

**HOUSE . . . . . No. 4376**

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**The Commonwealth of Massachusetts**

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HOUSE OF REPRESENTATIVES, November 19, 2007.

The committee on Health Care Financing, to whom was referred the bill to promote proper school nutrition (House, No. 4199), reports recommending that the accompanying bill (House, No. 4376) ought to pass. [Cost: \$995,695.00.]

For the committee,

PATRICIA A. WALRATH.

**The Commonwealth of Massachusetts**

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In the Year Two Thousand and Seven.

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## AN ACT RELATIVE TO SCHOOL NUTRITION.

*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 6 of the General Laws is hereby amended  
2 by adding at the end thereof, the following new section:—  
3 Section 214. There is hereby established the Governor’s Com-  
4 mission on Childhood Obesity which shall be responsible for  
5 developing, maintaining and coordinated a statewide plan to  
6 reduce childhood obesity through promotion of evidence-based  
7 programs to provide proper nutrition and exercise for the children  
8 of the Commonwealth. Said commission shall make a compre-  
9 hensive review of current evidence-based research and programs  
10 that promote proper nutrition for children at each stage of devel-  
11 opment as well as appropriate levels of physical education and  
12 activity for all children, and shall annually assess the progress in  
13 the state toward reducing childhood obesity and report to the Gov-  
14 ernor and the general public. Said programs shall, insofar as pos-  
15 sible, involve parents and families to ensure that the effort to  
16 reduce childhood obesity is not limited to time in school.  
17 The commission shall be co-chaired by the commissioners of  
18 the departments of public health, education, and early education  
19 and care, or their designees; and shall include: the commissioner  
20 of mental health or his designee; the commissioner of medical  
21 assistance, or his designee; the commissioner of agricultural  
22 resources, or his designee; the commissioner of transitional assis-  
23 tance, or his designee, the commissioner of insurance, or his  
24 designee; the chair of the statewide student advisory council, or a  
25 designee; and five additional members appointed by the Gov-  
26 ernor; one of whom shall be an expert in childhood nutrition, one  
27 of whom shall be an expert in exercise and fitness, and one of  
28 whom shall be an expert in eating disorders. Said commission  
29 members shall serve without financial compensation.

30 In developing and evaluating said statewide plan to reduce  
31 childhood obesity, the commission shall consider such concepts  
32 as:—

33 a) Requiring health insurance programs supported in whole or  
34 in part with public funds, to include coverage for nutrition coun-  
35 seling, weight loss clinics, wellness programs, and other programs  
36 that promote proper nutrition and exercise;

37 b) Requiring private health insurers, by establishing mandated  
38 insurance benefits, to cover nutrition counseling, weight loss  
39 clinics, wellness programs, and other programs that promote  
40 proper nutrition and exercise;

41 c) Developing and implementing a method for evaluating  
42 annual progress toward the goals of the statewide plan;

43 d) Making recommendations to the Governor and General  
44 Court relative to the revision of school nutrition standards in coor-  
45 dination with ongoing efforts pursuant to section (e) of Section 90  
46 of Chapter 71.

1 SECTION 2. Chapter 15 of the General Laws is hereby  
2 amended by inserting after Section 1E the following section:—

3 Section 1E½ (a) The department of public health, in consulta-  
4 tion with the department of education, shall establish, and periodi-  
5 cally review, regulations and guidelines for the training of all  
6 elementary, middle, and high school nurses in behavioral health  
7 and appropriate treatment and resources for eating disorders;  
8 recognition, treatment and resources for children at risk for and  
9 diagnosed with type 2 diabetes; regulations and guidelines for  
10 professional development and training of school nurses and aid  
11 staff to gain the most up-to-date knowledge on eating disorder and  
12 type 2 diabetes treatment and identification; and guidelines to  
13 establish a referral program where medical resources in the com-  
14 munity shall collaborate with schools to identify children in need  
15 of services and provide these resources through in-school, outpa-  
16 tient and inpatient settings, where appropriate.

1 SECTION 3. Section 1D of Chapter 69 of the General Laws, as  
2 appearing in the 2006 Official Edition, is hereby amended by  
3 striking out the ninth sentence and inserting in place thereof the  
4 following 2 sentences:—

5 The standards shall provide for instruction in the issues of  
6 nutrition and exercise. The standards may provide for instruction  
7 in the issues of physical education, AIDS education, violence pre-  
8 vention, and drug, alcohol, and tobacco abuse prevention.

1 SECTION 4. Chapter 71 of the General Laws is hereby  
2 amended by adding at the end thereof the following section:—

3 Section 90. (a) The following words, as used in this section,  
4 shall have the following meanings, unless the context clearly  
5 requires otherwise:—

6 “Competitive foods or beverages”, all foods or beverages sold  
7 or provided in à la carte lines in school cafeterias, school stores,  
8 school snack bars or vending machines or any other locations in  
9 public schools but not including foods sold as part of the National  
10 School Lunch Program and School Breakfast and Child Care and  
11 Adult Programs.

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

15 “High school”, a public school maintaining any of grades 9 to  
16 12, inclusive.

17 “Middle school”, a public school that maintains any of grades 5  
18 or 6 to 9, inclusive, but no grade higher than grade 9.

19 “Public school”, an elementary, middle, high school or charter  
20 school as defined in this chapter.

21 “Leading Nutritional Standards”, the Institute of Medicine  
22 April 2007 report, Nutrition Standards for Foods in Schools:—

23 Leading the Way toward Healthier Youth.

24 (b) The department of public health in consultation with the  
25 department of education shall establish guidelines for the phase-in  
26 and implementation of nutrition standards for competitive foods  
27 and beverages sold or provided in public schools. In establishing  
28 these guidelines, the department of public health in consultation  
29 with the department of education shall consider such factors as:—

30 (1) adequate phase-in time for public schools to implement new  
31 nutritional standards;

32 (2) the times of the school day during which the guidelines  
33 shall apply;

34 (3) additional training in nutrition and diet available for school  
35 food service directors;

36 (4) the current capacity, resources, and equipment available in  
37 public school kitchens to prepare recommended foods;

38 (5) adequate amounts of time for school lunch periods; pro-  
39 vided that the departments shall create reasonable exceptions from  
40 said standards and guidelines for competitive foods or beverages  
41 sold before or after the end of the school day, during school-spon-  
42 sored fundraisers and events, and at booster sales, concession  
43 stands and other activities at school-related events.

44 (c) The department of public health shall develop nutritional  
45 guidelines and standards for the sale or provision of competitive  
46 foods or beverages in Massachusetts public schools within the  
47 requirements of this section, provided that competitive foods or  
48 beverages sold or provided in public schools shall be limited to  
49 foods or beverages that comply with the leading nutritional stan-  
50 dards and other regulations promulgated by the department. Such  
51 competitive foods and beverages may include:—

52 (1) foods that are (i) non-fried fruits or non-fried vegetables;  
53 (ii) whole grains, and related combination products; (iii) nonfat  
54 and low-fat dairy products; and

55 (2) beverages that are (i) water without additives or carbona-  
56 tion; (ii) 100 per cent fruit juice; (iii) nonfat or low-fat dairy  
57 drinks.

58 (d) Competitive food items not prepackaged with nutritional  
59 information by the distributor that are not fresh fruit or fresh veg-  
60 etables shall be required to have nutritional information (calories,  
61 percentage of calories from fat, percentage of calories from satu-  
62 rated fat, cholesterol, protein, carbohydrate, fiber, calcium, iron,  
63 vitamin A and vitamin C) available to students, either on a display  
64 case, in a binder or within information packets held by food  
65 service staff for requests by students.

66 (e) The department of public health in consultation with the  
67 department of education shall conduct a review of the implemen-  
68 tation of this section and the appropriateness of maintaining the  
69 standards recommended by the leading nutritional standards  
70 within 5 years of the effective date of this section. Upon review  
71 of said standards, the department of public health shall use the  
72 most updated recommendations made by authoritative scientific

73 and public health organizations concerning appropriate nutritional  
74 standards for foods sold outside of reimbursable meal programs in  
75 schools as well as the United States department of health and  
76 human services' and the United States department of agriculture's  
77 most current dietary guidelines for healthy Americans. Included  
78 in its review, the department shall consider:—

79 (1) the proportion of public schools that have successfully  
80 implemented the standards and guidelines for competitive foods  
81 and beverages;

82 (2) challenges or barriers experienced by public schools upon  
83 implementation of the competitive foods and beverages standards;

84 (3) changes in revenue received from the sale of federally reim-  
85 bursable school meals;

86 (4) changes in total revenue (federal reimbursable meals and  
87 competitive sales combined) lost or gained after implementation  
88 of the standards for competitive foods and beverages;

89 (5) notable changes in students participation in the federal  
90 reimbursable meals programs;

91 (6) recommendations for improvement of said standards and  
92 guidelines.

93 (f) Public schools shall offer for sale fresh fruit and non-fried  
94 vegetables at any location where food is sold.

95 (g) Public schools shall make available plain, potable water to  
96 all public school students during the school day at no cost.

97 (h) The department of public health in consultation with the  
98 department of education shall establish guidelines for the phase-  
99 out of fryolators in all public schools in the Commonwealth  
100 within five years from the effective date of this act. These guide-  
101 lines shall include, but need not be limited to (1) a timeline for the  
102 removal of all fryolators from public schools; (2) a list of alterna-  
103 tive products to replace those prepared in fryolators; (3) mecha-  
104 nisms for monitoring and enforcing the removal of fryolators from  
105 all public schools in the Commonwealth.

106 (i) The department of education shall require implementation of  
107 competitive food and beverage standards in public schools in  
108 accordance with this section and shall be responsible for enforcing  
109 said standards.

1 SECTION 5. Section 90 of Chapter 71 of the General Laws is  
2 hereby amended by striking the definition “Leading Nutrition  
3 Standards” and inserting in place thereof the definition:—

4 “Leading Nutrition Standards” ”, the Institute of Medicine  
5 April 2007 report, Nutrition Standards for Foods in Schools:—

6 Leading the Way toward Healthier Youth and other recommen-  
7 dations made pursuant to subsection (e) of Section 90 of  
8 Chapter 71.

1 SECTION 6. Chapter 111 of the General Laws is hereby  
2 amended by adding the following section:—

3 Section 221. The department of public health in consultation  
4 with the department of education shall review and analyze the  
5 trend in reported cases of obesity and eating disorders in students.  
6 Such review shall include but not be limited to:—

7 (a) development and promulgation of data collection and  
8 reporting regulations and guidelines associated with the imple-  
9 mentation of this section;

10 (b) evaluation of the trends of reported cases of obesity and  
11 eating disorders across the Commonwealth;

12 (c) study of the access to quality health care and whether stu-  
13 dents are receiving appropriate and adequate care in the treatment  
14 of their obesity or eating disorder.

15 Said information shall be reported to the governor’s commis-  
16 sion on childhood obesity established pursuant to Section 6  
17 this act.

1 SECTION 7. (a) Notwithstanding any general or special law to  
2 the contrary, the department of agricultural resources in consulta-  
3 tion with the department of education shall make an investigation  
4 into the feasibility of developing and establishing a farm-to-  
5 school program to facilitate and promote the purchase of Massa-  
6 chusetts’ farm products by schools, universities and other  
7 educational institutions in the Commonwealth. The investigation  
8 shall include:—

9 (1) the development of a farm-to-school program that facilitates  
10 the acquisition of Massachusetts’ farm products by schools, uni-  
11 versities and educational institutions;

12 (2) the development of procurement channels to more effi-  
13 ciently access Massachusetts' farm products;

14 (3) an analysis of the capacity of schools to appropriately store,  
15 process, prepare, and serve farm products in schools, labor costs  
16 required to support the program; and

17 (4) the manner in which such a program may include 1 or more  
18 activities that promote a comprehensive approach to nutrition and  
19 wellness, including, but not limited to school garden programs,  
20 cooking demonstrations and food samplings, and farm tours.

21 (b) The department of agricultural resources in collaboration  
22 with the department of education shall collect data including, but  
23 not limited to:—

24 (1) school districts and other educational institutions interested  
25 in purchasing Massachusetts' farm products;

26 (2) the type and amount of such products schools wish to pur-  
27 chase;

28 (3) the name of the appropriate contact person from the inter-  
29 ested school district;

30 (4) farm organizations and businesses that market Massachu-  
31 setts' farm products; and

32 (5) the availability of Massachusetts' farm products, including  
33 but not limited to, the types and amount of products, the names  
34 and contact information of farmers, and farm organizations and  
35 businesses marketing such products.

36 (c) Based upon the data collected from the investigation, the  
37 department of agriculture in collaboration with the department of  
38 education shall develop a mechanism and process by which  
39 schools interested in purchasing Massachusetts' farm products  
40 may notify farms; provided that such a process ensures fair oppor-  
41 tunities for all farms interested in selling products to schools; and  
42 provided that fair negotiation and pricing processes are estab-  
43 lished for purchasing and selling of Massachusetts' farm products  
44 to schools.

45 (d) A report shall be made to the speaker of the house of repre-  
46 sentatives, the president of the senate, the governor, the house and  
47 senate chairs of the joint committee on health care financing, the  
48 house and senate chairs of the joint committee on public health,  
49 and the house and senate chairs of the joint committee on environ-  
50 ment, natural resources and agriculture that details the results of

51 the investigation and study and provides recommendations,  
52 together with drafts of legislation necessary to carry recommenda-  
53 tions into effect, not less than 1 year after the effective date of  
54 this section.

1 SECTION 8. Notwithstanding the provisions of any other  
2 general or special law to the contrary, the department of education  
3 shall evaluate the success of the chef's pilot program in the  
4 Boston Public Schools and identify other schools in the Common-  
5 wealth where such a program could be implemented including, but  
6 not limited to a proposed budget for implementing a similar pro-  
7 gram in such additional schools.

1 SECTION 9. The department of public health shall report the  
2 findings of the review made pursuant to paragraph (e) of Section  
3 90 of Chapter 71 to the speaker of the house of representatives,  
4 the president of the senate, the house and senate chairs of the joint  
5 committee on health care financing and the house and senate  
6 chairs of the joint committee on public health on or before Sep-  
7 tember 1, 2013.

1 SECTION 10. The departments of public health and education  
2 shall promulgate rules and regulations to carry out the provisions  
3 of Section 90 of Chapter 71 within 90 days of its implementation,  
4 provided that these regulations shall become effective for the  
5 fiscal year following final approval of said regulations, provided,  
6 however, that not less than twelve months shall have elapsed  
7 between final approval of the regulations and the date of imple-  
8 mentation in order to provide sufficient time to implement the reg-  
9 ulations.

1 SECTION 11. Section 5 shall take effect five years after the  
2 implementation of this act.