

HOUSE No. 2011

The Commonwealth of Massachusetts

PRESENTED BY:

Stephen Kulik

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to expanding access to healthy food choices in vending machines on state property.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Stephen Kulik</i>	<i>1st Franklin</i>	<i>1/17/2013</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>	<i>1/30/2013</i>
<i>Brian A. Joyce</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>2/1/2013</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>1/30/2013</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>	<i>1/30/2013</i>
<i>Aaron Vega</i>	<i>5th Hampden</i>	<i>1/31/2013</i>
<i>Martha M. Walz</i>	<i>8th Suffolk</i>	<i>1/29/2013</i>

HOUSE No. 2011

By Mr. Kulik of Worthington, a petition (accompanied by bill, House, No. 2011) of Stephen Kulik and others relative to expanding access to healthy food choices in vending machines on state property. Public Health.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to expanding access to healthy food choices in vending machines on state property.

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 111 of the General Laws is hereby amended by inserting, after
2 section 224, the following section:-

3 Section 225. (a) As used in this section, the following words shall, unless the context
4 clearly indicates otherwise, have the following meanings:-

5 “Government property”, all property owned or managed by the commonwealth including
6 government office buildings, road-side rest stops, state parks and recreation centers, state
7 colleges and universities, and state-supported hospitals.

8 “Habitual violations”, instances in which a vendor violates this section 5 or more times
9 within a sixth-month period.

10 “Nutritional standards”, the standards promulgated by the department in accordance with
11 subsections (b) and (c), which shall be in effect 24 hours per day.

12 (b) All foods or beverages sold through vending machines located in government
13 buildings or on property owned or managed by the commonwealth shall be limited to food and
14 beverage items that comply with the following nutritional standards:

15 (1) 100 per cent of beverage items must be one or a combination of the following:

16 (a) water, including carbonated water; provided that such beverages shall not contain
17 added caloric sweeteners;

(b) coffee or tea; provided that such beverages shall not contain added caloric sweeteners; provided further that condiments for such beverages may be provided, including sugar, sugar substitutes and milk or creamer products, such as whole or two-per cent milk; provided further that any condiments provided must have less fat than cream;

(c) fat-free or 1 per cent low-fat dairy milk or calcium- and vitamin-D-fortified soymilk with less than 200 calories per container;

(d) 100 per cent fruit juice or fruit juice combined with water or carbonated water; provided that such beverages are limited to a container that holds 12 fluid ounces or less; provided further that such beverages do not contain added caloric sweeteners;

(e) 100 per cent vegetable juice; provided that such beverages are limited to a container that holds 12 fluid ounces or less, contain 200 milligrams of sodium or less per container; provided further that such beverages do not contain added caloric sweeteners; and

(f) low-calorie beverages that contain 40 calories or less per container.

(2) 100 per cent of snack-type food items must meet all of the following criteria and contain:

(a) no more than 200 calories per item as offered (per package);

(b) no more than 35 per cent of calories from fat; provided that packages that contain 100 per cent nuts or seeds may contain more than 35 per cent of calories from fat;

(c) no more than 10 per cent of calories from saturated fat; provided that packages that contain 100 per cent nuts or seeds may contain more than 10 per cent of calories from saturated fat;

(d) 0 grams of trans fat;

(e) no more than 35 per cent of calories from total sugars and a maximum of 10 grams of total sugars per package; provided that fruits and vegetables that do not contain added sweeteners or fats may contain more than 35 per cent of calories from total sugars and 10 grams of total sugars per package; provided further that yogurt may contain up to 30 grams of total sugars per 8-ounce container, adjusted proportionally for smaller containers;

(f) no more than 200 milligrams of sodium per item as offered (per package); and

(g) at least one of the following: (i) a quarter cup of fruit, non-fried vegetable, or fat-free or low-fat dairy; (ii) 1 ounce of nuts or seeds or 1 tablespoon of nut butter; (iii) grain ingredients consisting of at least 50 per cent whole grain as determined by the product manufacturer listing whole grain as the first ingredient or making a whole grain claim); or (iv) at least 10 per cent of

the daily value of a naturally occurring nutrient of public health concern (calcium, potassium, vitamin D, or fiber).

(h) sugarless chewing gum can be sold without having to meet the above nutrition standards.

(3) 100 per cent of entrée-type food items such as sandwiches must meet all of the following criteria and contain:

(a) no more than 400 calories per item as offered (per package);

(b) no more than 35 per cent of calories from fat;

(c) no more than 10 per cent of calories from saturated fat;

(d) 0 grams trans fat;

(e) no more than 35 per cent of calories from total sugars and no more than 15 grams of total sugars per package;

(f) no more than 480 milligrams of sodium per package; and

(g) at least two of the following: (i) a quarter cup of fruit, non-fried vegetable, or fat-free or low-fat dairy; (ii) 1 ounce of nuts or seeds or 1 tablespoon of nut butter; (iii) grain ingredients consisting of at least 50 per cent whole grain as determined by the product manufacturer listing whole grain as the first ingredient or making a whole grain claim); or (iv) at least 10 per cent of the daily value of a naturally occurring nutrient of public health concern (calcium, potassium, vitamin D, or fiber).

(c) Each vending machine must display the total calorie content for each item as sold (per package), clearly and conspicuously, adjacent or in close proximity to each individual item or its selection button, using a font and format that is at least as prominent, in size, appearance and contrast, as that used to post either the name or price of the item and where it can be seen before the consumer selects an item, consistent with federal law.

(d) Five years after enactment of this act and every five years thereafter, the department shall review, and if necessary, revise and update the nutritional standards set forth subsections (b) and (c) to reflect advancements in nutrition science, dietary data, and new product availability.

(e) The department shall coordinate and supervise implementation of this section and shall address acts of noncompliance. Noncompliance may be discovered by the department through inspections or other means or through reports made by individuals or organizations. Any vendor who the department finds has failed to comply with this section shall be subject to a penalty to be assessed as follows:

(1) The first violation shall result in a fine paid by the vending machine operator of no less than \$100;

(2) Subsequent violations shall result in a fine paid by the vending machine operator of no less than \$500; and

(3) Habitual violations shall result in a six-month prohibition on the sale of foods and beverages by the vending machine operator within any state facility or on state property and a fine of no less than \$1,000.

Revenue collected as a result of the fines in this section shall be transferred to the treasury. The department may, by rulemaking, increase the fines prescribed by this section.

(g) To assist in the implementation of the nutritional standards described in this section, the department shall designate an appropriate position within the department to disseminate information and train staff on the nutritional standards to ensure compliance. The designated position shall monitor compliance and report back to the department every year on the status of implementation. The annual report shall include: an assessment of compliance with the nutritional standards; a list of successes, challenges, and barriers experienced in implementation; and recommendations for improvement of the nutritional standards and compliance.

(h) The department shall also take the following actions:

(1) contact current vendors and request that they transition to food and beverage items that comply with the nutritional standards within 6 months of enactment;

(2) require future procurement or vending contracts to include a provision stipulating that all food and beverage items will meet the nutritional standards; and

(3) make the final decision as to whether products to be vended meet the nutritional standards.

(i) Nothing in this section shall be construed to require a state agency, institute, property, administrator, or manager to place vending machines on his or her site.