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Legal Alerts

# California Adopts First Definition of "Ultra-Processed Foods" and Sets Phase-Out for School Products

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California has become the first state in the U.S. to legally define "ultra-processed foods" (UPFs) and to begin phasing them out of K-12 schools. Under Assembly Bill 1264 (AB 1264), also known as the *Real Food, Healthy Kids Act*, food and beverage companies that sell to California schools will face new reporting duties and product restrictions starting in 2028, with full implementation by 2035. The law updates California's Health and Safety Code and Education Code, expanding California's broader effort to reduce synthetic additives and promote whole-food options in schools. Although AB 1264 is directed at K-12 school food programs, its requirements will shape how manufacturers, distributors and foodservice suppliers develop, label and sell products in California's education market, and potentially beyond.

## What the Law Does

### Defines Ultra-Processed Foods

Under AB 1264, for school-related purposes, a product is considered an ultra-processed food (UPF) if it:

- Contains certain FDA-listed additives such as emulsifiers, stabilizers and thickeners, flavor enhancers, color additives or nonnutritive sweeteners; and
- Is either high in saturated fat, sodium or added sugar (≥10% of calories from saturated fat; sodium mg:calorie ratio ≥1:1; ≥10% of calories from added sugars), or includes one or more specific sweeteners like sucralose, erythritol, xylitol, stevia-based compounds or maltitol.

AB 1264 specifically excludes several categories of products, including:

- USDA commodity foods and items provided through the United States Department of Agriculture (USDA) Foods in Schools program
- Raw agricultural commodities
- Unprocessed locally grown or locally raised products
- Minimally processed prepared food (including whole, cut, sliced, diced, canned, pureed, dried or pasteurized foods)
- Class 1 milk
- Alcoholic beverages
- Medical foods or infant formula (if later exempted by the state)

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## Adds a Near-Term Color-Additive Prohibition (Effective December 31, 2027)

Starting December 31, 2027, "*competitive foods*" – that is, snacks, beverages and other à la carte items sold to students during the school day outside the regular school meal programs – and certain entrées offered as part of school meal programs may not contain Blue 1, Blue 2, Green 3, Red 40, Yellow 5 or Yellow 6 color additives. Items provided through the USDA Foods in Schools program are excluded.

## Directs New State Rulemaking

By June 1, 2028, the California Department of Public Health (CDPH) must issue regulations identifying "ultra-processed foods of concern" and "restricted school foods." "Restricted school foods" are foods or beverages that CDPH determines may not be sold or served in schools because of their composition or ingredient content. In developing and updating these definitions, CDPH must consider scientific studies, health impacts and whether other governments have banned or restricted the same ingredients and must coordinate compliance training and technical assistance for school food service and procurement staff in coordination with the California Department of Education (CDE).

## Requires Vendor Reporting

Starting February 1, 2028, and every year through February 1, 2032, vendors that sell food or beverages to schools must report to CDPH the name and quantity of each product sold, ingredient lists and nutrition facts, and whether the product qualifies as a UPF or CDPH-designated restricted item. Small businesses, as defined under Section 14837 of the California Government Code, cottage food operations registered or permitted under Section 114365 of the California Health and Safety Code and microenterprise home kitchens as defined in Section 113825 of the California Health and Safety Code, are exempt. CDPH will publish annual summaries showing statewide progress beginning July 1, 2028. These reporting provisions become inoperative on July 1, 2033, and are repealed on January 1, 2034.

## Sets a Multi-Year Phase-Out

**Date**
**Requirement**

**February 1, 2028**
Vendor reporting begins (annually through 2032)

**July 1, 2029**
Schools start phasing out restricted foods and UPFs of concern

**July 1, 2032**
Vendors can no longer offer restricted foods or UPFs of concern to schools (*i.e.*, make them available for sale)

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**July 1, 2035**
Schools can no longer serve or sell restricted foods or UPFs of concern in meals or on-campus sales (USDA Foods in Schools items are treated separately)

### Penalties and Enforcement

The law does not create a private right of action. Compliance is enforced administratively by CDPH in coordination with CDE. Meals that fail to meet applicable state or federal standards may not qualify for reimbursement under those programs, and entities found out of compliance may lose eligibility for state meal reimbursement. Vendors are prohibited from offering restricted school foods or UPFs of concern to schools beginning July 1, 2032. The law does not prevent schools or local jurisdictions from adopting stricter standards or earlier timelines.

### What This Means for Food and Beverage Companies

- **Audit your school-channel products**. Identify SKUs with additives or sweeteners that may qualify as UPFs.
- **Prepare for data reporting**. Ensure your systems can generate product-level ingredient lists and nutrition facts before the 2028 deadline.
- **Update your supply and distribution contracts**. Add change-in-law and data-sharing provisions to handle upcoming CDPH requirements.
- **Begin reformulation planning**. Start exploring natural alternatives for any products that might be restricted after 2029.
- **Monitor CDPH rulemaking**. The agency's definitions will determine exactly which foods are covered-early industry participation will be key.

### Why it Matters

While the law directly targets K-12 schools, it effectively establishes new product standards for suppliers across the education and institutional food sectors. It also reflects a broader policy direction in California toward cleaner ingredient standards and reduced reliance on synthetic additives. A related proposal to restrict per- and polyfluoroalkyl substances (PFAS) in food packaging and foodware did not advance this session, but AB 1264 continues the state's momentum toward greater transparency and public-health-driven reform in the food system. The law could also influence how other states and federal agencies define or restrict ultra-processed foods in the future.

*This update is for general informational purposes and does not constitute legal advice. For specific guidance on how AB 1264 may affect your business, please contact Foster Garvey's Food & Beverage team.*

## Authored by

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Hillary H. Hughes

Principal|New York

212.965.4527 hillary.hughes@foster.com

Jake Riggs

Associate|Seattle

206.447.8982 jake.riggs@foster.com

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