

HOUSE No. 450

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to the public health impact of commercialism in schools..

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 71 of the General Laws, as appearing in the 2006 Official Edition,
2 is hereby amended by inserting after section 2A the following section:-

3 Section 2A1/2. As used in this section, the following words shall have the following
4 meanings:

5 “Mark”, any brand name, alone or in conjunction with any other word, logo, symbol,
6 motto, selling message, signage, recognizable color or pattern of colors, spokesperson, spokes
7 character, or any other indicia of product identification identical or similar to, or identifiable
8 with, those used for any consumer products or services.

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

11 “School buildings”, any building or facility located on public school grounds, including
12 all interior and exterior walls, surfaces, or fixtures.

13 No manufacturer or distributor shall advertise in any manner consumer products or
14 consumer services on public school grounds, buildings, or real property owned or leased by a
15 public school from one-half hour before the beginning of the school day, during the school day
16 and one-half hour after the school day. Advertisements shall include, but not be limited to,
17 placement of manufacturer marks, or manufacturers' or distributors' consumer products or
18 services marks for the purpose of promoting purchase of products or promoting brand loyalty by
19 a student or a student's family.

20 Placement of manufacturer marks, or manufacturers' or distributors' consumer products
21 or services marks shall not be permitted on school grounds including, but not limited to,
22 equipment dispensing products, posters, trademark cups, book covers, banners, beverage coolers,
23 sporting equipment, as screen savers on computers, or displayed on other electronic equipment
24 or on any items located within school buildings, or on school building exteriors.

25 Advertising using marks or other advertising means on school grounds is prohibited in
26 analog and digital formats including, but not limited to, audio and video formats.

27 Manufacturers or distributors may not provide any type of information or donate any
28 promotional items or offer gifts, other than the manufacturer's own primary consumer products,
29 which bear the mark or brand name of the manufacturer's products.

30 This section shall not apply to manufacturers' or distributors' primary consumer products
31 package labels.

32 SECTION 2. Notwithstanding any special or general law to the contrary, the department
33 of education shall have the authority to promulgate rules and regulations to carry out section 1 of
34 this act and shall implement enforcement provisions for violations of said rules and regulations.

35 SECTION 3. Notwithstanding any special or general law to the contrary, the
36 commissioner of public health shall convene a study and investigation within the department of
37 public health to assess the impact of advertising and marketing on behavioral risk factors
38 utilizing data collected through the national Behavioral Risk Factor Surveillance System
39 (BRFSS). The commissioner of public health shall advise the commissioner of education and
40 file a report with the house and senate chairs of the joint committee on public health of the
41 findings within six months of the inception of this act.

42 SECTION 4. This act shall take effect on August 31, 2010.