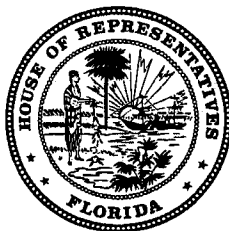


PreK - 12 Education Committee

**Meeting
Tuesday, April 4, 2006
1:00 — 1:30 p.m.
214 Capitol**



Florida House of Representatives

Allan G. Bense

Speaker

PreK-12 Education Committee

Ralph Arza, Chair

**Representative Lorraine Ausley
Representative Ellyn Bogdanoff
Representative Marti Coley
Representative Frank Farkas
Representative Kenneth Gottlieb**

Joe Pickens, Vice Chair

**Representative Stan Mayfield
Representative Dave Murzin
Representative Curtis Richardson
Representative Trey Traviesa**

AGENDA

April 4, 2006

- I. Chairman's Opening Remarks**
- II. Consideration of the following bills:**
 - **HB 1291 CS by Poppell - Weapons**
 - **HB 7203 by Health Care Regulation Committee – Prevention of Obesity**
- III. Chairman's Closing Remarks**
- IV. Adjournment**

HB 1291

2006
CS

CHAMBER ACTION

1 The Criminal Justice Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5
6 A bill to be entitled

7 An act relating to weapons; amending s. 790.001, F.S.;
8 revising the definition of "weapon"; amending s. 790.115,
9 F.S.; revising and clarifying provisions related to the
10 prohibited exhibition and possession of specified weapons
11 and firearms at a school-sponsored event or on school
12 property; providing penalties; amending s. 810.095, F.S.;
13 clarifying provisions with respect to prohibited trespass
14 on school property with a firearm or other weapon;
15 providing a penalty; providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Subsection (13) of section 790.001, Florida
20 Statutes, is amended to read:

21 790.001 Definitions.--As used in this chapter, except
22 where the context otherwise requires:

HB 1291

2006
CS

23 (13) "Weapon" means any dirk, knife, metallic knuckles,
24 slungshot, billie, tear gas gun, chemical weapon or device, or
25 other deadly weapon except a firearm or a common pocketknife,
26 plastic knife, or blunt-bladed table knife.

27 Section 2. Subsection (1) and paragraphs (a) and (b) of
28 subsection (2) of section 790.115, Florida Statutes, are amended
29 to read:

30 790.115 Possessing or discharging weapons or firearms at a
31 school-sponsored event or on school property prohibited;
32 penalties; exceptions.--

33 (1) A person who exhibits any sword, sword cane, firearm,
34 electric weapon or device, destructive device, or other weapon
35 as defined in s. 790.001(13), including a razor blade, box
36 cutter, or common pocketknife ~~knife~~, except as authorized in
37 support of school-sanctioned activities, in the presence of one
38 or more persons in a rude, careless, angry, or threatening
39 manner and not in lawful self-defense, at a school-sponsored
40 event or on the grounds or facilities of any school, school bus,
41 or school bus stop, or within 1,000 feet of the real property
42 that comprises a public or private elementary school, middle
43 school, or secondary school, during school hours or during the
44 time of a sanctioned school activity, commits a felony of the
45 third degree, punishable as provided in s. 775.082, s. 775.083,
46 or s. 775.084. This subsection does not apply to the exhibition
47 of a firearm or weapon on private real property within 1,000
48 feet of a school by the owner of such property or by a person
49 whose presence on such property has been authorized, licensed,
50 or invited by the owner.

HB 1291

2006
CS

51 (2)(a) A person shall not possess any firearm, electric
52 weapon or device, destructive device, or other weapon as defined
53 in s. 790.001(13), including a razor blade or box cutter, ~~or~~
54 ~~knife~~, except as authorized in support of school-sanctioned
55 activities, at a school-sponsored event or on the property of
56 any school, school bus, or school bus stop; however, a person
57 may carry a firearm:

58 1. In a case to a firearms program, class or function
59 which has been approved in advance by the principal or chief
60 administrative officer of the school as a program or class to
61 which firearms could be carried;

62 2. In a case to a career center having a firearms training
63 range; or

64 3. In a vehicle pursuant to s. 790.25(5); except that
65 school districts may adopt written and published policies that
66 waive the exception in this subparagraph for purposes of student
67 and campus parking privileges.

68
69 For the purposes of this section, "school" means any preschool,
70 elementary school, middle school, junior high school, secondary
71 school, career center, or postsecondary school, whether public
72 or nonpublic.

73 (b) A person who willfully and knowingly possesses any
74 electric weapon or device, destructive device, or other weapon
75 as defined in s. 790.001(13), including a razor blade or box
76 cutter, ~~or knife~~, except as authorized in support of school-
77 sanctioned activities, in violation of this subsection commits a

HB 1291

2006
CS

78 felony of the third degree, punishable as provided in s.
79 775.082, s. 775.083, or s. 775.084.

80 Section 3. Subsection (1) of section 810.095, Florida
81 Statutes, is amended to read:

82 810.095 Trespass on school property with firearm or other
83 weapon prohibited.--

84 (1) It is a felony of the third degree, punishable as
85 provided in s. 775.082, s. 775.083, or s. 775.084, for a person
86 who is trespassing upon school property to bring onto, or to
87 possess on, such school property, any weapon as defined in s.
88 790.001(13) or any firearm.

89 Section 4. This act shall take effect July 1, 2006.

ofHOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1291 CS

Weapons

SPONSOR(S): Poppell

TIED BILLS:

IDEN./SIM. BILLS: SB 2438

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice Committee	8 Y, 0 N, w/CS	Cunningham	Kramer
2) PreK-12 Committee			
3) Justice Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

Chapter 790 defines the term "weapon" as "any dirk, metallic knuckles, slungshot, billie, tear gas gun, chemical weapon or device, or other deadly weapon *except* a firearm or a common pocketknife." Although not specifically listed, knives have commonly been included in the definition of "weapon."

Currently, Florida school districts are required to adopt a zero tolerance policy that requires the expulsion of students who bring firearms or weapons, as defined by chapter 790, F.S., to school, to any school function, or onto school-sponsored transportation. While chapter 790, F.S. currently excepts "common pocketknives" from its definition of "weapon," other types of knives, such as butter knives and plastic knives, are not currently excepted. As a result, there has been some confusion as to whether students who bring objects such as butter knives onto school grounds must be disciplined.

This bill amends the definition of "weapon" to include the term "knife," and to except from the definition "plastic knives" and "blunt-bladed table knives." The result is that a "knife" would be considered a weapon, while "common pocketknives", "plastic knives", and "blunt-bladed table knives" would not be. The bill also provides in s. 790.115, F.S. (relating to the possession and discharge of weapons at school-sponsored events or on school property), and in s. 810.095, F.S. (relating to trespassing on school property with a weapon), that the term "weapon" is to be defined by s. 790.001(13), F.S. This should help clarify what types of knives are permitted on school grounds.

This bill takes effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Maintain Public Security → This bill revises the definition of “weapon” to include the term “knife” and clarifies provisions relating to the prohibited exhibition and possession of specified weapons at school-sponsored events or on school property.

B. EFFECT OF PROPOSED CHANGES:

Chapter 790 defines the term “weapon” as “any dirk, metallic knuckles, slungshot, billie, tear gas gun, chemical weapon or device, or other deadly weapon *except* a firearm or a common pocketknife.”¹ Although the term “knife” is not included in the above definition, courts have interpreted the statute as including certain knives.²

Currently, Florida school districts are required to adopt a zero tolerance policy that requires the expulsion of students who bring firearms or weapons, as defined by chapter 790, F.S., to school, to any school function, or onto school-sponsored transportation.³ Schools also must refer such students to either the criminal or juvenile justice systems.⁴ While chapter 790, F.S., currently excepts the “common pocketknife” from its definition of “weapon,” other types of knives, such as butter knives and plastic knives, are not currently excepted. As a result, there has been some confusion as to whether students who bring objects such as butter knives onto school grounds must be disciplined.⁵

This bill amends the definition of the term “weapon” to include the term “knife,” and to except from the definition “plastic knives” and “blunt-bladed table knives.” The result is that a “knife” would be considered a weapon, while “common pocketknives”, “plastic knives”, and “blunt-bladed table knives” would not be.

The bill clarifies in s. 790.115, F.S. (relating to the possession and discharge of weapons at school-sponsored events or on school property), and in s. 810.095, F.S. (relating to trespassing on school property with a weapon), that the term “weapon” is to be defined by s. 790.001(13), F.S. This should help clarify what types of knives are permitted on school grounds. The bill also specifies in s. 790.115, F.S., that “common pocketknives” are included in the list of items that may not be exhibited in a rude, careless, angry, or threatening manner at a school-sponsored event or on school property.

C. SECTION DIRECTORY:

Section 1. Amends s. 790.001, F.S., revising the definition of “weapon.”

Section 2. Amends s. 790.115, F.S., revising and clarifying provisions related to the prohibited exhibition and possession of specified weapons at school-sponsored events or on school property.

Section 3. Amends s. 810.095, F.S., clarifying provisions related to the prohibited trespass on school property with a weapon.

Section 4. This act takes effect July 1, 2006.

¹ s. 790.001(13), F.S.

² See, e.g., *State v. Walthour*, 876 So.2d 594 (Fla. 5th DCA 2004); *Garcia v. State*, 789 So.2d 1059 (Fla. 4th DCA 2001), *Evans v. State*, 703 So.2d 1201 (Fla. 1st DCA 1997). *Miller v. State*, 421 So.2d 746 (Fla. 4th DCA 1982);

³ s. 1006.13, F.S.

⁴ *Id.*

⁵ See, e.g., http://www.sptimes.com/2005/10/25/Hernando/Girl_arrested_for_but.shtml (An 11-year old girl was arrested and charged with a felony for bringing a butter knife to school)

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Department of Education does not foresee a fiscal impact.

2. Expenditures:

The Department of Education does not foresee a fiscal impact.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution, because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 22, 2006, the Criminal Justice Committee adopted one amendment to the bill and reported the bill favorably with committee substitute. The amendment makes technical changes and clarifies the definition of the term "weapon."

1 A bill to be entitled

2 An act relating to the prevention of obesity; amending s.
3 381.0054, F.S.; requiring the Department of Health to
4 collaborate with other state agencies in developing
5 policies and strategies to prevent obesity which shall be
6 incorporated into agency programs; requiring the
7 department to advise health care practitioners regarding
8 morbidity, mortality, and costs associated with the
9 condition of being overweight or obese; requiring the
10 department to inform health care practitioners about
11 clinical best practices for obesity prevention and to
12 encourage practitioners to counsel their patients
13 regarding the adoption of healthy lifestyles; requiring
14 the Department of Health in partnership with the
15 Department of Education to award grants to local school
16 districts to implement a pilot program to promote healthy
17 eating habits, increase physical activity, and improve
18 fitness; specifying requirements for the pilot program;
19 requiring the Office of Program Policy Analysis and
20 Government Accountability to complete a report to
21 determine the program's effectiveness in changing body
22 mass index, increasing knowledge, and improving attitudes
23 and behaviors of students related to nutrition and
24 physical activity; requiring the Department of Health and
25 the program provider to seek partnerships with various
26 entities and organizations for assistance in providing
27 funding and resources; requiring school districts that
28 participate in the pilot program to collect certain

Page 1 of 9

29 information that is identified by the Office of Program
 30 Policy Analysis and Government Accountability for the
 31 evaluation of the program's effectiveness; providing an
 32 appropriation; providing an effective date.

33
 34 WHEREAS, in 2003, 14 percent of high school students were
 35 at risk of being overweight and an additional 12.4 percent were
 36 overweight, and

37 WHEREAS, in 2003, more than 50 percent of high school
 38 students did not participate in any physical education at
 39 school, and

40 WHEREAS, in 2003, only approximately 20.7 percent of high
 41 school students in this state ate five or more servings of
 42 fruits or vegetables each day in a 7-day period, and

43 WHEREAS, in 2003, 42.7 percent of high school students
 44 watched television for 3 or more hours on an average school day,
 45 and

46 WHEREAS, in 2003, 39.9 percent of middle school students
 47 did not go to physical education classes at all during an
 48 average school week, and

49 WHEREAS, in 2003, on an average school day, 45.3 percent of
 50 middle school students watched television for 3 or more hours,
 51 18.2 percent used the computer for fun for 3 or more hours, and
 52 14.8 percent reported playing video games for 3 or more hours,
 53 and

54 WHEREAS, in 2003, only 11.3 percent of middle school
 55 students reported eating five or more servings of fruits and
 56 vegetables per day, and

HB 7203

2006

57 WHEREAS, approximately 60 percent of overweight children
 58 have at least one risk factor for cardiovascular disease such as
 59 high blood pressure or high cholesterol, and about 25 percent of
 60 overweight children have two or more risk factors, and

61 WHEREAS, 25 percent of adults and children are obese and 15
 62 million Americans are morbidly obese, and

63 WHEREAS, obesity as a cause of death is preventable and
 64 20,000 Floridians die annually from obesity-related diseases,
 65 and

66 WHEREAS, obesity-related medical expenditures for adults in
 67 this state total more than \$3.9 billion yearly, with over half
 68 of the costs being financed by Medicare and Medicaid, NOW,
 69 THEREFORE,

70

71 Be It Enacted by the Legislature of the State of Florida:

72

73 Section 1. Subsection (1) of section 381.0054, Florida
 74 Statutes, is amended to read:

75 381.0054 Healthy lifestyles promotion.--

76 (1) The Department of Health shall promote healthy
 77 lifestyles to reduce the prevalence of excess weight gain
 78 ~~overweight~~ and obesity in Florida by implementing appropriate
 79 physical activity and nutrition programs that are directed
 80 towards ~~target~~ all Floridians by:

81 (a) Using all appropriate media to promote maximum public
 82 awareness of the latest research on healthy lifestyles and
 83 chronic diseases and disseminating relevant information through
 84 a statewide clearinghouse relating to wellness, physical

85 activity, and nutrition and their impact on chronic diseases and
 86 disabling conditions.

87 (b) Providing technical assistance, training, and
 88 resources on healthy lifestyles and chronic diseases to the
 89 public, county health departments, health care providers, school
 90 districts, and other persons or entities, including faith-based
 91 organizations, that request such assistance to promote physical
 92 activity, nutrition, and healthy lifestyle programs.

93 (c) Developing, implementing, and using all available
 94 research methods to collect data, including, but not limited to,
 95 population-specific data, and track the incidence and effects of
 96 weight gain, obesity, and related chronic diseases. The
 97 department shall include an evaluation and data collection
 98 component in all programs as appropriate.

99 (d) Partnering with the Department of Education, local
 100 communities, school districts, and other entities to encourage
 101 Florida schools to promote activities during and after school to
 102 help students meet a minimum goal of 60 minutes of activity per
 103 day.

104 (e) Partnering with the Department of Education, school
 105 districts, and the Florida Sports Foundation to develop a
 106 program that recognizes schools whose students demonstrate
 107 excellent physical fitness or fitness improvement.

108 (f) Collaborating with other state agencies to develop
 109 policies and strategies for preventing obesity, which shall be
 110 incorporated into programs administered by each agency and shall
 111 include promoting healthy lifestyles of employees of each
 112 agency.

113 (g) Advising, in accordance with s. 456.081, health care
 114 practitioners licensed in this state regarding the morbidity,
 115 mortality, and costs associated with the condition of being
 116 overweight or obese, informing such practitioners of clinical
 117 best practices for preventing obesity, and encouraging
 118 practitioners to counsel their patients regarding the adoption
 119 of healthy lifestyles.

120 (h) ~~(f)~~ Maximizing all local, state, and federal funding
 121 sources, including grants, public-private partnerships, and
 122 other mechanisms, to strengthen the department's current
 123 physical activity and nutrition programs and to enhance similar
 124 county health department programs.

125 Section 2. (1) The Department of Health in partnership
 126 with the Department of Education shall award grants to local
 127 school districts to implement a 3-year pilot program that is
 128 directed towards students in the 4th and 5th grades in 10
 129 geographically and demographically diverse counties. The pilot
 130 program must:

- 131 (a) Have a program provider. The program provider shall:
 132 1. Have a prevention-education program currently in use
 133 throughout the school districts in this state in order to
 134 receive funds under the grants provided by the pilot program;
 135 2. Promote the "Fresh 2-U" campaign by the Department of
 136 Agriculture and Consumer Services;
 137 3. Have an established partnership with the Produce for
 138 Better Health Foundation and promote its "5 A Day the Color Way"
 139 campaign; and
 140 4. Work with school districts to use multimedia methods

141 and awareness events and promote healthful nutrition and
 142 physical activity opportunities throughout the school year
 143 targeting students, staff, parents, and caregivers.

144 (b) Establish a school-based program in elementary schools
 145 for purposes of promoting healthy eating habits, increasing
 146 physical activity, and improving fitness, and include a formal
 147 curriculum on physical activity and nutrition that is consistent
 148 with recommendations from the Governor's Task Force on the
 149 Obesity Epidemic, February 2004.

150 (c) Provide education and professional-development
 151 training to teachers on how to implement the program to model
 152 physical activity and healthy eating behavior and on the
 153 importance of building positive physical habits during school
 154 and away from school.

155 (d) Empower teachers to facilitate educational
 156 opportunities to support and sustain lifelong physical activity
 157 and healthy eating.

158 (e) Incorporate physical activity and nutrition education
 159 into core classroom subject areas and various curricula,
 160 including, but not limited to, math, science, home economics,
 161 and language arts, and must be linked to the Sunshine State
 162 Standards.

163 (f) Integrate nutrition and physical activities into other
 164 educational opportunities both inside and outside the classroom.
 165 Teachers, administrators, school food service personnel, other
 166 school personnel, and parents and students shall collaborate on
 167 creating a positive physical activity and healthy nutrition
 168 environment. The program must also include resources and

169 activities that engage and involve parents and caregivers.

170 (g) Provide resources and education for core classroom
 171 teachers to promote collaboration between the physical education
 172 and core classroom teachers and create a comprehensive
 173 educational experience for the students to develop the skills,
 174 knowledge, and attitudes to make healthy decisions using
 175 critical thinking skills throughout their lives, while enhancing
 176 students' reading and academic skills.

177 (h) Provide resources that are sustainable and provide
 178 open, web-based resources to teachers and students across the
 179 state.

180 (i) Be compliant with applicable state education
 181 standards.

182 (j) Have nutrition-education activities that are developed
 183 in partnership with the Produce for Better Health Foundation.

184 (k) Be evidence based and research based and have had
 185 results published in a peer-reviewed journal demonstrating a
 186 statistically significant reduction in body mass index and an
 187 increase in fruit and vegetable consumption and levels of
 188 physical activity among participating students.

189 (l) Hire a statewide coordinator to provide ongoing
 190 support for teachers and staff who implement the program.

191 (2) At the completion of the 3-year pilot program, the
 192 Office of Program Policy Analysis and Government Accountability
 193 shall conduct a performance evaluation to determine the
 194 program's effectiveness in changing body mass index, increasing
 195 knowledge, and improving attitudes and behaviors of students
 196 related to nutrition and physical activity. Following the

HB 7203

2006

197 completion of the 2006-2007 and 2007-2008 school years, the
198 Office of Program Policy Analysis and Government Accountability
199 shall submit interim reports to the President of the Senate and
200 the Speaker of the House of Representatives.

201 (3) To be eligible for the grant, school districts must
202 agree to collect information that the Office of Program Policy
203 Analysis and Government Accountability needs to conduct its
204 evaluations. This information will facilitate the Office of
205 Program Policy Analysis and Government Accountability's
206 evaluation of the pilot program's effectiveness in changing body
207 mass index and increasing knowledge and improving attitudes and
208 behaviors related to nutrition and physical activity. The Office
209 of Program Policy Analysis and Government Accountability must
210 supply a form for participating school districts to record the
211 information and identify the information that must be collected
212 for the evaluation. The school district must collect baseline
213 and end-of-school-year information concerning the participating
214 students.

215 (4) In addition to working with the Department of
216 Education and local school districts, the Department of Health,
217 working together with the program provider, shall seek
218 partnerships with local businesses, industries, corporations,
219 philanthropic foundations, and other organizations and shall
220 seek state and federal grant opportunities that may assist in
221 providing funding or resources to schools.

222 Section 3. The sum of \$ _____ is appropriated from the
223 General Revenue Fund to the Department of Health for the 2006-

HB 7203

2006

224 | 2007 fiscal year to implement the provisions of s. 381.0054,
225 | Florida Statutes.
226 | Section 4. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7203 PCB HCR 06-07 Obesity
SPONSOR(S): Health Care Regulation Committee
TIED BILLS: **IDEN./SIM. BILLS:** 1324

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Health Care Regulation Committee	9 Y, 0 N	Bell	Mitchell
1) PreK-12 Committee		Mizereck	Mizereck
2) _____			
3) _____			
4) _____			
5) _____			

SUMMARY ANALYSIS

HB 7203 addresses the issue of obesity in Florida. In 2000, more than six and a half million Florida adults were overweight or obese based on self-reported height and weight; and of those, approximately 2.5 million adults were obese. Its implications include serious health consequences such as diabetes, coronary heart disease, high blood pressure, high cholesterol, osteoarthritis, sleep disturbances and breathing problems, and certain cancers.

The bill requires the Department of Health (DOH or department), in addition to its current health promotion and prevention activities, to:

- Collaborate with other state agencies to develop policies and strategies for preventing obesity, which must be incorporated into programs administered by each agency and which must include promoting healthy lifestyles of employees of each agency; and
- Advise Florida-licensed health care practitioners regarding the morbidity, mortality, and costs associated with the conditions of being overweight or obese, inform such practitioners of clinical best practices for preventing obesity, and encourage practitioners to counsel their patients regarding the adoption of healthy lifestyles.

The bill requires DOH in partnership with the Department of Education to award grants to local school districts to implement a pilot program to promote healthy eating habits, increase physical activity, and improve fitness. The Office of Program Policy Analysis and Government Accountability must conduct a performance evaluation to determine the program's effectiveness and submit certain reports. School districts that participate in the pilot program must collect certain information to be used in the evaluation.

The initial review by the Department of Health estimated that the fiscal impact of the bill will be \$31,800 in year one and \$30,800 in year two.

The fiscal impact of the bill is indeterminate. Full implementation of the bill is dependent on an appropriation by the Legislature. See FISCAL ANALYSIS AND ECONOMIC IMPACT STATEMENT.

The effective date of the bill is July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote limited government – The bill directs the Department of Health to work with all the state agencies to offer wellness programming to employees, advises health care practitioners to provide healthy lifestyle recommendations to their patients, and creates a 3-year school-based pilot program to promote healthy eating habits and increased physical activity. According to the Department of Health the fiscal impact of the bill is \$31,800 in year one and \$30,800 in year two plus \$375,00 for support of the ten-county public school pilot program

Empower Families – Obesity is a serious risk factor for diabetes, heart disease, stroke, asthma, and many other chronic diseases. Early obesity interventions improve quality and quantity of life.

B. EFFECT OF PROPOSED CHANGES:

CURRENT SITUATION

The Prevalence of Obesity

The prevalence of obesity doubled in the past few decades. Today, approximately 129 million U.S. adults are considered obese. The number of overweight and obese persons in the country surpasses the number of people who smoke, live in poverty, or drink heavily. The U.S. Surgeon General recognized in 2001 that overweight and obesity have reached epidemic proportions in America.¹ An “epidemic” is defined as any disease occurring at a greater frequency than usually expected. Although historically the term “epidemic” referred to occurrences of infectious diseases, the definition has evolved to include chronic diseases and conditions such as obesity.

Defining & Measuring Overweight and Obesity

Overweight and obesity are both labels for ranges of weight that are greater than what is generally considered healthy for a given height. For adults, overweight and obesity ranges are determined by using weight and height to calculate a number called the “body mass index” (BMI). The BMI is calculated by dividing weight in pounds by height in inches squared, then multiplying the quotient by 703. An adult who has a BMI between 24 and 29.9 is considered overweight. An adult who has a BMI of 30 or higher is considered obese. For children and teens, BMI ranges above a normal weight have different labels (at risk of overweight and overweight). Additionally, BMI ranges for children and teens are defined so that they take into account normal differences in body fat between boys and girls and differences in body fat at various ages.

Florida Statistics on Obesity and Overweight

In 2000, more than six and a half million Florida adults² were overweight or obese based on self-reported height and weight; and of those, approximately 2.5 million adults were obese. Since 1986,

¹ U.S. Department of Health and Human Services. The Surgeon General’s call to action to prevent and decrease overweight and obesity. [Rockville, MD]: U.S. Department of Health and Human Services, Public Health Service, Office of the Surgeon General; [2001].

² Most of FL data comes from the Behavioral Risk Factor Surveillance System (BRFSS). This is an on-going, state-based, random-digit dialed telephone survey of the general civilian population aged 18 and over. Youth Physical Activity and Nutrition Survey (YPANS) are used for data on physical activity, nutrition, and sedentary lifestyles among public middle school students, and the Florida Youth Behavior Survey (YRBS) is used to collect similar data among high school students.

when height and weight were first monitored in Florida's adult population, overweight increased from 35.3% of the adult population in 1986 to 57.4% in 2002 to 60% in 2004³. The prevalence of obesity has increased dramatically among both men and women between 1990 and 2002; for men the prevalence of obesity has increased 61%, and among women, the prevalence has increased 27%.

The BMI is also used to identify children who are overweight or who are at risk of becoming overweight.⁴ In 2004, approximately 12.4% of Florida's high school students were considered overweight, with the rates for boys (16.5%) nearly doubling that of girls (8.1%). An additional 14% of Florida's high school students were considered at risk of overweight, with similar trends between boys (14.6%) and girls (13.4%). In 2002, nearly one-third of students in kindergarten, third, sixth, and ninth grades were significantly above their ideal weights.

Health Costs of Obesity & Overweight

Obesity is second only to tobacco use as a threat to public health. Its implications include serious health consequences such as diabetes, coronary heart disease, high blood pressure, high cholesterol, osteoarthritis, sleep disturbances and breathing problems, and certain cancers. Further studies conclude that obesity is linked to higher rates of chronic health conditions than smoking, drinking or poverty.⁵ The U.S. Surgeon General reports that 300,000 deaths per year are attributed to obesity. The problem of obesity is especially dangerous for children. The adverse health conditions that typically occur in adults are becoming more prevalent in adolescents, and these conditions in childhood lead to chronic illness. One out of four children, who are overweight, show early signs of type 2 diabetes.⁶ Overweight children are far more likely to become overweight adults than children who maintain normal weight through adolescence.⁷

Economic Cost of Obesity & Overweight

The U.S. Surgeon General announced that obesity and overweight cost US taxpayers \$117 billion per year in direct health care costs and indirect costs such as lost wages. Of this, the Centers for Disease Control (CDC) estimates that direct health care costs alone reached \$75 billion in 2003. In Florida, obesity-related medical expenditures for adults total over \$3.9 billion in that year, with over half of the costs financed by Medicare and Medicaid. Because of this, Florida's Agency for Health Care Administration (AHCA) reported that obesity and overweight have caused increased statewide healthcare expenditures for hospitalizations and treatments, including disability costs, related to chronic conditions.

Numerous studies have found a correlation between obesity and increased claims costs on insurance. A Kaiser-Oakland study found that individuals with a BMI of 30-30.49 had increased claims cost 25%; those with a BMI of more than 35% increased claims 44%. A Medstat Group study found that claims from individuals with a BMI of more than 27.5% cost 25% more than claims from those with an ideal body weight. Finally, a Bank One Study found that 24% of health care costs were due to overweight.

Causes of the Obesity Epidemic

In simple terms, obesity has reached epidemic proportions because our energy input through food exceeds our energy output through physical activity. Some contributors to this include: larger meal portions, diets higher in fat, frequency of meals away from home, higher calorie and high fat drinks, sedentary lifestyles. According to a recent study by the National Center for Health Statistics (NCHS),

³ CDC BRFSS 2004 data. http://www.cdc.gov/nccdphp/dnpa/obesity/state_programs/florida.htm

⁴ These terms are defined based on a comparison of BMI to all other youth of the same age and sex. A child is considered at risk for overweight if his or her BMI is higher than the 85th percentile, and lower than the 95th percentile, of his or her peers. A child is considered overweight if his or her BMI is greater than or equal to the BMI of the 95th percentile of peers.

⁵ RAND Corporation

⁶ NEJM.

⁷ National Library of Medicine

less than a third of US adults engage in regular leisure-time physical activity. One study looked at adults who were trying to lose or not gain weight and found that less than 20 % of them were following recommendations about increasing physical activity and reducing calories.⁸ Another notable finding is that only 42.8% of obese people, who had routine checkups in past months, had been urged during those visits to lose weight.⁹

In 2002, only 25.7% of Floridian adults consumed five or more servings of fruit and vegetables a day. Also in this year, 26.4% of Floridian adults were physically inactive, with women and Hispanics the most likely to be sedentary. Even among those who reported being physically active, the level of intensity of physical activity has decreased since 1992.

Childhood learning has a significant role in establishing lasting habits for physical activity and nutrition throughout life. In 2003, more than 50% of Florida high school and 40% of middle school students reported that they did not participate in any physical education at school. Additionally, 42.7% of high school and 45.3% of middle school students reported watching television for more than three hours on an average school day; 23.1% of high school and 33% of middle school students reported playing video games or using the computer for fun three to six hours on average school day. And only 20.7% of high school and 11.3% of middle school students reported eating the recommended five or more servings of fruit or vegetables each day in the past week.

Solutions for Handling the Obesity Epidemic

Changing people's habits related to physical activity is challenging. Individuals who want to be more active often find it difficult to do so because of daily demands and other constraints associated with work and family. The U.S. Surgeon General reported, in his 2001 "Call to Action to Prevent and Decrease Overweight and Obesity", that individual behavior can only change in a supportive environment, by giving people access to affordable and healthy food choices, and by giving people the opportunity for regular physical activity. A number of initiatives have been developed in both the private and public sectors, to encourage individuals to adopt healthy nutrition and fitness behaviors. Research indicates that educational nutrition programming correlates positively with increased servings of fruit and vegetables in the school setting. In other words, the more activities that are done in the classroom in nutrition education and program promotion, the higher the rates of fruit and vegetable consumption there are in the schools.¹⁰

Obesity Prevention in Florida

In October 2003, the Governor of Florida created a task force to address the rising rates of overweight and obesity among adults and youth in Florida, to evaluate data and testimony to determine the extent of the problem in Florida, and to make recommendations on how to address obesity in Florida.¹¹ The Governor's Task Force on the Obesity Epidemic issued a final report in February 2004, with 22 comprehensive recommendations.¹²

Section 381.0054, F.S., requires DOH to promote healthy lifestyles to reduce the prevalence of overweight and obesity in Florida by implementing appropriate physical activity and nutrition programs that target all Floridians. These activities include:

- Using all appropriate media to promote maximum public awareness of the latest research on healthy lifestyles and chronic diseases and disseminating relevant information through a

⁸ Mokdad AH, Bowman, BA, Ford ES, Vinicor F, Marks JS, Koplan JP. The continuing epidemics of obesity and diabetes in the United States. *JAMA* 2001; 286(10): 1195-1200.

⁹ Ibid.

¹⁰ Shelly Terry, M.S., Ed., School Food Service Consultant, Produce for Better Health.

¹¹ See Executive Order No. 2003-196.

¹² See <http://www.doh.state.fl.us/Family/GTFOE/report.pdf> (last visited on March 10, 2006).

statewide clearinghouse relating to wellness, physical activity, and nutrition and their impact on chronic diseases and disabling conditions;

- Providing technical assistance, training, and resources on healthy lifestyles and chronic diseases to the public, county health departments, health care providers, school districts, and other persons or entities, including faith-based organizations, that request such assistance to promote physical activity, nutrition, and healthy lifestyle programs;
- Developing, implementing, and using all available research methods to collect data, including, but not limited to, population-specific data, and track the incidence and effects of weight gain, obesity, and related chronic diseases. The department must include an evaluation and data collection component in all programs as appropriate;
- Partnering with the Department of Education, local communities, school districts, and other entities to encourage Florida schools to promote activities during and after school to help students meet a minimum goal of 60 minutes of activity per day;
- Partnering with the Department of Education, school districts, and the Florida Sports Foundation to develop a program that recognizes schools whose students demonstrate excellent physical fitness or fitness improvement; and
- Maximizing all local, state, and federal funding sources, including grants, public-private partnerships, and other mechanisms, to strengthen the department's current physical activity and nutrition programs and to enhance similar county health department programs.

The department implements s. 381.0054, F.S., contingent on an appropriation in the General Appropriations Act. The department reports that the implementation of this section is not currently funded with an appropriation.

The Obesity Prevention Program within DOH is funded through a cooperative agreement with a planning grant of \$450,000 from the United States Centers for Disease Control and Prevention (CDC). This funding must be used to develop infrastructure within the program in an effort to reduce the burden of obesity among adults and youth in Florida, develop partnerships to combat obesity, and develop a five-year work plan which focuses on increased physical activity, healthy nutrition, initiation and duration of breastfeeding, and decreased TV, video, or computer screen time.

During fiscal year 2004-05, DOH used media for public awareness through limited partner funds to conduct a direct hit marketing campaign to affect physical activity in an identified five-county area, and a billboard campaign and bus placard campaign in Miami-Dade County to affect fruit and vegetable consumption. Due to the lack of funding, DOH has no plans for a public awareness media campaign for fiscal year 2005-06.

The department has launched an obesity prevention website that serves as a clearinghouse where limited resources can be downloaded and weblinks are available to other resources that may be purchased by the public. Limited resources are provided by DOH to county health departments, public or private agencies, schools, and community groups, as funding allows. Local media events are conducted by the Bureau of Chronic Disease Prevention and Health Promotion that cover all 67 Florida counties.

The Bureau of Chronic Disease Prevention and Health Promotion provides technical assistance to the public, county health departments, health care providers, school districts, and others who request assistance to promote physical activity, nutrition, and healthy lifestyle programs. The department uses the Behavior Risk Factor Surveillance System developed by CDC for state surveillance and data collection to assess overweight, obesity, physical activity levels, and fruit and vegetable consumption for adults. The department also surveys middle and high school students and conducts body-mass-index surveys on all full service school students enrolled in kindergarten, third, sixth, and ninth grades.

The department collaborates with the Department of Education through the school health program to: promote the CDC School Health Index Assessment; conduct seven regional trainings for the school health advisory committee regarding the development of school wellness policies, which include

increased opportunities for physical activity during and after school; and the Step Up Florida physical activity campaign. On the local level, education coordinators for the Bureau of Chronic Disease Prevention and Health Promotion work with local schools to implement policy and environmental changes, as well as programs for during- and after-school physical activity. According to DOH staff, no state standards have been developed for measuring school physical fitness levels or methods to assess physical fitness or fitness improvement among students.

The department collaborates with several state agencies on specific projects and programs to address increasing physical activity and healthy nutrition, such as the school health program with the Department of Education and the safe ways to schools program with the Department of Transportation. The department maximizes local, state and federal funding to strengthen the Obesity Prevention Program and other chronic disease prevention programs, through partnerships with state, local and federal organizations related to obesity prevention and related chronic diseases.

At the local level, the Bureau of Chronic Disease Prevention and Health Promotion emphasizes community-specific needs and planning, and establishes partnerships with local businesses, health care organizations, community organizations, schools, and faith-based organizations, requiring a 25 percent match in local resources, to address the leading preventable risk factors for all chronic diseases through community-based programs.

EFFECTS OF THE BILL

The bill amends s. 381.0054, F.S., to require DOH, in addition to its current health promotion and prevention activities aimed at reducing the prevalence of excess weight gain and obesity, to:

- Collaborate with other state agencies to develop policies and strategies for preventing obesity, which must be incorporated into programs administered by each agency and which must include promoting healthy lifestyles of employees of each agency; and
- Advise, in accordance with s. 456.081, F.S., Florida-licensed health care practitioners regarding the morbidity, mortality, and costs associated with the conditions of being overweight or obese, inform such practitioners of clinical best practices for preventing obesity, and encourage practitioners to counsel their patients regarding the adoption of healthy lifestyles.

The bill requires the Department of Health in partnership with the Department of Education to award grants to local school districts to implement a 3-year pilot program to promote healthy eating habits, increase physical activity, and improve fitness. The pilot program must target students in fourth and fifth grades and be located in 10 geographically and demographically diverse counties. The pilot program must have a program provider and the bill specifies the duties of the program provider. In addition to working with the Department of Education and local school districts, the department, working together with the pilot program provider, must seek partnerships with local businesses, industries, and other organizations that may assist in providing funding or resources to schools.

The bill requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a performance evaluation to determine the pilot program's effectiveness and submit reports to the Legislature. To be eligible for the grant, the school districts must agree to collect information that OPPAGA needs to conduct its evaluation. The bill requires OPPAGA to supply a form for participating school districts to record the information and identify the information that must be collected for the evaluation. The school district must collect baseline and school-year-end information on the participating students.

The bill provides an appropriation of an unspecified amount from the General Revenue Fund to DOH to implement s. 381.0054, F.S.

The effective date of the bill is July 1, 2006.

BACKGROUND

Wellness Initiatives for State Employees

State governments have been increasingly active in encouraging healthy habits. A sample of programs is highlighted below.

Oklahoma: State employees are eligible to receive two wellness incentives in the OK Health Program. The first incentive offers employees an initial visit to a primary care physician along with lab work at no out-of-pocket cost. The second incentive is a discount at a participating fitness center. Agency directors are also given the authority to offer financial incentives to their employees who participate in the OK Health Program. The pay incentive program consist of three separate lump sum payable to an employee upon completion of specified steps and is available during the first year participation. The three levels of pay incentive are: \$100 (Bronze), for enrolling in the program and completing the initial visit; \$300 (Silver) for completing a twelve-week follow up visit; and \$500 (Gold) for achieving goals at the twelve-month follow up.¹³

Arkansas: Offers nutrition counseling and smoking cessation aids, including the nicotine patch, to Medicaid recipients and state employees. Workers in the governor's office are offered "walking breaks" instead of smoking breaks.¹⁴

Wisconsin: The governor created, through an executive order, the Wisconsin Encourages Healthy Lifestyles (WEHL) initiative and council to promote healthy lifestyles for state employees. The WEHL Council encourages each state agency to create its own council; designs a plan to promote the overall health and well being of state employees; and is to identify incentives to promote participation by state employees in WEHL activities. The goals of WELH are to encourage physical activity for at least 30 minutes per day and to encourage healthy eating habits among state employees.¹⁵

Licensed Health Care Practitioners

Chapter 456, F.S., specifies the general provisions for licensed health care practitioners in DOH's Division of Medical Quality Assurance. In addition to ch. 456, F.S., each health care profession has its own practice act with specific regulatory provisions. Section 456.081, F.S., grants authority to DOH and the boards to advise licensees periodically, through the publication of a newsletter on the department's website, about information that the department or the board determines is of interest to the industry.

C. SECTION DIRECTORY:

Section 1. – Amends s. 381.0054, F.S., to direct the Department of Health to collaborate with other state agencies to develop workplace wellness programs and advise health care practitioners of the morbidity, mortality, and costs associated with obesity or overweight.

Section 2. – Creates an undesignated section of law to establish a 3-year pilot program to promote healthy eating and exercise habits in fourth and fifth grades. The program will be administered by the Department of Health and Department of Education. The Office of Program Policy Analysis and Government Accountability will evaluate the pilot project.

Section 3. – Provides an appropriation.

Section 4. – Provides the bill will take effect July 1, 2006.

¹³ Oklahoma's OK Health Program: http://www.ebc.state.ok.us/en/OkHealth/Finance_Incentives/FinancialIncentives.htm

¹⁴ Kiely, Kathy. "Governor's healthy state." *USA Today*. July 7, 2004. http://www.usatoday.com/news/health/2004-07-11-arkansas-governor_x.htm

¹⁵ State of Wisconsin, Executive Order on WEHL Council. <http://oci.wi.gov/special/wehlcoun.htm>

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Department of Health Fiscal Impact

Estimated Expenditures	1st Year	2nd Year (Annualized/Recurr.)
Salaries and Fringe	0	0
 Expense		
<i>State Agency Obesity Prevention Workgroup</i>	\$ 1,800	\$ 800
<i>Funding for DCF, DOEA, ADP, AHCA, DJJ, DOA to Implement Obesity Prevention in current programs @ \$5,000 each</i>	\$ 30,000	\$ 30,000
<i>Compliance with s.456.081 – Providing information to Healthcare Practitioners</i>	0	0
Total:	\$31,800	\$30,800

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Section 381.0054, F.S., Healthy Lifestyle Promotion, is currently unfunded. The Obesity Prevention program is funded by the Centers for Disease Control (CDC) and can only be used on CDC approved projects. The appropriation section of the bill does not specify if the funding only supports the changes made in the bill or the entire s. 381.0054, F.S.

Full implementation of s. 381.0054, F.S., is estimated as \$3,310,674 in year one and \$2,341,319 in year two.

The Department of Health estimated it would cost \$375,500 to hold a conference, purchase curricula and train teachers, and provide resources to teachers in order to implement the proposed public school

pilot program in ten counties. At the time this bill analysis was published, the Department of Education was working on developing an estimate. It is unclear, however, what the total cost for the pilot program would be since there is confusion about costs for the "program provider" and costs for schools to implement the required activities and curricula.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. This bill does not reduce the percentage of state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Department of Health has the necessary rulemaking authority to carry out the provisions in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

[See D. FISCAL COMMENTS]

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES