exposing any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual. (HSC § 25249.6)

8) Requires, under Proposition 65, the Governor to publish a list of chemicals known to cause cancer or reproductive toxicity and to annually revise the list. (HSC § 25249.8)

9) Prohibits school meals and beverages from containing six specified food dyes beginning December 31, 2027. (Education Code § 49431 et. seq.)

This bill:

1) Defines "particularly harmful ultraprocessed food" or "particularly harmful UPF" to mean an ultraprocessed food product that is particularly harmful, as determined by regulations adopted by OEHHA.

2) Specifies that "ultraprocessed food" contains one or more of nine specified federal Food and Drug Administration (FDA)-defined technical effects, including, but not limited to surface-active agents, stabilizers, thickeners, propellants, and emulsifiers.

3) Defines various terms such as "category of food", "food", "food product", "public entity", and "school".

4) Requires OEHHA to adopt regulations to define "particularly harmful" UPF by July 1, 2026, considering the following factors:
   a) Whether substances are banned or restricted in other jurisdictions;
   b) Whether the products require a warning label in other jurisdictions;
   c) Whether the substances are linked to adverse health consequences or food addiction based on peer-reviewed scientific evidence; and,
   d) Whether the food has been modified to be high in fat, sugar, or salt.

5) Requires OEHHA to adopt regulations to define "particularly harmful" UPF in consultation with California Department of Public Health (CDPH), the California Department of Education, the University of California, and all appropriate state agencies and update the definition every two years.

6) Authorizes OEHHA to seek information from other states, the federal government, and other nations to inform the implementation of these provisions.

7) Requires a school to begin to phase out particularly harmful UPFs by January 1, 2028.

8) Requires any vendor of food or food products to a school to report specified information regarding each food product sold to a school in the prior year to OEHHA by February 1, 2027, and each year thereafter until February 1, 2032.

9) Requires OEHHA to submit a written report on specified information regarding the phase out of UPFs and particularly harmful UPFs to the Legislature and Governor and post it on its internet website by July 1, 2027, and each year thereafter until July 1, 2032.

10) Prohibits any entity from including "particularly harmful" UPFs in federal National School Breakfast and Lunch Program entrées and competitive entrées, competitive foods, and beverages sold to a pupil at each elementary, middle, and high school beginning July 1, 2035.

11) Specifies that a "nutritionally adequate breakfast" and a "nutritionally adequate lunch" does not include "particularly harmful" UPFs beginning July 1, 2035.

12) Excludes foods provided by the United States Department of Agriculture (USDA) Foods in Schools program in the prohibitions.

13) Makes related findings and declarations.

Background

1) *Identifying processed foods through NOVA*. Food processing can ensure the safety and shelf life of food products as they are transformed from raw components. Over the last several decades, customer expectations have trended towards foods that are more delicious and long-lasting, which frequently leads to the addition of artificial or natural components. Researchers have examined the possible detrimental effects of excessively consuming processed foods on diets and general health, and various systems have been developed for classifying these foods based on processing criteria. The NOVA system (not an acronym) is the most widely used.[1]

   The NOVA classification system divides foods into four primary groups according to the extent of processing. This categorization does not include a breakdown of the nutrients in the foods. According to NOVA, food processing refers to the physical, biological, and chemical procedures that take place following the separation of food from its natural state and prior to its consumption or usage in the making of dishes and meals. NOVA does not account for culinary techniques used in home or restaurant kitchens to prepare food, such as fractioning, cooking, seasoning, and blending different foods or eliminating non-edible components.

   The NOVA system classifies foods into four groups, as described below:

   a) *Group 1: Unprocessed or minimally processed foods*. These foods undergo minimal processing, such as removing inedible parts and applying methods like drying, crushing, and pasteurization without adding chemicals like sugar, salt, or oils. The main goal is to extend the shelf life of unprocessed foods through freezing, drying, or refrigeration while facilitating preparation by altering textures or removing undesirable components. Examples include fresh produce, rice, beans, lentils, meats, eggs, nuts, and spices.

   b) *Group 2: Processed culinary ingredients*. This category includes processed culinary ingredients derived from Group 1 foods or nature through methods like pressing, refining, and grinding. These ingredients are intended to enhance the flavor and preparation of minimally processed foods and are primarily used in kitchens for cooking, seasoning, and preparing Group 1 meals. Examples include salt, sugar, honey, butter, and oils.

[1] Syed, S. A. (2025). The NOVA Method of Food Classification.

c) *Group 3: Processed foods*. The third NOVA group consists of processed foods created by adding sugar, oil, salt, or other Group 2 substances to Group 1 foods. These foods typically feature two or three ingredients. Various preservation and cooking methods are used, including non-alcoholic fermentation, with the primary aim of enhancing the durability and sensory qualities of Group 1 foods. These foods may also contain additives for the purpose of prolonging the quality and safety of the product. Examples include canned vegetables and fruits, baked breads, cheeses, and alcoholic beverages.

d) *Group 4: Ultra-processed food and drink products*. Ultra-processed foods are characterized by industrial formulations with several ingredients. These products often include unusual additives not commonly found in culinary preparations alongside sugars, oils, fats, salt, and preservatives. UPFs typically contain little to no Group 1 components, aiming to mimic or mask the sensory qualities of these foods. These products contain additives and synthetic materials with a cosmetic function to make the product hyper-palatable. NOVA identifies UPFs broadly with the use of 12 additive classes (anti-foaming, foaming, bulking, carbonating, glazing, and gelling agents; thickeners; color; emulsifiers; emulsifying salts; flavor enhancers; and sweeteners). The primary objective of ultra-processing is to create ready-to-eat or drink items, employing industrial techniques like extrusion and molding. These products often feature attractive packaging, and aggressive marketing aimed at children. Examples include carbonated soft drinks, flavored yogurt, ice cream, hot dogs, plant-based meats, instant soups, bread, and distilled alcoholic beverages.

2) *The harms of ultra-processed foods*. Research has demonstrated that excessive consumption of UPFs are associated with a greater risk of disorder, disease and premature death. There have been links between UPFs and obesity, diabetes, hypertension, cancer, depression, and other chronic diseases.[2] The additives of UPFs have been shown to harm good gut bacteria.[3] UPFs tend to have high levels of both carbohydrates and fats, which can increase the addictive potential of these foods.[4]

3) *Governor Newsom's Executive Order on UPFs*. On January 3, 2025, Governor Newsom issued Executive Order N-1-25, which directed a multi-agency investigation and approach to reducing the consumption of UPFs, address food

[2] Levy, R. B., et. al. (2024). How and why ultra-processed foods harm human health.
[3] Zinöcker, M. K., & Lindseth, I. A. (2018). The western diet–microbiome-host interaction and its role in metabolic disease.
[4] Gearhardt, A. N., et. al. (2023). Social, clinical, and policy implications of ultra-processed food addiction.

insecurity, and enhance access to healthier foods, especially in schools. Specifically, regarding the actions assigned to CDPH and OEHHA, the Executive Order requires the agencies to provide recommendations to limit the harms of UPFs, continue assessing the adverse impacts of food dyes, and assess the feasibility of conducting an evaluation of federally reported food additives.

This bill aligns with the intent of this Executive Order, and takes a step further by requiring the agencies to identify particularly harmful UPFs and phasing them out of schools.

4) *Sherman Food, Drug, and Cosmetic Law*. The Sherman Food, Drug, and Cosmetic Law (Sherman Law), administered by the CDPH, ensures that food, drugs, and medical devices are safe and not adulterated, misbranded or falsely advertised, and that drugs and medical devices are effective. CDPH analyzes food, drugs, cosmetics, and other consumer products for chemical adulterations. This bill defines UPFs in the Sherman Law as containing one or more of nine specified substances that have been identified to have technical effects of the 12 additive classes in UPFs. The bill also requires OEHHA to define particularly harmful UPFs within the Sherman Law.

5) *The role of OEHHA.* OEHHA is the lead state agency for the assessment of health risks posed by environmental contaminants. OEHHA's mission is to protect and enhance the health of Californians and our state's environment through scientific evaluations that inform, support and guide regulatory and other actions.

OEHHA implements the Safe Drinking Water and Toxic Enforcement Act of 1986, commonly known as Proposition 65, under which it compiles the state's list of substances that cause cancer or reproductive harm. OEHHA also develops health-protective exposure levels for contaminants in air, water, and soil as guidance for regulatory agencies and the public. In collaboration with CDPH and the Department of Toxic Substances Control, OEHHA implements the Biomonitoring California program, which measures levels of chemicals in the bodies of Californians. OEHHA has conducted scientific risk and exposure assessments for pesticides, climate-related impacts, and synthetic food dyes. The author has indicated that OEHHA's lead agency role in this bill has been motivated by OEHHA's work with evaluating the harms of synthetic food dye on children.

Comments

1) *Purpose of 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 Republican 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."

2) *A broad, yet partial definition of UPF*. The bill in print defines UPF in the Sherman Law, which would apply to all foods, not just school foods. UPF is defined as any food or beverage that contains one or more of nine substances that are classified as FDA technical effects. These technical effects are derived from 12 cosmetic additive classes that are used to identify UPFs under the NOVA classification system.[5] The cosmetic additives are useful indicators of how heavily processed a food might be and the additives are thought to enhance hyper-palatability and food addiction. However, defining UPF solely based on cosmetic additives dressed up as FDA technical effects in the Sherman Law without consideration of the nutritional profiles of each food introduces various complications. It matters what products are targeted by this definition, and whether healthy foods are unintentionally captured by the definition or unhealthy foods are consequently left out. Explanations of how the definition of UPF is broad, yet partial are outlined below:

   a) *A partial NOVA definition*. The definition in print only considers a subset of criteria from the NOVA classification system, though this subset has

[5] Popkin, B. M., et. al. (2024). A policy approach to identifying food and beverage products that are ultra-processed and high in added salt, sugar and saturated fat in the United States: a cross-sectional analysis of packaged foods.

been considered encompassing of nearly all UPFs. Ultra-processed foods are also associated with the use of industrial techniques, chemical modifications of whole foods, highly profitable products, convenience, and high levels of added fat, salt, and sugar.[6] Additionally, the definition of UPF in the bill neglects to include other ingredients under NOVA associated with UPFs, including but not limited to hydrolyzed protein, soy protein isolate, whey protein, maltodextrin, dextrose, hydrogenated oil, high-fructose corn syrup, lactose, and gluten.[5,7] Excluding some of these attributes leaves out foods that are considered ultra-processed under the NOVA definition or are considered generally unhealthy. An experiment that analyzed the contents of over 33 million products from U.S. households found that solely using the NOVA classification system to identify UPFs for policy intervention would leave out nearly 5 million products that are high in added fat, salt, and sugar.[5]

Other states have attempted or passed policies that are more holistic in defining or addressing highly or ultra-processed foods. HB 564 of Massachusetts (Day, 2021) defined "ultra-processed food" as "industrial formulations of food substances never or rarely used in kitchens (such as high-fructose corn syrup, hydrogenated or interesterified oils, and hydrolysed proteins), or classes of additives designed to make the final product palatable, appealing, or preservable (such as [12 additive classes], nitrates, nitrites, and preservatives)." Other states, such as Texas, Kansas, Florida, and Colorado, reference highly processed foods in resolutions, proposed bills, and regulations along with high levels of fat, salt, and sugar; low nutritional value; or low cost.[8]

If a definition of UPF is to be codified, it could consider other characteristics of UPFs in addition to cosmetic additives. A 2024 study on policy approaches to identify UPFs concluded that out of over 33 million products, 100% of UPFs could be identified by their cosmetic additives and if they are high in added fat, salt, and sugar.[5] This could present a more targeted approach if UPF is codified for all foods. ***The author and committee may wish to consider including whether a food is high in added fat, salt, and sugar in the definition of UPF if it applies to all foods.***

Because this definition would apply to all foods, including school foods, the only foods that would apply to OEHHA's definition of "particularly

[6] Monteiro, C. A., et. al. (2019). Ultra-processed foods: what they are and how to identify them.
[7] Martinez-Steele, E., et. al. (2023). Best practices for applying the Nova food classification system.
[8] Pomeranz, J. L., et. al. (2023). US Policies addressing ultraprocessed foods, 1980–2022.

harmful" UPF are foods that are both high in added fat, salt, and sugar, and contain any cosmetic additive associated with UPFs. By state and federal regulations, schools already have requirements regarding the amount of saturated fat, added sugar, and salt in their breakfast foods, lunches, and competitive foods and snacks. As of July 1, 2025, the U.S. Department of Agriculture implemented a Final Rule to align school nutrition requirement standards with the Child Nutrition Programs: Meal Patterns Consistent with the 2020-2025 Dietary Guidelines for Americans regulations. This Final Rule toughens existing requirements for school breakfast and lunch foods, with specified requirements for yogurt, cereal, and milk from 2025 to 2027. It is uncertain to committee staff at this time how these recently implemented regulations will impact OEHHA's evaluation of school foods for the "particularly harmful" UPF designation if the definition of UPF is restricted to the federal definition of foods that are "high" in saturated fat, salt, or added sugar. ***To avoid placing unintended restrictions on OEHHA's ability to evaluate school foods that are considered UPF (but are not high in fats, salts, and sugars), the author and committee may wish to consider adding a broader definition of UPF in Article 5.5 intended specifically for school foods.***

b) *A broad net for nutrition*. While it is an effective classification system, the NOVA approach has limitations for use in policy because it is subjective in nature and lacks precision in targeting harmful foods. The NOVA classification system also does not consider criteria for nutrition, making it a partial framework in targeting unhealthy food groups.[5] Examples of foods that could be considered UPFs but can also be considered nutritious include whole grain bread, granola bars, Greek yogurt, plant-based foods, and alternative meats. Including foods that are considered high in added fat, salt, and sugar in the definition of UPF may distinguish between healthy and unhealthy UPFs. But additional provisions could ensure foods such as these do not get lumped into any policy interventions related to the definition of UPF. *Going forward, the author may wish to consider including criteria that considers the nutrition profile of foods when defining UPF and "particularly harmful" UPF.*

c) *A broad technical effect*. Furthermore, reducing the NOVA classification system and UPF-identifying additives to a handful of FDA technical effects is problematic. The FDA technical effects encompass a variety of substances that are used on healthy foods, though the same technical effects are associated with substances that are indeed UPF additives. For example, the bill identifies the FDA technical effect of "surface-finishing agents" as a substance contained in UPFs. This technical effect was derived from the

UPF additive class of glazing agents. According to federal regulations, surface-finishing agents include glazes, polishes, waxes, and protective coatings for the purpose of increasing palatability, preserving gloss, and inhibiting discoloration of food. Surface-finishing agents can include natural substances like beeswax as well as artificial substances like propylene glycol.[9] Beeswax may be used on fruits and vegetables to preserve the quality of the food, whereas synthetic propylene glycol may be used as a glazing agent in ultra-processed muffins. Defining UPF using solely FDA technical effects place a broad target on various food groups, and could lead to unintended policy consequences. *Going forward, the author may wish to consider specifying the cosmetic additives to define UPF and reference them to federal regulations.*

Furthermore, the negative connotation UPF carries may be conflated with the additives it is defined by. It should be noted, that even if the definition of UPF explicitly listed cosmetic additives without the FDA technical effect, the net cast over potentially nutritious foods will still be broad. For example, whole wheat flour could be used as a thickener in a soup, stew, or sauce. Thickeners are identified as a cosmetic additive and has the FDA technical effect of a stabilizer and thickener. While it can be argued whether whole wheat flour added to a vegetable stew could be associated with UPF-related adverse health impacts, this example demonstrates the nuance in using these terms and a definition for policy intervention should consider the characteristics of UPFs and nutritional value.

d) *A broad implication for all foods*. It is unclear the reason why this bill defines UPF in the Sherman Law, other than for the purpose of current or future policy intervention. Such a definition that targets a broad range of foods ought to balance the science of processed foods and the implications on public health. As the understanding of and science on UPF evolves, a conservative definition that narrows the scope of foods to those that may be considered harmful may be practical in avoiding unintended consequences.

The author and sponsors have indicated that the definition of UPF in statute is meant to set a basis for OEHHA to define "particularly harmful" UPF. If the definition of UPF only applied to provisions related school food, then a less conservative approach could be used since the scope of foods targeted will be narrowed to food served in schools. *Going forward, the author may wish to consider moving the definitions of UPF and "particularly harmful" UPF to Article 5.5 to narrow the scope of foods targeted to only foods*

[9] Martins, F. C., et. al. (2019). Analytical methods in food additives determination: Compounds with functional applications.

served in schools and allow a more stringent evaluation of those foods for the "particularly harmful" designation.

3) *Defining UPF in statute vs. regulation*. As demonstrated in comment #2, the definition of UPF currently in print is partial, yet unintentionally broad. The author's office has indicated that negotiations on the definition of UPF are ongoing, and will likely continue after this hearing, if this bill passes in committee. Regulatory agencies will have more time, resources, and interdisciplinary expertise to clearly define UPF, which will also give more certainty and precision to regulated entities and allow for a more thorough public process.

   The definition of UPF has been shown to evolve and expand over the past couple of decades in literature, with each definition varying to some degree and open to several interpretations.[10] The author acknowledges that even the definition of "particularly harmful" UPF will be subject to change, thus the bill requires OEHHA (in consultation with CDPH, University of California, and other state agencies) to update this definition every two years. Defining UPF in statute would require the Legislature to keep up with the science and run bills to update the definition as necessary. Given the limited capacity and constraints of the Legislature, it would be ideal to have the regulatory agencies define and update the definition of UPF as needed.

   Furthermore, clarity for the definition of UPF and "particularly harmful" UPF is necessary because of the reporting requirements for vendors and subsequent analyses by OEHHA. This bill requires vendors to determine whether the food product sold to schools is a UPF or a "particularly harmful" UPF. Food vendors will also have to determine whether their products are UPFs or non-UPFs. Because many foods contain the specified FDA-technical effects, some foods that are not UPFs may be reported as UPFs. This could lead to an overestimation of what is considered a UPF, and an underestimation of what is not considered a UPF. These skewed outcomes may lead to a misrepresentation and bias in reporting, as OEHHA is required to estimate the amount of food that are not UPF items, and recommend strategies for reducing the consumption of UPFs. Defining both food product groups in regulation could prevent such results. *Going forward, the author may wish to consider requiring OEHHA, in consultation with other regulatory agencies and educational institutions, to define UPF in a regulatory process and update the definition with respect to the science as necessary*.

[10] Gibney, M. J. (2019). Ultra-processed foods: definitions and policy issues.

Alternatively, the author may wish to consider only requiring OEHHA to focus their summaries, analyses, strategies and recommendations on the phase-out of "particularly harmful" UPF.

4) *A comment from the Senate Health Committee*. If the Senate were triple referring bills, this bill would have been referred to a third policy committee, the Senate Committee on Health, to consider the provisions adding definitions of UPF and "particularly harmful UPF" to the Sherman Law. The following comment was provided by the staff of the Senate Committee on Health:

"This bill is intended to determine what kinds of UPF are particularly harmful, and to then prohibit those UPFs from being offered at schools. In doing so, this bill establishes a definition of UPF, in the body of law regulating food, tied to whether or not a product has one or more substances that has an FDA-defined technical effect. Notably, this is not a list of substances, but a listing of categories of effects that different substances have on food. This poses a challenge in determining whether a food product meets the definition of UPF.

For example, calcium chloride is a common additive to canned fruits and vegetables as a "firming agent," to prevent foods from becoming mushy. While "firming agent" is an FDA-defined technical effect, it is not one listed in this bill's definition of UPF, so theoretically a canned vegetable with calcium chloride is not UPF. However, calcium chloride is also sometimes used as a "flavor enhancer" because it is a type of salt, and if used as a flavor enhancer, it would meet the definition of UPF. Is the canned vegetable with calcium chloride UPF, or not? Similarly, citric acid can be used as a preservative, which is not UPF, but it can also be used as a flavor enhancer. Would a product with citric acid be UPF, or not? Additionally, products with these technical effect additives do not always conform to the common definitions of UPF. One of the technical effects that would make a substance UPF under this bill is the use of a "surface-finishing agent," which includes substances used to increase palatability, preserve gloss and inhibit discoloration of foods, including waxes, among other substances. Many whole fruits and vegetables have a thin coating of wax. While this may be processing, most people would not consider whole fruits and vegetables to be "ultra-processed."

Various definitions of UPF, such as the NOVA classification system, are helpful to guide further research and to make broad generalizations, but these definitions were not designed to be a regulatory definition. However, it isn't necessary to define UPF for the whole of the Sherman Law in order to achieve the goal of having OEHHA determine which UPFs are harmful, and to limit those products at schools. The Legislature often defines terms "for purposes of

this section," so that the definition is not extended to other parts of the law. Even though the definition of UPF in this bill is not currently applied to any regulatory requirement other than OEHHA's task to determine which UPFs are particularly harmful, it is still enacting a definition that applies to the whole body of law regulating food. Given the challenges of determining which products this definition would capture, the Legislature may wish to consider whether the definition of UPF should just apply for the purposes of this bill."

5) *Requested author amendments.* Based on ongoing engagement with stakeholders and other members of the Legislature, the author has presented the following amendments to be accepted by the committee:
   a) Exemptions from the definition of UPF to ensure products from agricultural stakeholders or federal programs are not unintentionally looped into the definition of UPF**;**
   b) Exemptions for Class 1 milk products from the definition of UPF;
   c) Exemptions for flavored milk and non-dairy milk from the definition of "particularly harmful" UPF to ensure that students have access to these products**;**
   d) Exemptions for alcoholic beverages including but not limited to non-distilled spirits, liquor, wine, and beer from the definition of UPF;
   e) Exclude natural additives (such as colors or dyes) and surface-finishing agents from the definition of UPF. This ensures natural waxes on produce is excluded and the author has indicated that harmful UPFs that contain surface-finishing agents also contain other cosmetic additives;
   f) Specify that OEHHA will only consider foods served in schools when determining what qualifies as a "particularly harmful" UPF to lower the administrative burden;
   g) Including a petitioning process for stakeholders to add or remove a food or ingredient from the "particularly harmful" UPF category;
   h) Adding the Department of Food and Agriculture to the agencies in consultation with OEHHA in defining "particularly harmful" UPF;
   i) Additional guidelines for OEHHA to ensure rigorous scientific evaluation when defining "particularly harmful" UPF; and,
   j) Technical clean-up amendments.

   The committee may wish to consider adopting the amendments listed above at the author's request.

6) *Contemplating exemptions.* As mentioned in comment #3, the downside of codifying a broad definition of UPF is that it could be subject to change with the passing of bills, and the Legislature would have to vet any proposed exemption or change to the definition on a scientific and policy basis. There

will be no mechanisms to ensure the definition and subsequent exemptions are consistent with the science and Legislators will have to appropriately weigh various trade-offs and considerations. The Legislature should be cautious of any requested exemption for this bill as it moves forward and in any related future legislation.

As an example of the types of trade-offs that should be evaluated when adding exemptions to the UPF definition, consider nonfat flavored milk. The author has made the case that it is more beneficial to student nutrition if they prefer to drink flavored milk than to potentially restrict access by regulating the companies that supply it. There are trade-offs to this, however, and with this exemption, companies that sell flavored milk will have no incentive to remove harmful ingredients or improve their products.

As a specific example of the trade-offs inherent in this exemption, the 'fat free chocolate milk' sold to schools in Southern California by Driftwood Dairy would not be considered a "particularly harmful" UPF. The ingredients of this product contain food additives including artificial flavors, guar gum (stabilizer and thickener), and carrageenan (thickener, stabilizer, emulsifier, and surface-finishing agent).[11] These ingredients are not present in their unflavored milk counterpart. The use of guar gum in low amounts exhibit benefits for digestive processes, however, in high amounts can have harmful, and even deadly impacts.[12,13] The safety of carrageenan is in the early stages of scientific debate and has been associated with inflammatory bowel disease. Research has advised reducing the intake of carrageenan by reducing the consumption of ultra-processed foods.[14] With such an exemption, OEHHA would not have to evaluate the flavored milk products from Driftwood Dairy or other companies that sell to schools, and would not have the opportunity to flag the product as "particularly harmful", if deemed so. Consequently, companies like Driftwood Dairy would not have to assess potentially harmful additives in their products and would have no incentive to improve the safety of their products in the context of UPF health impacts.

There is nuance in the science and nutritional value of these products. Exempting a product with multiple additives that are associated with UPFs and are potentially harmful could defeat the purpose of regulating "particularly harmful" UPFs, as the definition is meant to challenge the status-quo. A stricter

[11] Driftwood Dairy. Nutritional Info.
[12] Mudgil, D., et. al. (2014). Guar gum: processing, properties and food applications—a review.
[13] Lewis, J. H. (1992). Esophageal and small bowel obstruction from guar gum-containing" diet pills": analysis of 26 cases reported to the Food and Drug Administration.
[14] Borsani, B., et. al. (2021). The role of carrageenan in inflammatory bowel diseases and allergic reactions: where do we stand?

policy with fewer exemptions would encourage companies to remove ingredients that might otherwise be deemed "particularly harmful" and replace them with healthier alternatives.

If UPF is codified, these are the types of considerations that would weigh on the Legislature with every proposed exemption or amendment to the UPF definition.

7) *UPFs, equity, and accessibility*. Studies have shown that the intake of ultra-processed foods has generally increased over the past couple of decades and highest in low-income groups and groups with lower levels of education.[15,16] As a result, these groups face a higher risk of chronic diseases associated with high consumption of UPFs.

At the same time, some foods that may be considered ultra-processed but have a nutrient-dense profile may be essential sources of nutritious, affordable, and safe food in areas where access to fresh and minimally processed food is limited. Processing may also modify foods to suit specific dietary needs and cater to globally diverse tastes, cultural preferences and lifestyles.[17]

Regardless of nutritional value, UPFs can carry a negative connotation and the science is very nuanced, thus a loose definition in statute could set a foundation for subsequent legislation that regulates groups of foods that are either healthy or benefit certain communities. For example, stakeholders have raised that tortillas are nutritious and considered a cultural staple to Latino communities, although some brands may be considered ultra-processed. A few years ago, the FDA encouraged manufacturers of tortillas to add folic acid to their products to address health disparities these communities face with regards to birth defects.[18]

While it is important to address the harmful impacts of UPF in communities that are negatively affected, it is also important to consider the public health benefits of foods that fall into this category that provide nutrition and tend to be affordable and accessible. UPF-related policies must be careful not to stigmatize foods communities may benefit from and ensure that there is also work to increase the affordability and accessibility of fresh and healthier foods.

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[15] Dunford, E. K., et. al. (2025). Exploring disparities in the proportion of ultra-processed foods and beverages purchased in grocery stores by US households in 2020.
[16] Juul, F., et. al. (2022). Ultra-processed food consumption among US adults from 2001 to 2018.
[17] Grosso, G. (2024). Ultra-processed foods: the good, the bad and the ugly of food processing.
[18] U.S. Food and Drug Administration. (2024). Fortifying Corn Masa Flour Products with Folic Acid.

8) *A holistic scientific review*. Because this bill seeks to define "particularly harmful" UPF based on factors related to adverse health risks and other aspects related to the content within food, CDPH may be more fitting as the lead agency. The sponsors and author's office have indicated that OEHHA was selected as the lead agency because of their evaluation of synthetic food dyes in 2021. The assessment on synthetic food dyes was funded by the Legislature through the budget and the report sought to understand the impacts of food dyes on the behavior of children. Although OEHHA has expertise in toxicology and evaluating specific chemicals and their health impacts, they may lack the specific knowledge of food manufacture and nutrition required to determine what falls into the category of "particularly harmful" UPF.

   Evaluating food should also involve an evaluation of the nutritional content, and CDPH houses nutritionists and dieticians. Within the Nutrition and Physical Activity Branch under the Division of Chronic Disease and Injury Control, CDPH has a Research, Evaluation, and Special Projects Section that provides research and studies on the consumption of fruit and vegetables, sugary beverages, obesity, and related chronic disease. CDPH will also have familiarity with food manufacturing processes because of their work within the Food Safety Branch. Additionally, CDPH would likely have the tools in place to fulfill the reporting requirements. *Going forward, the author may wish to consider designating CDPH as the lead agency, in consultation with OEHHA, to holistically define "particularly harmful" UPF.*

   Additionally, the dates for implementation require a pretty quick turnaround. Crafting a definition in the regulations will require time for a scientific literature review and public process. Typically, regulations take a few years or more, and with a requirement to update the definition of "particularly harmful" UPF according to evolving science, it is uncertain if the lead agency will be able to provide a clear definition before it is required to update it again. *Going forward, the author may wish to extend the deadline for the initial regulations until January 1, 2028, lengthen the frequency of regulation updates, and modify the phase-out and reporting deadlines accordingly.*

9) *Tracking phase-out progress.* This bill requires OEHHA to provide the Legislature, Governor, and public a report that analyzes the data reported by school food vendors to track the phase-out of "particularly harmful" UPFs in schools. The data in print reported by vendors is prescriptive and specific, which will support OEHHA in their analyses. It is possible that more information may be necessary or desired from vendors to ensure OEHHA has discretion and flexibility in the types of analyses the agency will conduct, especially since they will have to go beyond analyses to recommend strategies

and recommendations. *Going forward, the author may wish to consider allowing OEHHA or the lead agency to add to or modify the list of reporting requirements from school food vendors.*

10) *Committee amendments*. ***Staff recommends the committee adopt the bolded amendments contained in comments 2(a) and 5.***

DOUBLE REFERRAL:
This measure was heard in Senate Committee on Education on July 2, 2025, and passed out of committee with a vote of 7-0.

Related/Prior Legislation

AB 2316 (Gabriel, Chapter 914, Statutes of 2024) prohibited, 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, charter schools, and state special schools.

AB 418 (Gabriel, Chapter 328, Statutes of 2023) prohibited 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 651 (Wieckowski, 2021) 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 set for hearing in the Senate Health Committee, then the hearing was cancelled at the request of the author, and the bill subsequently died on file.

SOURCE: Environmental Working Group
Consumer Reports

SUPPORT:

A Voice for Choice Advocacy
American Academy of Pediatrics, California
American Diabetes Association
Breast Cancer Prevention Partners
California Health Coalition Advocacy
California Medical Association (CMA)

California Podiatric Medical Association
California School Employees Association
Calpirg, California Public Interest Research Group
Center for Environmental Health
Cft- a Union of Educators & Classified Professionals, Aft, Afl-cio
Chef Ann Foundation
Children Now
Conscious Kitchen
Crohns and Colitis Foundation
Dos Pisano's, INC.
Eat Real
Environmental Working Group
Facts Families Advocating for Chemical and Toxics Safety
Fresno Unified School District
Indivisible Marin
Kern County Superintendent of Schools Office
Morgan Hill Unified School District
Office of Kat Taylor
Resource Renewal Institute
San Luis Coastal Unified School District
San Ramon Valley Unified School District
Stand Up California
Stanford Medicine Children's Health
United Nurses Associations of California/union of Health Care Professionals
2 Individuals

OPPOSITION:

Agricultural Council of California
American Beverage Association
American Chemistry Council
American Frozen Foods Institute
American Pistachio Growers
Association of California Egg Farmers
California Apple Commission
California Asian Pacific Chamber of Commerce
California Association of Pest Control Advisers
California Association of Wheat Growers
California Bean Shippers Association
California Black Chamber of Commerce
California Blueberry Commission
California Chamber of Commerce

California Citrus Mutual
California Date Commission
California Farm Bureau
California Farm Labor Contractor Association
California Fresh Fruit Association
California Grain & Feed Association
California Grocers Association
California League of Food Producers
California Manufacturers & Technology Association
California Pear Growers Association
California Rice Commission
California Strawberry Commission
California Walnut Commission
California Wild Rice Advisory Board
Civil Justice Association of California (CJAC)
Consumer Brands Association
Dairy Institute of California
Latino Restaurant Association
Olive Growers Council of California
Olive Oil Commission of California
Pacific Egg & Poultry Association
Ragin Cajun Cafe
San Fernando Valley Regional Black Chamber of Commerce
Thrive Food Bank
United Ag
Western Growers Association

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