



State of Wisconsin  
2009 - 2010 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 2,  
TO 2009 ASSEMBLY BILL 620**

February 9, 2010 – Offered by Representative BENEDICT.

1     **AN ACT** *to amend* 119.04 (1); and *to create* 118.074 and 118.076 of the statutes;  
2             **relating to:** physical fitness assessments, school nutrition, and granting  
3             rule-making authority.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

4             **SECTION 1.** 118.074 of the statutes is created to read:

5             **118.074 Assessment of pupil physical fitness.** (1) Beginning in the  
6             2010–11 school year, every school board, the operator of every charter school under  
7             s. 118.40 (2r), and the governing body of every private school shall do all of the  
8             following:

9             (a) Except as provided in sub. (2), annually assess the physical fitness of each  
10            pupil enrolled in grades 3 to 8, and assess the physical fitness of each pupil enrolled  
11            in the high school grades at least once in each of 3 different school years. The

1 assessment shall include an evaluation of the aerobic capacity of each pupil based  
2 upon criterion-referenced standards specific to age and sex and the physical fitness  
3 level required for good health.

4 (b) Provide to each pupil, and to the parent or guardian of each pupil, a copy  
5 of the results of the pupil's physical fitness assessment under par. (a).

6 (c) Annually report the results of the physical fitness assessments conducted  
7 under par. (a) to the department. The report may not contain the names of individual  
8 pupils.

9 **(2)** (a) The requirement under sub. (1) (a) does not apply to a pupil for whom  
10 an assessment is inappropriate, as determined by the state superintendent by rule.

11 (b) The state superintendent shall promulgate rules to implement and  
12 administer this section, including all of the following:

13 1. Criteria to determine when an assessment required under sub. (1) (a) is  
14 inappropriate for, or should not be administered to, a pupil.

15 2. The assessment instrument to be used in an assessment required under sub.  
16 (1) (a).

17 **SECTION 2.** 118.076 of the statutes is created to read:

18 **118.076 School nutrition.** (1) In this section:

19 (a) "Bottled drinking water" has the meaning given in s. 97.34 (1) (a).

20 (b) "Candy" means any food item that has brown sugar, corn sweetener, corn  
21 syrup, dextrose, fructose, fruit juice concentrates, glucose, high-fructose corn syrup,  
22 honey, invert sugar, lactose, maltose, malt syrup, molasses, raw sugar, sucrose,  
23 sugar, or syrup, listed first or second in the list of ingredients.

24 (c) "Lowfat milk" has the meaning given in s. 97.01 (10) (b).

25 (d) "Milk" means lowfat milk and skim milk.

1 (e) “Skim milk” has the meaning given in s. 97.01 (10) (c).

2 (f) “Soda water beverage” has the meaning given in s. 97.34 (1) (b).

3 (g) “Vending machine” means any self-service device that, upon insertion of  
4 coins or currency, or by other means, dispenses unit servings of food or beverage,  
5 without the necessity of replenishing the device between each vending operation.

6 (2) (a) Except as provided in par. (c), no school board, operator of a charter  
7 school under s. 118.40 (2r), or governing body of a private school may sell candy, or  
8 allow the sale of candy from a vending machine or by any vendor, at school or on  
9 school grounds.

10 (b) Except as provided in par. (c), no school board, operator of a charter school  
11 under s. 118.40 (2r), or governing body of a private school may sell any beverage other  
12 than the following, or allow the sale of any beverage other than the following from  
13 a vending machine or by any vendor, at school or on school grounds:

14 1. Bottled drinking water.

15 2. Lowfat milk to which no flavoring has been added.

16 3. Skim milk to which no flavoring has been added.

17 4. Skim milk to which flavoring has been added if all of the following apply:

18 a. The skim milk contains less than 22 grams of total sugar per 8 ounce  
19 container.

20 b. The skim milk does not contain any artificially synthesized sugar  
21 substitutes.

22 5. One hundred percent fruit juice.

23 6. One hundred percent vegetable juice.

24 7. A blend of the beverages in subds. 5. and 6.

25 8. Soda water beverages containing no more than 40 calories per container.

1 (c) 1. Beginning 30 minutes after the end of the school day and until the school  
2 is closed for the night, candy and soda water beverages may be sold by a school board,  
3 operator of a charter school under s. 118.40 (2r), governing body of a private school,  
4 or vendor at school or on school grounds.

5 2. Beginning 30 minutes after the end of the school day and until the school is  
6 closed for the night, soda water beverages that contain at least 10 percent natural  
7 fruit or vegetable juice may be sold from a vending machine located at school or on  
8 school grounds.

9 **(3)** Every school board, the operator of every charter school under s. 118.40 (2r),  
10 and the governing body of every private school shall do all of the following:

11 (a) With the exception of food sold or distributed through the programs under  
12 ss. 115.34, 115.341, 115.343, and 115.345, ensure that all food sold at school or on  
13 school grounds on a school day satisfies the following minimum standards:

14 1. Except for nuts, seeds, milk, and cheese, no more than 35 percent of the total  
15 calories of the food come from fat.

16 2. Except for milk and cheese, no more than 10 percent of the total calories of  
17 the food come from saturated fats.

18 (b) Encourage the consumption by pupils of whole grains, fresh fruits, and fresh  
19 vegetables.

20 (c) To the extent practicable, when serving or providing to pupils food that  
21 contains fats, serve and provide foods that contain polyunsaturated or  
22 monounsaturated fats rather than saturated fats or trans-fatty acids.

23 (d) Encourage parent teacher organizations, school clubs, school teams, and  
24 other school groups conducting fund raising in which the sale of food is involved to

1 follow the standards, policies, and requirements established in pars. (a), (b), and (c)  
2 and sub. (2).

3 **SECTION 3.** 119.04 (1) of the statutes, as affected by 2009 Wisconsin Acts 60 and  
4 96, is amended to read:

5 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),  
6 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343,  
7 115.345, 115.361, 115.365 (3), 115.38 (2), 115.445, 115.45, 118.001 to 118.04, 118.045,  
8 118.06, 118.07, 118.074, 118.075, 118.076, 118.10, 118.12, 118.125 to 118.14, 118.145  
9 (4), 118.15, 118.153, 118.16, 118.162, 118.163, 118.164, 118.18, 118.19, 118.20,  
10 118.225, 118.24 (1), (2) (c) to (f), (6) and (8), 118.255, 118.258, 118.291, 118.30 to  
11 118.43, 118.51, 118.52, 118.55, 120.12 (5) and (15) to (25), 120.125, 120.13 (1), (2) (b)  
12 to (g), (3), (14), (17) to (19), (26), (34), (35), (37), (37m), and (38), 120.14, 120.21 (3),  
13 and 120.25 are applicable to a 1st class city school district and board.

14 **SECTION 4. Nonstatutory provisions.**

15 (1) No school board, operator of a charter school under section 118.40 (2r) of the  
16 statutes, or operator of a private school, as defined under section 115.001 (3r) of the  
17 statutes, may enter into, modify, or renew a contract with a vending machine  
18 operator or a vendor unless the terms of the contract in effect on July 1, 2012, comply  
19 with the requirements of section 118.076 (2) and (3) of the statutes, as created by this  
20 act.

21 **SECTION 5. Effective dates.** This act takes effect on the day after publication,  
22 except as follows:

23 (1) The treatment of section 118.076 of the statutes takes effect on July 1, 2012.

24

(END)