

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;

1 (F) career and technology education; and

2 (G) technology applications.

3 (k) The State Board of Education, in consultation with the
4 [~~Texas~~] Department of State Health Services and the Texas Diabetes
5 Council, shall develop a diabetes education program that a school
6 district may use in the health curriculum under Subsection
7 (a)(2)(B).

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

22 (1) any [a] student who is unable to participate in
23 daily physical activity because of illness or disability; and

24 (2) a middle school or junior high school student who
25 participates in an extracurricular activity with a physical
26 activity component that is considered a structured activity under
27 rules adopted by the State Board of Education.

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

6 (1-2) To encourage school districts to promote physical
7 activity for children through classroom curricula for health and
8 physical education, the agency, in consultation with the Department
9 of State Health Services, shall designate nationally recognized
10 health and physical education program guidelines that a school
11 district may use in the health curriculum under Subsection
12 (a)(2)(B) or the physical education curriculum under Subsection
13 (a)(2)(C).

14 (1-3)(1) This subsection may be cited as "Lauren's Law."

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

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

23 (B) children at a school-designated function.

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

26 (k) A school district shall publish in the student handbook
27 and post on the district's Internet website, if the district has an

1 Internet website [~~make available for reasonable public~~
2 ~~inspection~~]:

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

7 (2) a statement of:

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

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

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

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

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

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

25 (a) The agency shall make available to each school district
26 one or more coordinated health programs designed to prevent
27 obesity, cardiovascular disease, and Type 2 diabetes in elementary

1 school, middle school, and junior high school students. Each
2 program must provide for coordinating:

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

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

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

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

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

24 SECTION 6. Subsection (a), Section 38.014, Education Code,
25 is amended to read as follows:

- 26 (a) Each school district shall:
 - 27 (1) participate in appropriate training for the

1 implementation of the program approved by the agency under Section
2 38.013; and

3 (2) implement the program in each elementary school,
4 middle school, and junior high school in the district.

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

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

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

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

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

27 (2) an evaluation of the status of education in the

1 state as reflected by the academic excellence indicators adopted
2 under Section 39.051;

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

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

20 (5) a summary compilation of overall performance of
21 students at risk of dropping out of school, as defined by Section
22 29.081(d), on academic skills assessment instruments required by
23 Section 39.023 with the number of those students exempted from the
24 administration of those instruments and the basis of the
25 exemptions, aggregated by district, grade level, and subject area,
26 with appropriate interpretations and analysis, and disaggregated
27 by race, ethnicity, gender, and socioeconomic status;

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

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

8 (8) a statement of:

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

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

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

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

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

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

27 (10) a description of a systematic, measurable plan

1 for reducing the projected cross-sectional and longitudinal
2 dropout rates to five percent or less for the 1997-1998 school year;

3 (11) a summary of the information required by Section
4 29.083 regarding grade level retention of students and information
5 concerning:

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

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

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

13 (A) the number of students placed in a
14 disciplinary [~~an~~] alternative education program established under
15 Section 37.008;

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

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

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

26 (13) a list of each school district or campus that does
27 not satisfy performance standards, with an explanation of the

1 actions taken by the commissioner to improve student performance in
2 the district or campus and an evaluation of the results of those
3 actions;

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

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

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

13 (17) a summary of the effect of deregulation,
14 including exemptions and waivers granted under Section 7.056 or
15 39.112;

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

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

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

26 (B) the manner in which the agency considered the
27 district's failure to comply in determining the district's

1 accreditation status; and

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

5 (20) a comparison of the performance of
6 open-enrollment charter schools and school districts on the
7 academic excellence indicators specified in Section 39.051(b) and
8 accountability measures adopted under Section 39.051(g), with a
9 separately aggregated comparison of the performance of
10 open-enrollment charter schools predominantly serving students at
11 risk of dropping out of school, as defined by Section 29.081(d),
12 with the performance of school districts; ~~and~~

13 (21) a summary of the information required by Section
14 38.0141 regarding student health and physical activity from each
15 school district; and

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

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

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

26 (b) The committee shall include at least:

27 (1) one representative from the Department of

1 Agriculture, appointed by the commissioner of agriculture; and

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

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

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

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

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

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

David Newkumst
President of the Senate

Jim Caddick
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. _____

Larry Spaw
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. _____

Robert Haney
Chief Clerk of the House

Approved:

17 JUNE '05

Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
2:10 PM O'CLOCK

Roger Williams
Secretary of State