

AMENDED IN ASSEMBLY MARCH 28, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL

No. 1264

Introduced by Assembly Member Gabriel
*(Coauthors: Assembly Members Bauer-Kahan, Berman, Flora,
Gallagher, Lee, Sanchez, and Wicks)*
(Coauthor: Senator Weber Pierson)

February 21, 2025

An act to add Sections 109991 and 110028 to, and to add Article 5.5 (commencing with Section 110656) to Chapter 5 of Part 5 of Division 104 of, the Health and Safety Code, relating to pupil nutrition.

LEGISLATIVE COUNSEL'S DIGEST

AB 1264, as amended, Gabriel. Pupil ~~nutrition~~: nutrition: *ultraprocessed food*.

Existing law, the Sherman Food, Drug, and Cosmetic Law, provides for the regulation of various subjects relating to the manufacturing, processing, labeling, advertising, and sale of food, drugs, and cosmetics, under the administration and enforcement of the State Department of Public Health. Existing law requires a food additive, preservative, or color additive to be considered unsafe for use with respect to any food unless a regulation is adopted that limits the quantity and the use, or intended use, of the substance. A violation of these provisions is punishable as a misdemeanor.

This bill would define “ultraprocessed food” and would require the Office of Environmental Health Hazard Assessment to adopt regulations on or before July 1, 2026, to define “particularly harmful ultraprocessed food.” The bill would require the office, when defining particularly harmful ultraprocessed food, to consider specified factors, including,

among others, whether, based on reputable peer-reviewed scientific evidence, a substance or group of substances are linked to health harms or adverse health consequences. The bill would require schools to begin to phase out particularly harmful ultraprocessed foods no later than January 1, 2028. Beginning January 1, 2032, the bill would prohibit a vendor from offering particularly harmful ultraprocessed foods to a school.

This bill, beginning February 1, 2027, and annually thereafter, would require a vendor to report specified information to the office for each food product sold to a school in the past calendar year, including, among others, the total quantity of food product sold to schools and whether that food product is an ultraprocessed food or particularly harmful ultraprocessed food. The bill, on or before July 1, 2027, and annually thereafter, would require the office to submit to the Legislature and the Governor a report that contains, among other things, a summary and analysis of the information reported to the office by vendors and recommendations for state and local legislative actions that could reduce the consumption of ultraprocessed foods and particularly harmful ultraprocessed foods in schools.

Because a violation of these provisions would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law requires the State Department of Education to develop and maintain nutrition guidelines for school lunches and breakfasts and for all food and beverages sold on public school campuses.~~

~~This bill would state the intent of the Legislature to enact future legislation limiting the sale of ultraprocessed foods in California schools.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
 State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. *It is the intent of the Legislature to reduce the*
- 2 *consumption of ultraprocessed foods by the children of California,*
- 3 *and to encourage schools and school districts to promote and*

1 *provide healthier options in school meals in advance of the*
2 *compliance dates provided in Section 110657 of the Health and*
3 *Safety Code.*

4 *SEC. 2. Section 109991 is added to the Health and Safety Code,*
5 *to read:*

6 *109991. (a) “Particularly harmful ultraprocessed food” or*
7 *“particularly harmful UPF” means an ultraprocessed food product*
8 *that is particularly harmful, as determined by regulations adopted*
9 *by the Office of Environmental Health Hazard Assessment. On or*
10 *before July 1, 2026, the office shall adopt regulations to define*
11 *particularly harmful ultraprocessed food that consider all of the*
12 *following factors:*

13 *(1) Whether the substance or group of substances are banned*
14 *or restricted in other local, state, federal, or international*
15 *jurisdictions due to concerns about adverse health consequences.*

16 *(2) Whether the products include or require a warning label in*
17 *other local, state, federal, or international jurisdictions due to*
18 *concerns about adverse health consequences.*

19 *(3) Whether, based on reputable peer-reviewed scientific*
20 *evidence, a substance or group of substances are linked to health*
21 *harms or adverse health consequences, including, but not limited*
22 *to, any of the following:*

23 *(A) Cancer.*

24 *(B) Cardiovascular disease.*

25 *(C) Metabolic disease.*

26 *(D) Developmental or behavioral issues.*

27 *(E) Reproductive harm.*

28 *(F) Obesity.*

29 *(G) Type 2 diabetes.*

30 *(H) Other health harms associated with ultraprocessed food*
31 *consumption.*

32 *(4) Whether, based on reputable peer-reviewed scientific*
33 *evidence, a substance or group of substances may be*
34 *hyperpalatable, or may contribute to food addiction.*

35 *(5) Whether the food has been modified to be high in fat, sugar,*
36 *or salt.*

37 *(b) (1) The office shall adopt regulations to update the definition*
38 *of a particularly harmful ultraprocessed food every two years to*
39 *accommodate any relevant advances in scientific knowledge, the*

1 *development of better agricultural or manufacturing practices, or*
2 *other changes that require revision of the definition.*

3 *(2) The office shall adopt these regulations in consultation with*
4 *the State Department of Public Health, the Department of*
5 *Education, the University of California, and all appropriate state*
6 *agencies, after providing an opportunity for all interested parties*
7 *to comment.*

8 *(3) The office may seek information from other states, the federal*
9 *government, and other nations to inform implementation of this*
10 *section.*

11 *SEC. 3. Section 110028 is added to the Health and Safety Code,*
12 *to read:*

13 *110028. “Ultraprocessed food” or “UPF” means any food or*
14 *beverage that contains one or more of the following substances:*

15 *(a) Substances not available in the United States Food and Drug*
16 *Administration (FDA) Substances Added to Food database but*
17 *having any of the following FDA-defined technical effects:*

18 *(1) Surface-active agents, as defined in Section 170.3(o)(29) of*
19 *Title 21 of the Code of Federal Regulations.*

20 *(2) Stabilizers and thickeners, as defined in Section 170.3(o)(28)*
21 *of Title 21 of the Code of Federal Regulations.*

22 *(3) Propellants, aerating agents, and gases, as defined in Section*
23 *170.3(o)(25) of Title 21 of the Code of Federal Regulations.*

24 *(4) Color and coloring adjuncts, as defined in Section*
25 *170.3(o)(4) of Title 21 of the Code of Federal Regulations.*

26 *(5) Emulsifiers and emulsifier salts, as defined in Section*
27 *170.3(o)(8) of Title 21 of the Code of Federal Regulations.*

28 *(6) Flavoring agents and adjuvants, as defined in Section*
29 *170.3(o)(12) of Title 21 of the Code of Federal Regulations,*
30 *excluding spices and other natural seasonings and flavorings as*
31 *listed in Section 182.10 of Title 21 of the Code of Federal*
32 *Regulations.*

33 *(7) Flavor enhancers, as defined in Section 170.3(o)(11) of Title*
34 *21 of the Code of Federal Regulations, excluding spices and other*
35 *natural seasonings and flavorings as listed in Section 182.10 of*
36 *Title 21 of the Code of Federal Regulations.*

37 *(8) Surface-finishing agents, as defined in Section 170.3(o)(30)*
38 *of Title 21 of the Code of Federal Regulations.*

39 *(9) Non-nutritive sweeteners, as defined in Section 170.3(o)(19)*
40 *of Title 21 of the Code of Federal Regulations.*

1 (b) Substances available in the FDA Substances Added to Food
2 database that are designated as having any of the FDA-defined
3 technical effects listed in subdivision (a), excluding spices and
4 other natural seasonings and flavorings, as listed in Section 182.10
5 of Title 21 of the Code of Federal Regulations.

6 SEC. 4. Article 5.5 (commencing with Section 110656) is added
7 to Chapter 5 of Part 5 of Division 104 of the Health and Safety
8 Code, to read:

9
10 Article 5.5. *Ultraprocessed School Food*

11
12 110656. For purposes of this article, the following definitions
13 apply:

14 (a) (1) "Category of food" means the following groups of food:

15 (A) Fruits.

16 (B) Vegetables.

17 (C) Grains.

18 (D) Cereals.

19 (E) Beans, peas, and lentils.

20 (F) Nuts, seeds, and soy products.

21 (G) Beverages.

22 (H) Dairy.

23 (I) Seafood.

24 (J) Poultry.

25 (K) Meat.

26 (L) Eggs.

27 (M) Condiments.

28 (N) Fats and oils.

29 (O) Herbs and Spices.

30 (2) The office, by rule, may expand, clarify, or subdivide the
31 groups of food enumerated in paragraph (1).

32 (b) "Food" means all food and beverages intended for sale or
33 to be served to school pupils on campus during the schoolday.

34 (c) "Food product" means a finished product of food with a
35 unique universal product code (UPC), other than food products
36 reimbursed under programs authorized by the federal Richard B.
37 Russell National School Lunch Act (Public Law 113-79) and the
38 federal Child Nutrition Act of 1966 (42 U.S.C. Sec. 1771 et seq.),
39 and foods provided by the United States Department of Agriculture
40 Foods in Schools program.

1 (d) “Office” means the Office of Environmental Health Hazard
2 Assessment.

3 (e) “Public entity” means the state, county, city, city and county,
4 district, public authority, public agency, municipal corporation,
5 or any other political subdivision or public corporation in the
6 state.

7 (f) “School” means a high school, middle school, or elementary
8 school, as those terms are defined in Section 49430 of the
9 Education Code, or any public entity that purchases a food product
10 to provide to pupils on campus during the schoolday in an
11 elementary, middle, or high school.

12 (g) “Schoolday” has the same meaning as in Section 49430 of
13 the Education Code.

14 110657. (a) No later than January 1, 2028, a school shall
15 begin to phase out particularly harmful UPFs.

16 (b) Beginning January 1, 2032, a vendor shall not offer
17 particularly harmful UPFs to a school.

18 110658. (a) Beginning February 1, 2027, and on an annual
19 basis thereafter, any vendor of food or food products to a school
20 shall report the following information to the office for each food
21 product sold to a school in the past calendar year, to the extent it
22 is known to the vendor:

23 (1) The total quantity of that food product sold to schools.

24 (2) The name of the food product.

25 (3) Whether the food product is an ultraprocessed food.

26 (4) Whether the food product is a particularly harmful
27 ultraprocessed food.

28 (5) The Global Trade Item Number (GTIN) of the food product,
29 if applicable.

30 (6) The category or categories of food to which the food product
31 belongs.

32 (7) The average total calories in each food product sold to
33 schools that year.

34 (8) The average price charged for each food product sold to
35 schools that year.

36 (9) The ingredient list of the food product.

37 (10) The nutritional facts of the food product.

38 (b) The requirements of subdivision (a) do not apply to:

39 (1) A cottage food operation that is registered or has a permit
40 pursuant to Section 114365.

1 (2) A microenterprise home kitchen, as defined in Section
2 113825.

3 (3) A small business, as defined under Section 14837 of the
4 Government Code.

5 110658.5. (a) On or before July 1, 2027, and on an annual
6 basis thereafter, the office, in consultation with the Department
7 of Education and using information reported pursuant to Section
8 110658, shall submit to the Legislature a written report containing
9 all of the following information:

10 (1) A summary and analysis of information reported pursuant
11 to Section 110658 for the prior year.

12 (2) A summary and analysis of the progress of the UPF phaseout
13 required by this article.

14 (3) Estimates of the amount of ultraprocessed food items sold
15 or served to pupils on campus during the schoolday.

16 (4) Estimates of the amount of foods that are not ultraprocessed
17 food items and are sold or served to pupils on campus during the
18 schoolday in elementary, middle, and high schools.

19 (5) Estimates of the amount of ultraprocessed competitive foods
20 sold to pupils on campus during the schoolday in elementary,
21 middle, and high schools.

22 (6) Estimates of the portion of the average elementary school,
23 middle school, and high school student's school food intake, in
24 calories, that is composed of ultraprocessed foods.

25 (7) A strategy for reducing the consumption of ultraprocessed
26 foods and particularly harmful ultraprocessed foods in schools.

27 (8) Analysis of the feasibility of reducing the sale or service of
28 ultraprocessed foods and particularly harmful ultraprocessed
29 foods in schools.

30 (9) Any actions the office or the Department of Education plans
31 to take regarding ultraprocessed foods and particularly harmful
32 ultraprocessed foods.

33 (10) Recommendations for state and local legislative actions
34 that could reduce the consumption of ultraprocessed foods and
35 particularly harmful ultraprocessed foods in schools.

36 (b) A report to be submitted to the Legislature pursuant to
37 subdivision (a) shall be submitted in compliance with Section 9795
38 of the Government Code.

39 (c) The office shall annually submit the report prepared pursuant
40 to subdivision (a) to the Governor.

1 (d) The office shall make the report prepared pursuant to
2 subdivision (a) publicly available on its internet website.

3 110659. This article does not prohibit a public entity from
4 voluntarily enacting more stringent restrictions on ultraprocessed
5 foods or particularly harmful ultraprocessed foods.

6 SEC. 5. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.

15 ~~SECTION 1. It is the intent of the Legislature to enact future~~
16 ~~legislation limiting the sale of ultraprocessed foods in California~~
17 ~~schools.~~