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## SENATE COMMITTEE ON APPROPRIATIONS

Senator Anna Caballero, Chair  
2025 - 2026 Regular Session

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### **AB 1264 (Gabriel) - Pupil nutrition: particularly harmful ultraprocessed food: prohibition**

**Version:** July 18, 2025

**Urgency:** No

**Hearing Date:** August 18, 2025

**Policy Vote:** ED. 7 - 0, E.Q. 7 - 0

**Mandate:** Yes

**Consultant:** Lenin Del Castillo

**Bill Summary:** This bill prohibits local educational agencies (LEAs) from selling “particularly harmful ultra-processed food” (UPF) or beverages, beginning July 1, 2035, and also prohibits a vendor from offering these products to schools, beginning January 1, 2032.

#### **Fiscal Impact:**

- The Office of Environmental Health Hazard Assessment (OEHHA) estimates General Fund costs of about \$2.8 million each year for 14.0 positions through 2032, when the vendor reporting requirement sunsets, to perform the research, rulemaking, and oversight activities required by the bill. The OEHHA estimates an additional \$1.0 million in one-time General Fund for contracting dollars to create an IT solution that enables vendor reporting, and \$25,000 (General Fund) annually until the vendor reporting requirement sunsets for operations and maintenance. The OEHHA indicates that this estimate assumes the vendor reporting requirement would require the collection of detailed data from a large number and variety of school districts and vendors, which would be impractical, especially given that the reporting expires after 5 years. Additionally, the exemption process would require processing of an unknown but potentially significant number of exemption requests. The OEHHA believes the fiscal impact would be significantly reduced if the office’s role were focused on identifying particularly harmful UPFs.
- The bill’s prohibition on particularly harmful UPF would essentially require vendors to adapt their food and beverage products offered to schools that do not contain particularly harmful UPFs. This could potentially lead to increased costs for these products, resulting in additional, unknown Proposition 98 cost pressures on school districts that continue to purchase them or decide to purchase other more expensive options. However, until the regulations are developed by the OEHHA that define particularly harmful UPFs or beverages, it is unclear exactly which products or ingredients will be affected.
- The California Department of Education (CDE) estimates General Fund costs of approximately \$751,000 to hire 4.05 additional staff needed to support implementation of the new school nutrition requirements.

**Background:** Existing law restricts the sale of “competitive food” (anything outside of the breakfast or lunch meal programs) in elementary schools and the sale of

“competitive snack” in middle and high schools to fruit, vegetable, dairy, protein, or whole grain rich food items; foods with a fruit, vegetable, dairy, protein, or whole grain item as its first ingredient; or combination foods containing at least one-quarter cup of fruit or vegetable that meets the following standards:

1. Not more than 35% of its total calories shall be from fat, excluding individually sold portions of nuts, nut butters, seeds, seed butters, reduced-fat cheese or part skim mozzarella cheese packaged for individual sale, eggs, fruits, vegetables that have not been deep fried, seafood, or a dried fruit and nut and seed combination.
2. Less than 10% of its total calories shall be from saturated fat, excluding reduced-fat cheese or part skim mozzarella cheese packaged for individual sale, eggs, nuts, nut butters, seeds, seed butters, or a dried fruit and nut and seed combination.
3. Not more than 35% of its total weight shall be composed of sugar, including naturally occurring and added sugar, excluding fruits, vegetables that have not been deep fried, or a dried fruit and nut and seed combination;
4. Contains less than 0.5 grams of trans fat per serving;
5. Contains not more than 200 milligrams of sodium per item, package, or container sold to a student.
6. Contains not more than 200 calories per individual food item.

Existing law prohibits, beginning December 31, 2027, the sale of “competitive food” that contains any of the following substances:

1. Blue 1 (CAS 3844-45-9);
2. Blue 2 (CAS 860-22-0);
3. Green 3 (CAS 2353-45-9);
4. Red 40 (CAS 25956-17-6);
5. Yellow 5 (CAS 1934-21-0); and,
6. Yellow 6 (CAS 2783-94-0).

Existing law also restricts the sale of a “competitive entrée” in middle or high schools, with the same prohibition on specified food dyes beginning December 31, 2027.

**Proposed Law:** This bill requires schools to begin the phase out of particularly harmful UPF by January 1, 2028. It prohibits schools, beginning July 1, 2035, from selling food and beverages that include particularly harmful UPF, as follows:

- a) Prohibits elementary schools from selling entrées served as part of the federal National School Lunch Program and federal School Breakfast

Program and competitive entrees sold by any entity, that contain particularly harmful UPF (excluding USDA commodities).

- b) Prohibits middle schools and high schools from selling entrées served as part of the federal National School Lunch Program and federal School Breakfast Program, competitive entrées sold by any entity, and competitive snacks that contain particularly UPF (excluding USDA commodities).
- c) Prohibits elementary schools, middle schools, and high schools from selling competitive beverages that contain particularly harmful UPF.
- d) Prohibits food containing particularly harmful UPF (excluding USDA commodities) from being considered part of a “nutritionally adequate breakfast” or “nutritionally adequate lunch,” for purposes of meeting the existing requirement to make available a nutritionally adequate breakfast and a nutritionally adequate lunch free of charge during each schoolday to any pupil who requests a meal.
- e) Expressly prohibits a nutritionally adequate breakfast or lunch (excluding USDA commodities) from including particularly harmful UPF.

This bill requires the OEHHA to adopt regulations, by July 1, 2026, to define particularly harmful UPF that consider specified factors, including 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 and whether the products include or require a warning label in other local, state, federal, or international jurisdictions due to concerns about adverse health consequences. The office shall be guided by a rigorous examination of available reputable peer-reviewed scientific evidence and shall consider specified criteria, including the total number of jurisdictions where the substance or product is banned, restricted, or requires a warning label. The bill requires the 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. It also the regulations to be adopted in consultation with the State Department of Public Health, the California Department of Education, the University of California, and all appropriate state agencies, after providing an opportunity for all interested parties to comment. Further, the bill requires the OEHHA to adopt regulations to establish, by January 1, 2028, a petitioning process for the exemption of a food or ingredient from the particularly UPF or particularly harmful UPF designation.

This bill defines UPF as any food or beverage that contains one or more of specified substances, and defines “particularly harmful UPF” as a food or food product that is an ultra-processed food, as defined, sold by an entity to a school that is particularly harmful, as determined by regulations adopted by the OEHHA. The bill provides that particularly harmful UPF or particularly harmful UPF does not include nonfat flavored milk, soy milk, rice milk, almond milk, or other similar nondairy milk, as specified.

This bill prohibits a vendor from offering particularly harmful UPF to a school, beginning January 1, 2032. It also requires any vendor of food or food products to a school to annually report specified 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. The bill would exempt the following from reporting requirements: a cottage food operation that is registered or has a permit pursuant to existing Health and Safety Code statutes; a microenterprise home kitchen, as defined in existing Health and Safety Code statutes; and a small business, as defined in existing Government Code statutes.

This bill requires the OEHHA, in consultation with CDE and using information reported by vendors, to annually submit to the Legislature, by July 1, 2027 through July 1, 2032, a written report containing specified information, including a summary and analysis of information reported by vendors for the prior year and a summary and analysis of the progress of the UPF phase-out required by this bill.

The bill includes definitions of UPF and particularly harmful UPF, as specified, for purposes of this measure.

**Related Legislation:** AB 121 (Committee on Budget, Chapter 8, Statutes of 2025) includes a \$10 million competitive grant program to support the retention and recruitment of food service workers, which includes the extent to which the applicant's plan attempts to reduce or eliminate the use of particularly harmful UPF as part of its eligibility criteria. AB 121 also includes \$5 million for CDE to contract with the Marin County Office of Education for a study of particularly harmful UPF.

**Staff Comments:** Existing law prohibits schools from selling food that contains more than 0.5 grams of trans fat per serving, soda, beverages that contain caffeine, and beginning December 31, 2027, any food or beverage containing specified dyes. Schools generally purchase the bulk of their food from the USDA Foods in Schools program, also known as commodities. They also supplement USDA commodities with food purchased from school meal vendors, who prepare food products for schools in accordance with federal and state nutrition standards, and fresh fruit and vegetables purchased from local farmers. The food served by schools must meet various nutrition standards that are specific to schools. This bill prohibits schools from selling, beginning July 1, 2035, any food or beverage that contains particularly harmful UPF. The bill defines UPF as any food or beverage that contains high amounts of saturated fat, sodium, or added sugar, as defined, and one or more specified substances, and defines "particularly harmful" UPF as an UPF product that is particularly harmful as determined by regulations to be adopted by the OEHHA.

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 (UPF) 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' UPF based on scientific research linking them to cancer, cardiovascular disease, metabolic disorders, neurological or behavioral issues, and other health harms.

"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.”

**-- END --**