

SENATE NO. 1262

AN ACT PROMOTING HEALTHY ALTERNATIVES IN PUBLIC SCHOOL FOOD PROGRAMS

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 SECTION 1. Chapter 15 of the General Laws is hereby amended by inserting after section 1E , as
2 appearing in the 2004 Official Edition, the following section:-

3 Section 1E 1/2. The department of public health, in consultation with the department of
4 education, shall annually establish: (a) regulations and guidelines for the training of all elementary,
5 middle, and high school nurses in behavioral health and appropriate treatment and resources for
6 eating disorders; (b) regulations and guidelines for professional development for school nurses and
7 to aid staff to gain the most up-to-date knowledge on eating disorder treatment and identification;
8 and (c) guidelines for establishing a referral program which uses medical resources in the
9 community in collaboration with schools to identify children in need of services and provide these
10 services through in-school, outpatient and inpatient settings, where appropriate.

11 SECTION 2. Section 1C of chapter 69 of the General Laws, as so appearing, is hereby amended by
12 adding the following paragraph:

13 The board, in consultation with the department of public health and the nutrition board established
14 under section 181 of chapter 6 shall promulgate rules and regulations which set minimum standards for

15 certification of all food service directors and managers in public early childhood, elementary, secondary
16 and vocational-technical schools. All food service directors and managers hired after the effective date of
17 this act shall be required to hold certification as a condition of employment. All incumbent food service
18 directors and managers must meet certification requirements within a time period prescribed by the board
19 in these rules and regulations.

20 SECTION 3. Section 1D of chapter 69 of the General Laws, as so appearing, is hereby
21 amended by striking out the sentence beginning after the words “United States.” in lines 30 to 32,
22 inclusive, and replacing it with the following 2 sentences:-

23 The standards shall provide for instruction in the issues of nutrition and exercise. The
24 standards may provide for instruction in the issues of physical education, AIDS education, violence
25 prevention, and drug, alcohol, and tobacco abuse prevention.

26 SECTION 4. Chapter 71 of the General Laws is hereby amended by adding the following 2
27 sections:-

28 Section 90. The following words, as used in this section and in section 91, shall have the
29 following meaning, unless the context otherwise requires:-

30 “Added sweetener”, any additive that contains at least 1 kilocalorie per gram and enhances
31 the sweetness of a beverage, including but not limited to added sugar, but not including the natural
32 sugar or sugars that are contained within the fruit juice that is a component of the beverage.

33 “Full meal”, any combination of food items that meet a United States Department of
34 Agriculture approved meal pattern.

35 “Elementary school”, a public school that maintains any grade from pre-kindergarten to
36 grade 6, inclusive, but no grade higher than grade 8.

37 “Middle school”, a public school that maintains any of grades 6 to 9, inclusive, but no grade
38 higher than grade 9.

39 “High school”, a public school maintaining any of grades 9 to 12, inclusive.

40 Section 91. The following applies to any food or beverages sold in Massachusetts public
41 schools excluding the National School Lunch and Breakfast Programs.

42 (a) In elementary schools, only the following types of beverages shall be sold from 30
43 minutes before the start of the school day until 30 minutes after the end of the school day:

44 (1) drinking water, in any size container;

45 (2) 100 per cent fruit juices in no more than 8 oz; and

46 (3) low-fat milk and non-fat milk, including but not limited to low-fat and non-fat
47 chocolate milk, soy milk, rice milk and other similar dairy or non-dairy milk in no
48 more than 8 oz.

49 (b) In middle schools, only the following types of beverages shall be sold to 30 minutes
50 before the start of the school day until 30 minutes after the end of the school day:

51 (1) drinking water, in any size container;

52 (2) 100 per cent fruit juices in no more than 10 oz; and

53 (3) low-fat milk and non-fat milk, including but not limited to low-fat and non-fat
54 chocolate milk, soy milk, rice milk and other similar dairy or non-dairy milk in no
55 more than 10 oz.

56 (c) In high schools, only the following types of beverages may be sold from 30 minutes
57 before the start of the school day until 30 minutes after the end of the school day:

58 (1) drinking water, in any size container;

59 (2) 100 per cent fruit juices in no more than 12 oz;

- 60 (3) isotonic (sports drinks) beverages no more than 75 calories and in no more than
 61 12 oz;
- 62 (4) low or no calorie beverages in no more than 8 oz. and up to 10 calories
- 63 (6) milk, low-fat milk and non-fat milk, including but not limited to low-fat and non-
 64 fat chocolate milk, soy milk, rice milk and other similar dairy or non-dairy milk in
 65 no more than 12 oz.
- 66 (7) At least 50 per cent of the beverage selections must be water and no or low
 67 calorie options.

68 (d) In elementary, middle and high schools candy, snacks, side items, and desserts offered for sale
 69 as competitive foods in schools shall meet one of the following criteria.

70 These foods include but are not limited to fruits, vegetables, yogurts (including drinkable yogurt
 71 and yogurt smoothies), puddings, soups, cheeses, snack chips (e.g., potato, tortilla, corn, veggie,
 72 etc.), pretzels, crackers, popcorn, nuts, seeds, french fries, dried meat snacks, granola bars, energy
 73 bars, breakfast bars, health bars, cookies, brownies, snack cakes, coffee cakes, pastries, doughnuts,
 74 danishes, cereal, candy, confectionery, chocolate, ice cream, frozen yogurt, sherbet, popsicles,
 75 frozen fruit bars, and other similar foods. Entrée items are not subject to these Guidelines.

76 (1) Any fruit with no added sweeteners or vegetables that are non-fried. Since fresh fruits
 77 and vegetables vary in size and calories naturally, they have no calorie limit. However, calories
 78 for packaged fruits and vegetables are easily ascertained according to package nutrition
 79 labeling. As such, calorie limits for these fruits and vegetables are specified as follows:

	Elementary	Middle	High
fresh	no limit	no limit	no limit
packaged in own juice	150	180	200

dried

150

180

200

80 (2) Any reduced-fat or part-skim cheese ≤ 1.5 oz.

81 (3) Any other food that meets all of the following criteria:

82 a. $\leq 35\%$ of total calories from fat

83 i. Nuts, nut butters, seeds are exempt from above limitation and are permitted.

84 ii. Products specified in Addendum 1 are exempt and are permitted until August 31, 2008.

85 b. $\leq 10\%$ of calories from saturated fat –OR– ≤ 1 g saturated fat

86 c. 0 g trans fat

87 d. $\leq 35\%$ sugar by weight

88 e. ≤ 230 mg sodium

89 i. Lowfat and nonfat dairy products can have ≤ 480 mg sodium

90 ii. Vegetables with sauce, and soups can have ≤ 480 mg sodium if they contain one or more
91 of the following: ≥ 2 g fiber; or $\geq 10\%$ DV of Vitamin A, C, E, folate, calcium,
92 magnesium, potassium, iron, or protein; or $\geq \frac{1}{2}$ serving of fruit or vegetables.

93 iii. Vegetables with sauce and soups specified in Addendum 2 are exempt and are permitted
94 until August 31, 2008.

95 f. If products are dairy, they must be non-fat or low fat dairy

96 g. Meet 1 of the following calorie requirements

97 i. ≤ 100 calories

98 ii. Vegetables with sauce and soups meeting 3.e above can have 150 calories if they contain
99 two or more of the following: ≥ 2 g fiber; or $\geq 10\%$ DV of Vitamin A, C, E, folate,
100 calcium, magnesium, potassium, iron, or protein; or $\geq \frac{1}{2}$ serving of fruit or vegetables.

101 iii. Other foods can have increased calorie limits per below if they contain one or more of
102 the following: ≥ 2 g fiber; or $\geq 10\%$ DV of Vitamin A, C, E, folate, calcium, magnesium,
103 potassium, iron, or protein; or $\geq \frac{1}{2}$ serving of fruit or vegetables:
104 ≤ 150 calories for elementary schools
105 ≤ 180 calories for middle school
106 ≤ 200 calories for high school

107 For individual serving packages, these nutritional Guidelines are defined for a whole package as
108 labeled on the package's Nutrition Facts panel. In the event that the food is bought in bulk but
109 served individually, such as on an à la carte line, then the criteria apply to the standard serving size.

110 (e) Food items not prepackaged with nutritional information by the distributor shall be required to
111 have nutritional information (calories, percentage of calories from fat, percentage of calories
112 from saturated fat, cholesterol, protein, carbohydrate, fiber, calcium, iron, vitamin A and
113 vitamin C) available to students, either on a display case, in a binder or within information
114 packets held by food service staff for requests by students. This requirement shall take effect
115 by the beginning of the second school year that starts 180 days after the effective date of this
116 bill.

117 (f) These shall apply to items sold on school grounds or at school activities during the regular and
118 extended school day when events are primarily under the control of the school or third parties on
119 behalf of the school. The extended school day is defined as the time before or after the official
120 school day that includes activities such as clubs, yearbook, band and choir practice, student
121 government, drama, sports practices, intramural sports, and childcare / latchkey programs. These
122 shall also apply to food supplied by schools during official transportation to and from school and

123 school sponsored activities, including but not limited to field trips and interscholastic sporting
124 events where the school is the visiting team except as specified herein.

125 These do not apply to school sponsored or school related bona fide fundraising activities that take
126 place off of school grounds and not in transit to and from school. Nor do they apply to booster sales
127 at school related events where parents and other adults are a significant part of an audience or are
128 selling food as boosters either during intermission or immediately before or after such events.

129 These school related events frequently occur during evenings and weekends. Examples of these
130 events include but are not limited to interscholastic sporting events, school plays, and band
131 concerts.

132 (g) A school may permit the sale of food items that do not comply with this section as part of a
133 school or other fundraising event in any of the following circumstances:

134 (1) if students of the school sell these food items off school premises; or

135 (2) if students of the school sell these items 30 minutes before the start of the school day or
136 at least 30 minutes after the end of the school day; or

137 (3) if students sell these food items at a school-sponsored event 30 minutes after the end of
138 the school day.

139 (h) Fruit and non-fried vegetables shall be offered for sale at any location where food
140 is sold with the exception of non-refrigerated vending machines and vending
141 machines which dispense only beverages.

142 SECTION 5. Chapter 111 of the General Laws, as appearing in the 2004 Official Edition, is
143 hereby amended by adding the following 2 sections:-

144 Section 220. The department of public health, in collaboration with the department of
145 education, shall review and analyze the trend in reported cases of obesity and eating disorders in
146 students. This review shall include but not be limited to:

- 147 (a) Development and promulgation of data collection and reporting regulations and
148 guidelines associated with the implementation of this section;
- 149 (b) Evaluation of the trends of reported cases of obesity and eating disorders across the
150 commonwealth; and
- 151 (c) Study of the access to quality health care and whether students are receiving appropriate
152 and adequate care in the treatment of their obesity or eating disorders.

153 Section 221. The department of public health shall establish an annual public service
154 campaign to raise awareness of the issue of pediatric overweight, and of the state's initiative to
155 reduce the epidemic through available resources and support programs. The campaign shall include,
156 but not be limited to:

- 157 (a) Public service announcements regarding physical activity, nutrition and healthy
158 lifestyles,
- 159 (b) Encouraging a reduction in the number of television viewing hours by children,
- 160 (c) Increasing state and local initiatives for free-time physical activity for children,
- 161 (d) Reducing potential transportation barriers to available free- time physical activities in the
162 community.
- 163 (e) Increasing community areas of green space and indoor facilities for out-of-school and
164 free-time physical activities as well as addressing concerns about neighborhood safety,
- 165 (f) Distributing a kit of information to schools including brochures and tapes on pediatric
166 overweight, and

167 (g) Creating an interactive website with information and resources on pediatric overweight.

168 SECTION 6. Paragraph (c) of section 197 of chapter 184 of the acts of 2002 is hereby
169 amended by inserting after the word “any”, in line 1, the following words: -beverages with added
170 artificial or refined sweeteners, including but not limited to soft drinks, fruit drinks and sports
171 drinks; candy; processed foods containing more than 35 per cent of calories from fat, more than 10
172 per cent of calories from saturated fat, or more than 35 per cent sugar by weight; fast food
173 restaurants; or any.

174 SECTION 7. There shall be a special commission to conduct an analysis of childhood
175 obesity, nutrition, physical activity and education and wellness in the commonwealth. The
176 commission shall consist of: the commissioner of public health, or his designee, who shall serve as
177 the chair; the commissioner of medical assistance, or his designee; 1 person to be appointed by the
178 governor; 1 person to be appointed by the speaker of the house; 1 person to be appointed by the
179 senate president; a board-certified dietician or nutritionist, to be appointed by the chair; a board-
180 certified pediatrician from the American Academy of Pediatrics; a representative from the
181 Massachusetts Board of
182 Psychology; a representative from the Massachusetts Public Health Association; a representative
183 from the Massachusetts School Nurse Organization; a representative from the Massachusetts Dental
184 Society; a board-certified physician from the American Academy of Family Physicians; and 1
185 person appointed by the commissioner of the department of education. The commission shall
186 evaluate the state of childhood obesity in Massachusetts, including but not limited to physical
187 education programs, school lunches, school snack and soda vending machines, adequate amounts of
188 time for school lunch periods, mental health issues related to eating disorders including but not
189 limited to anorexia, bulimia, and obesity, and after school program and national standards.

190 The commission shall report its findings, and file any draft legislation with the clerks of the
191 House of Representatives and the Senate, the joint committee on public health and the house and
192 senate committees on ways and means not later than 1 year after the effective date of this act. After
193 this act's effective date, the department of public health shall conduct analyses every 2 years to
194 evaluate childhood obesity in Massachusetts and shall report its findings to the committee on public
195 health 60 days after the conclusion of the review.

196 SECTION 8. This act shall take effect on the next September 1 occurring 180 days after its
197 passage.