

SENATE BILL 435

Unofficial Copy
Session
F1

2001 Regular
11r1538

By: **Senators Pinsky, Blount, Conway, Dyson, Frosh, Harris, Hollinger,
Kelley, Sfikas, and Van Hollen**
Introduced and read first time: February 2, 2001
Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Captive Audience/Stop Commercialism in Schools Act of 2001**

3 FOR the purpose of requiring county boards of education to develop and adopt certain
4 policies related to marketing and advertising in public schools; creating a
5 certain definition; requiring a county board to submit certain policies to the
6 State Department of Education by a certain date; prohibiting contracts for the
7 exclusive sale of vending machines and certain items; limiting the term of
8 certain contracts; authorizing a county board to impose a certain penalty if a
9 school violates the county's policy regarding student access to vending machines;
10 prohibiting certain advertising on school buses; and generally relating to
11 limiting and prohibiting advertising and marketing in public schools.

12 BY adding to

13 Article - Education

14 Section 7-1101 through 7-1105, inclusive, to be under the new subtitle "Subtitle

15 11. Marketing and Advertising in Schools"

16 Annotated Code of Maryland

17 (1999 Replacement Volume and 2000 Supplement)

18 Preamble

19 WHEREAS, Selling or providing access to a captive audience in the classroom
20 for commercial purposes is a violation of the public trust; and

21 WHEREAS, Students spend 40% of their waking hours in school, guaranteeing
22 a captive audience for advertisers; and

23 WHEREAS, Schools are experiencing increasing financial hardships and are
24 compelled to accept commercial advertisements to receive goods and services
25 otherwise unavailable to the school due to the high cost; and

26 WHEREAS, Students are consuming, throughout the school day, low-nutrient
27 foods purchased from vending machines at school and this trend has been accelerated
28 by the pervasive advertising in school by snack food and beverage companies; and

1 WHEREAS, Maryland has an opportunity to address the issue of commercialism
2 in schools and to release Maryland students from their role as captive audience to
3 commercial interests; now, therefore,

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
5 MARYLAND, That the Laws of Maryland read as follows:

6 **Article - Education**

7 SUBTITLE 11. MARKETING AND ADVERTISING IN SCHOOLS.

8 7-1101.

9 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
10 INDICATED.

11 (B) "MINIMALLY NUTRITIONAL FOODS" MEANS:

12 (1) ANY FOOD OR BEVERAGE THAT CONTAINS, BY WEIGHT OR
13 VOLUME, MORE THAN 40% SUGAR OR OTHER SWEETENING AGENTS OR ANY FOOD PRODUCT
14 COMMONLY REFERRED TO AS "CANDY";

15 (2) ANY BEVERAGE, CARBONATED OR NONCARBONATED, TO WHICH
16 FLAVORING OR SWEETENER HAS BEEN ADDED AND THAT DOES NOT CONTAIN AT
17 LEAST 20% FRUIT JUICE;

18 (3) ANY FOOD PRODUCT THAT DERIVES MORE THAN 40% OF THE
19 CALORIES FROM DIETARY FAT;

20 (4) ANY FOOD PRODUCT COMMONLY REFERRED TO AS "CHEWING
21 GUM" OR "GUM"; AND

22 (5) ANY OTHER FOOD THAT THE COUNTY BOARD DEEMS MINIMALLY
23 NUTRITIONAL.

24 7-1102.

25 (A) A COUNTY BOARD SHALL DEVELOP AND ADOPT POLICIES THAT INCLUDE,
26 BUT ARE NOT LIMITED TO, REQUIRING THAT THE COUNTY BOARD AND SCHOOLS IN
27 THE COUNTY MAY NOT:

28 (1) REQUIRE STUDENTS TO OBSERVE, READ, OR LISTEN TO
29 COMMERCIAL ADVERTISING IN THE CLASSROOM OR FOR SCHOOLWORK COMPLETED
30 OUTSIDE THE SCHOOL, UNLESS THE COMMERCIAL ADVERTISING IS NECESSARY TO
31 THE INSTRUCTION OR SCHOOLWORK;

32 (2) ENTER INTO ANY CONTRACT FOR ELECTRONIC MEDIA SERVICES IF
33 THE TERMS OF THE CONTRACT REQUIRE THE COUNTY BOARD TO PROVIDE
34 STUDENTS' PERSONAL INFORMATION TO THE PROVIDER OF THE SERVICES;

1 (3) ENTER INTO CONTRACTS THAT PROHIBIT EMPLOYEES FROM
2 DISPARAGING THE GOODS OR SERVICES OF THE PARTY CONTRACTING WITH THE
3 SCHOOL;

4 (4) PURCHASE CURRICULUM MATERIALS THAT CONTAIN BRAND
NAMES,
5 LOGOS, OR PROMOTIONAL INFORMATION IN THE CONTENT OF THE CURRICULUM
6 THAT IS IRRELEVANT TO THE LESSON;

7 (5) ALLOW TEACHERS TO USE IDENTIFIABLE BRAND NAMES OR
LOGOS
8 IN THEIR INSTRUCTION, UNLESS THE USE OF THE BRAND NAME OR LOGO IS
9 NECESSARY TO THE INSTRUCTION;

10 (6) ALLOW TEACHERS TO USE ANY CURRICULUM MATERIAL, UNLESS
11 THE COUNTY BOARD HAS DETERMINED THE CURRICULUM TO BE ACCURATE,
12 OBJECTIVE, COMPLETE, AND NONCOMMERCIAL;

13 (7) ALLOW ACCESS BY STUDENTS TO VENDING MACHINES
CONTAINING
14 MINIMALLY NUTRITIONAL FOODS FROM 12:01 A.M. EACH SCHOOL DAY UNTIL THE
15 END OF THE SCHOOL DAY;

16 (8) REQUIRE STUDENTS TO COMPLETE SURVEYS TO PROVIDE
17 MARKETING INFORMATION TO VENDORS;

18 (9) DISTRIBUTE TO VENDORS ANY PERSONAL INFORMATION OF
19 STUDENTS, INCLUDING, BUT NOT LIMITED TO, NAMES, ADDRESSES, AND TELEPHONE
20 NUMBERS;

21 (10) REQUIRE OR ADVISE STUDENTS TO PURCHASE PARTICULAR
BRAND
22 NAME PRODUCTS FOR REQUIRED EDUCATIONAL SUPPLIES; AND

23 (11) REQUIRE STUDENTS TO WEAR UNIFORMS DURING THE ACADEMIC
24 SCHOOL DAY THAT INCLUDE VISIBLE COMMERCIAL LOGOS OR BRAND NAMES.

25 (B) (1) A COUNTY BOARD SHALL DEVELOP AND ADOPT A POLICY THAT
26 PROHIBITS THE COUNTY BOARD OR A SCHOOL FROM ENTERING INTO A CONTRACT
27 FOR ELECTRONIC PRODUCTS OR SERVICES THAT REQUIRE THE DISSEMINATION OF
28 ADVERTISING TO STUDENTS, UNLESS THE COUNTY BOARD:

29 (I) ENTERS INTO THE CONTRACT AT A PUBLIC HEARING OF
THE
30 COUNTY BOARD;

31 (II) MAKES A FINDING THAT THE ELECTRONIC PRODUCTS OR
32 SERVICES PROVIDE AN INTEGRAL COMPONENT OF THE CURRICULUM;

33 (III) MAKES A FINDING THAT THE COUNTY CANNOT AFFORD TO
34 PROVIDE THE ELECTRONIC PRODUCTS OR SERVICES UNLESS THE CONTRACT
35 PERMITS THE DISSEMINATION OF ADVERTISING TO STUDENTS;

1 (IV) PROVIDES WRITTEN NOTICE TO THE PARENTS OR
GUARDIANS
2 OF THE STUDENTS THAT THE ADVERTISING WILL BE USED IN CLASSROOMS AND
3 OTHER LEARNING CENTERS; AND

4 (V) PROVIDES AN OPPORTUNITY FOR THE PARENT OR
GUARDIAN
5 TO REQUEST, IN WRITING, THAT THE STUDENT NOT BE EXPOSED TO THE
6 ADVERTISING.

7 (2) A WRITTEN REQUEST BY A PARENT OR GUARDIAN THAT A
STUDENT
8 NOT BE EXPOSED TO PROGRAMS OR SERVICES THAT INCLUDE ADVERTISING SHALL
9 BE HONORED FOR THE SCHOOL YEAR IN WHICH THE REQUEST IS MADE.

10 (C) A COUNTY BOARD SHALL DEVELOP AND ADOPT A POLICY THAT
11 ENCOURAGES A REDUCTION IN STUDENT CONSUMPTION OF MINIMALLY
12 NUTRITIONAL FOODS ON SCHOOL PREMISES.

13 (D) (1) AFTER CONSULTATION ABOUT COUNTY BOARD POLICIES WITH AN
14 ADVISORY BOARD COMPOSED OF PARENTS, TEACHERS, ADMINISTRATORS, AND ANY
15 OTHER PERSON THE COUNTY BOARD SELECTS, EACH COUNTY BOARD SHALL SUBMIT
16 ITS POLICIES TO THE DEPARTMENT BY AUGUST 1, 2002.

17 (2) EACH COUNTY BOARD SHALL INCLUDE, WITH ITS POLICY:

18 (I) A STATEMENT OF THE TOTAL PROCEEDS COLLECTED IN
THE
19 PRIOR 3 SCHOOL YEARS IN THE COUNTY FROM THE SALE OF PRODUCTS IN VENDING
20 MACHINES; AND

21 (II) A REPORT ON ALL EXPENDITURES MADE IN THE PRIOR 3
22 SCHOOL YEARS USING THE PROCEEDS OF THE SALE OF PRODUCTS IN VENDING
23 MACHINES.

24 7-1103.

25 (A) A COUNTY BOARD OR SCHOOL MAY NOT ENTER INTO AN AGREEMENT
26 WITH A VENDOR TO PROVIDE EXCLUSIVE SALE OF VENDING MACHINES AND
27 PRODUCTS SOLD IN VENDING MACHINES.

28 (B) CONTRACTS FOR VENDING MACHINES AND PRODUCTS SOLD IN VENDING
29 MACHINES SHALL BE FOR A TERM NOT TO EXCEED 3 YEARS.

30 (C) IF A SCHOOL VIOLATES A COUNTY BOARD'S POLICY REGARDING VENDING
31 MACHINE ACCESS BY STUDENTS, THE COUNTY BOARD MAY, AT THE END OF THE
32 EXISTING CONTRACT TERM, PROHIBIT THE SCHOOL FROM ENTERING INTO A NEW
33 CONTRACT.

34 7-1104.

35 A COUNTY BOARD OR SCHOOL MAY NOT POST COMMERCIAL ADVERTISEMENTS
36 OR AUTHORIZE THE POSTING OF COMMERCIAL ADVERTISEMENTS ON THE EXTERIOR
37 OR INTERIOR OF SCHOOL BUSES OWNED OR USED BY THE COUNTY.

1 7-1105.

2 THE DEPARTMENT SHALL ADOPT REGULATIONS NECESSARY TO IMPLEMENT
3 THIS SECTION.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 July 1, 2001.