

By: Eissler

H.B. No. 1257

A BILL TO BE ENTITLED

AN ACT

relating to physical activity requirements and physical fitness  
assessment for certain public school students.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 28.002(1) and (1-1), Education Code,  
are amended to read as follows:

(1) A school district shall ~~[The State Board of Education,~~  
~~after consulting with educators, parents, and medical~~  
~~professionals, by rule may]~~ require a student enrolled in  
kindergarten or a grade level below grade nine to participate in  
moderate or vigorous daily physical activity for at least 30  
minutes as part of a school district's physical education  
curriculum ~~[or through structured activity during a school campus's~~  
~~daily recess, except that the board may not require more than 30~~  
~~minutes of daily physical activity]~~. If a school district  
determines, for any particular grade level, that requiring moderate  
or vigorous daily physical activity is impractical due to  
scheduling concerns or other factors, the district may as an  
alternative require a student in that grade level to participate in  
moderate or vigorous physical activity for at least 135 minutes  
during each school week ~~[the board adopts rules under this~~  
~~subsection, the board must ensure by rule that students enrolled in~~  
~~middle and junior high school settings are allowed to meet the~~  
~~physical activity requirement by participating in physical~~

1 ~~activity twice each week throughout the school year or the option to~~  
2 ~~schedule at least two semesters overall].~~ A school district ~~[If the~~  
3 ~~board adopts rules under this subsection, the board]~~ must provide  
4 for an exemption for:

5 (1) any student who is unable to participate in the  
6 required ~~[daily]~~ physical activity because of illness or  
7 disability; and

8 (2) a middle school or junior high school student who  
9 participates in an extracurricular activity with a moderate or  
10 vigorous physical activity component that is considered a  
11 structured activity under rules adopted by the commissioner ~~[State~~  
12 ~~Board of Education]~~.

13 (1-1) In adopting rules relating to an activity described by  
14 Subsection (1)(2), the commissioner ~~[State Board of Education]~~ may  
15 permit an exemption for a student who participates in a  
16 school-related activity or an activity sponsored by a private  
17 league or club only if the student provides proof of participation  
18 in the activity.

19 SECTION 2. Section 28.004(k), Education Code, is amended to  
20 read as follows:

21 (k) A school district shall publish in the student handbook  
22 and post on the district's Internet website, if the district has an  
23 Internet website:

24 (1) a statement of the policies adopted to ensure that  
25 elementary school, middle school, and junior high school students  
26 engage in at least the amount and level ~~[30 minutes per school day~~  
27 ~~or 135 minutes per school week]~~ of physical activity required by

1 Section 28.002(1); and

2 (2) a statement of:

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

5 (B) whether the district has adopted and enforces  
6 policies to ensure that district campuses comply with agency  
7 vending machine and food service guidelines for restricting student  
8 access to vending machines; and

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

13 SECTION 3. Chapter 38, Education Code, is amended by adding  
14 Subchapter C to read as follows:

15 SUBCHAPTER C. PHYSICAL FITNESS ASSESSMENT

16 Sec. 38.101. ASSESSMENT REQUIRED. (a) Except as provided  
17 by Subsection (b), a school district shall assess the physical  
18 fitness of students enrolled in kindergarten through grade 12. The  
19 assessment must be conducted twice during each school year, with  
20 one assessment conducted during the fall semester and one  
21 assessment conducted during the spring semester.

22 (b) A school district is not required to assess a student  
23 for whom, as a result of disability or other condition identified by  
24 commissioner rule, the assessment instrument adopted under Section  
25 38.102 is inappropriate.

26 Sec. 38.102. ADOPTION OF ASSESSMENT INSTRUMENT. (a) The  
27 commissioner by rule shall adopt an assessment instrument to be

1 used by a school district in assessing student physical fitness  
2 under this subchapter.

3 (b) The assessment instrument must:

4 (1) be based on factors related to student health,  
5 including the following factors that have been identified as  
6 essential to overall health and function:

7 (A) aerobic capacity;

8 (B) body composition; and

9 (C) muscular strength, endurance, and  
10 flexibility; and

11 (2) include criterion-referenced standards specific  
12 to a student's age and gender and based on the physical fitness  
13 level required for good health.

14 Sec. 38.103. REPORTING OF SUMMARY RESULTS. (a) A school  
15 district shall compile the results of the physical fitness  
16 assessment required by this subchapter and provide summary results,  
17 aggregated by grade level and any other appropriate category  
18 identified by commissioner rule, to the agency. The summary  
19 results may not contain the names of individual students or  
20 teachers.

21 (b) The results of individual student performance on the  
22 physical fitness assessment instrument are confidential and may be  
23 released only in accordance with state and federal law.

24 Sec. 38.104. ANALYSIS OF RESULTS. (a) The agency shall  
25 analyze the results received by the agency under this subchapter  
26 and identify, for each school district, any correlation between the  
27 results and the following:

1           (1) student academic achievement levels;

2           (2) student attendance levels;

3           (3) student obesity;

4           (4) student disciplinary problems; and

5           (5) school meal programs.

6           (b) The agency may contract with a public or private entity  
7 for that entity to conduct all or part of the analysis required by  
8 Subsection (a).

9           (c) Not later than September 1 of each year, the agency  
10 shall report the findings of the analysis under this section of the  
11 results obtained during the preceding school year to the School  
12 Health Advisory Committee established under Section 1001.0711,  
13 Health and Safety Code, for use by the committee in:

14           (1) assessing the effectiveness of coordinated health  
15 programs provided by school districts in accordance with Section  
16 38.014; and

17           (2) developing recommendations for modifications to  
18 coordinated health program requirements or related curriculum.

19           Sec. 38.105. DONATIONS. The agency and each school  
20 district may accept donations made to facilitate implementation of  
21 this subchapter.

22           Sec. 38.106. RULES. The commissioner shall adopt rules  
23 necessary to implement this subchapter.

24           SECTION 4. The commissioner of education shall adopt the  
25 physical fitness assessment instrument required under Subchapter  
26 C, Chapter 38, Education Code, as added by this Act, and rules  
27 necessary to implement that subchapter not later than the date that

1 enables the instrument to be used by school districts during the  
2 2007-2008 school year.

3 SECTION 5. This Act applies beginning with the 2007-2008  
4 school year.

5 SECTION 6. This Act takes effect immediately if it receives  
6 a vote of two-thirds of all the members elected to each house, as  
7 provided by Section 39, Article III, Texas Constitution. If this  
8 Act does not receive the vote necessary for immediate effect, this  
9 Act takes effect September 1, 2007.