



# HOUSE BILL 136: Encourage Healthy NC Food in Schools.

2021-2022 General Assembly

---

<b>Committee:</b>	House Agriculture. If favorable, re-refer to Rules, Calendar, and Operations of the House	<b>Date:</b>	March 17, 2021
<b>Introduced by:</b>	Reps. Howard, Elmore, Setzer, Dixon	<b>Prepared by:</b>	Chris Saunders
<b>Analysis of:</b>	First Edition		Committee Co-Counsel

---

**OVERVIEW:** *House Bill 136 would require that 100% muscadine grape juice be made available in every public school in the State as well as each community college and constituent institution of The University of North Carolina in the State. The bill would also direct the Department of Agriculture to include fruit and products derived from fruit to the list of fruits and fruit products made available to school nutrition programs through the Farm to School Program if certain conditions are met.*

## **CURRENT LAW:**

**No Transfatty-Acids:** School food programs cannot use cooking oils that contain trans-fatty acids or sell processed foods containing trans-fatty acids that were formed during the processing of the foods.

**Preference for High-Calcium Foods and Beverages:** Local boards of education (local board) must give preference to in purchasing contracts to high-calcium foods and beverages which are foods and beverages that contain a higher level of calcium and that are equal or lower in price than other products of the same type or quality. If a high-calcium food or beverage would interfere with the proper treatment and care of an individual receiving services from the public school food program, the local board is not required to purchase the item for that individual.

**Vending Machine Sales:** With the approval of the local board, each school may sell beverages to students in vending machines during the school day as long as:

- Soft drinks are not sold: (i) during the breakfast and lunch periods; (ii) at elementary schools; or (iii) contrary to the requirements of the National School Lunch Program.
- Sugared carbonated soft drinks are not offered for sale in middle school.
- Not more than 50% of the offering for sale to students in high schools are sugared carbonated soft drinks.
- Bottled water products are available in every school that has beverage vending.

Schools can adopt stricter policies for beverage vending if they so choose.

Elementary schools cannot have any snack vending available to students. For middle and high school, 75% of snack vending products cannot have more than 200 calories per portion or snack vending package.

**Local Preference for Produce in Schools:** Local boards may develop and implement policies and procedures to facilitate and maximize purchases of food grown or raised in North Carolina including allowing a percentage price preference for the purpose of procuring food grown or raised within the State. Price percentage preference means the percent by which a responsive bid from a bidder whose product is

Jeffrey Hudson  
Director



Legislative Analysis  
Division  
919-733-2578

# House Bill 136

Page 2

grown or raised in NC may exceed the lowest responsive bid submitted by a bidder whose product is not grown or raised in the State.

## **BILL ANALYSIS:**

### **PART I**

Public Schools: The bill would direct the State Board of Education (SBE) to ensure that 100% muscadine grape juice (juice) is available to students in public schools throughout the State as a part of the schools' nutrition program or through the operation of the school's vending facilities. This would include schools in the Innovative School District and the residential schools for the visually and hearing impaired.

The bill would specifically direct the following entities to ensure that the juice is made available to all students as a part of the nutrition program or through vending facilities at each school:

- Local boards of education
- Charter schools
- Regional Schools
- Laboratory Schools operated by The University of North Carolina

NC Community Colleges: The board of trustees of each community college would be required to make the juice available as a beverage option in the operation of the community college's vending facilities.

Constituent Institutions of The University of North Carolina: Each constituent institution would be required to make the juice available as a beverage option in the operation of the institution's vending facilities.

### **PART II**

The bill would direct the Food Distribution Division of the Department of Agriculture and Consumer Services (Department) to revise its bidding, procurement, and ordering procedures for the Farm to School Program (Program) by December 1, 2021, to include fruit and products derived from fruit to the list of fruit and fruit products made available to school nutrition programs through the Program when the fruit or fruit product meets certain requirements. These requirements are:

- The producer of the fruit or fruit product is a participant in the Department's "Got To Be NC" marketing program.
- The fruit or fruit product meets all of the requirements for nutrition and packaging of foods supplied to school nutrition programs.

The Department would provide an interim report by September 1, 2021 on the implementation of this act and provide a final report by January 1, 2022, to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division of the General Assembly.

**EFFECTIVE DATE:** The bill would become effective when it becomes law. The requirements for public schools to make the juice available apply beginning with the 2021-2022 school year and the requirements for the community colleges and the constituent institutions to make the juice available apply beginning with the 2021-2022 academic year.

*Drupti Chauhan, counsel to the House Education K-12 Committee, substantially contributed to this summary.*