

HOUSE No. 4919

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

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 By striking out all after the enacting clause (as inserted by amendment by the Senate),
2 and inserting in place thereof the following:—

3 “SECTION Section 23B of chapter 7 of the General Laws, as appearing in the 2008
4 Official Edition, is hereby amended by striking out, in lines 2 and 3, the words “or authority”,
5 and inserting in place thereof the following words:-, authority or trustees or officers of a state
6 college or university designated by such trustees.

7 SECTION Said section 23B of said chapter 7, as so appearing, is hereby further
8 amended by striking out subsection (b) and inserting in place thereof the following 2
9 subsections:-

10 (b) To effectuate the preference for those products of agriculture grown or produced
11 using locally-grown products, the state purchasing agent responsible for procuring the products
12 on behalf of a state agency, authority or trustees or officers of a state college or university
13 designated by such trustees shall, in advertising for bids, contracts or otherwise procuring

14 products of agriculture, make reasonable efforts to facilitate the purchase of such products of
15 agriculture grown or produced using products grown in the commonwealth.

16 (c) The state purchasing agent responsible for procuring the products on behalf of a state
17 agency or authority shall purchase the products of agriculture grown or produced using products
18 grown in the commonwealth, unless the price of the goods exceeds, by more than 10 per cent, the
19 price of products of agriculture grown or produced using products grown outside of the
20 commonwealth.

21 SECTION Section 4 of chapter 30B of the General Laws, as so appearing, is hereby
22 amended by striking out subsection (d) and inserting in place thereof the following subsection:-

23 (d) A procurement officer who follows sound business practices may award contracts
24 which include individual purchases of less than \$25,000 to Massachusetts farm operations for the
25 procurement of products of agriculture as defined in section 1A of chapter 128 including, but not
26 limited to, fruits, vegetables, eggs, dairy products, meats, crops, horticultural products and
27 products processed into value added products, that are grown or produced using products grown
28 in the commonwealth as well as fish, seafood and other aquatic products, without seeking
29 quotations as required under subsection (a).

30 SECTION The third paragraph of section 1D of chapter 69 of the General Laws, as so
31 appearing, is hereby amended by striking out the fourth sentence and inserting in place thereof
32 the following 2 sentences:- The standards shall provide for instruction in the issues of nutrition
33 and exercise. The standards may provide for instruction in the issues of physical education,
34 human immunodeficiency virus and acquired immune deficiency syndrome education, violence

35 prevention, including teen dating violence, bullying prevention, conflict resolution and drug,
36 alcohol and tobacco abuse prevention.

37 SECTION The fourteenth paragraph of section 1I of said chapter 69, as so appearing, is
38 hereby amended by striking out clauses (j) and (k) and inserting in place thereof the following 3
39 clauses:-

40 (j) multi-cultural education training for students and teachers;

41 (k) global education; and

42 (l) nutrition and wellness programs.

43 SECTION Chapter 111 of the General Laws is hereby amended by adding the following
44 section:-

45 Section 222. (a) As used in this section, the following words shall have the following
46 meanings:-

47 “Competitive foods or beverages”, all foods or beverages sold or provided in: (i) à la
48 carte lines in school cafeterias; (ii) school stores; (iii) school snack bars; (iv) vending machines;
49 and (v) any other locations in public schools; provided, however, that competitive foods or
50 beverages shall not include foods sold or provided as part of the School Breakfast Program, the
51 School Lunch Program and the Child and Adult Care Food Program of the United States
52 Department of Agriculture; provided further, that competitive foods or beverages shall not
53 include non-sweetened carbonated water.

54 “Nutritional standards”, the standards promulgated by the department in accordance with
55 subsection (c).

56 “Public school”, an elementary, middle, high, charter or innovation school operated by a
57 public school district or board of trustees pursuant to chapter 71.

58 “School day”, the hours of the day that students must attend school.

59 (b) The department, in consultation with the department of elementary and secondary
60 education and the department of mental health, shall establish, and periodically
61 review, guidelines for:

62 (1) the training of all public school nurses in behavioral health and appropriate screening
63 and resources for the treatment of childhood obesity and behavioral health disorders, including
64 eating disorders;

65 (2) the recognition, treatment and availability of resources for children at risk for and
66 diagnosed with childhood obesity and type 2 diabetes;

67 (3) professional development and training of public school nurses and aid staff to gain the
68 most up-to-date knowledge on childhood obesity, eating disorders and type 2 diabetes so that
69 they can become more effective at screening for these conditions and making appropriate
70 referrals for treatment; and

71 (4) the establishment of a referral program where medical resources in the community
72 shall collaborate with public schools to identify children in need of nutritional services, and
73 provide these resources through in-school, outpatient and inpatient settings, where appropriate.

74 (c)(1) The department shall promulgate regulations establishing nutritional standards for
75 the sale or provision of competitive foods or beverages in public schools.

76 (2) All competitive foods or beverages sold or provided in public schools shall be limited
77 to foods or beverages that comply with the nutritional standards; provided, however, that the
78 nutritional standards shall not apply, unless a public school district or board of trustees elects to
79 apply the nutritional standards beyond this timeframe, to competitive foods or beverages sold on
80 school grounds up to 30 minutes before the beginning of the school day or 30 minutes after the
81 end of the school day, with the exception of competitive foods or beverages sold through
82 vending machines, in which case the nutritional standards shall apply at all times; and provided
83 further, that the department may make reasonable exceptions for the application of the nutritional
84 standards to competitive foods or beverages sold during the school day at booster sales,
85 concession stands, and other school-sponsored or school-related fundraisers and events.

86 (3) In developing the regulations, the department shall consider nutritional and dietary
87 recommendations developed by state, federal and independent departments and health advisory
88 associations including, but not limited to: the United States Department of Health and Human
89 Services, the United States Department of Agriculture, the American Dietetic Association, the
90 national School Nutrition Association, the Institute of Medicine, the American Heart Association
91 and the School Nutrition Association of Massachusetts; provided, however, that the department,
92 where appropriate, may develop the regulations in conformity with federal nutritional standards.

93 (4) The regulations shall include, but not be limited to, the following requirements for
94 public schools:

95 (i) making available plain, potable water to all public school students during the day, at
96 no cost to the students;

97 (ii) offering for sale fresh fruit and non-fried vegetables at any location where food is
98 sold; provided, however, that this shall not include non-refrigerated vending machines and
99 vending machines which dispense only beverages;

100 (iii) making nutritional information available to students for non-prepackaged
101 competitive foods or beverages; provided, however, that this shall not include fresh fruit or fresh
102 vegetables and foods or beverages sold during the school day at booster sales, concession stands,
103 and other school-sponsored or school-related fundraisers and events;

104 (iv) prohibiting fryolators in the preparation of competitive foods; provided, however,
105 that the department may establish exceptions for the use of fryolators in the preparation of
106 competitive foods sold during the school day at booster sales, concession stands and other
107 school-sponsored or school-related fundraisers and events; and

108 (v) ensuring that all foods, including competitive foods or beverages sold or provided to
109 students during the school day, meet state and federal food safety requirements.

110 (d) The department, in collaboration with the department of elementary and secondary
111 education, shall assist public schools in the implementation of the nutritional standards relative to
112 the sale or provision of competitive foods or beverages in public schools. The assistance may
113 include:

114 (1) additional training in nutrition and diet available for school food service directors;

115 (2) an assessment of a school's capacity, resources and equipment to prepare and provide
116 recommended foods; and

117 (3) recommendations on the duration of school lunch periods.

118 (e) Every 5 years, the department, in consultation with the department of elementary and
119 secondary education, shall conduct a review of the nutritional standards and update the
120 nutritional standards as needed pursuant to subsection (c). In August of the last year of the 5-
121 year period, the department shall report the findings of the review to the speaker of the house of
122 representatives, the president of the senate, the joint committee on health care financing, the joint
123 committee on public health and the joint committee on education. The report shall include, but
124 not be limited to, the following information:

125 (1) an assessment of the success of implementing the nutritional standards in public
126 schools;

127 (2) the challenges or barriers experienced by public schools upon implementation of the
128 nutritional standards and guidelines for the sale or provision of competitive foods and beverages;

129 (3) changes in revenue received from the sale of federally-reimbursable school meals;

130 (4) changes in total revenue from federally-reimbursable school meals and competitive
131 sales combined that were lost or gained after implementation of the nutritional standards and
132 guidelines for the sale or provision of competitive foods and beverages;

133 (5) notable changes in student participation in the federally-reimbursable school meals
134 programs; and

135 (6) recommendations for improvement of the nutritional standards and guidelines for the
136 sale or provision of competitive foods and beverages.

137 (f) The department, in collaboration with the department of elementary and secondary
138 education, shall promulgate regulations facilitating the establishment of school wellness advisory

139 committees within school districts in order to maximize school districts' eligibility as recipients
140 of federal grant awards. The regulations may require the wellness advisory committees to
141 develop and recommend district-wide wellness policies addressing school nutrition, nutrition
142 education and physical activity. The regulations may further require the wellness advisory
143 committees to periodically review the district-wide wellness policies and implement any
144 recommendations made as a result of this review prior to the following school year. Committee
145 members may include school administrators, school nurses, food service directors, food service
146 staff, parents of students in the school district, students, physical and health education teachers,
147 dietitians, health care professionals and interested community members.

148 (g) To promote food safety, the department, in collaboration with the department of
149 elementary and secondary education, shall promulgate regulations requiring local health officials
150 to conduct food safety inspections at public schools, in accordance and with the frequency
151 required by state and federal law, or as a result of public complaint or food recall, and to track
152 and report the results of these inspections for each school to the department and the department
153 of elementary and secondary education, including any violations and steps to remediate the
154 violations. The regulations may include minimal qualifications for local health officials
155 responsible with conducting food safety inspections at public schools. All reports and
156 information collected or received by the departments pursuant to the requirements of this
157 subsection shall be public records pursuant to section 7 of chapter 4.

158 SECTION (a) There is hereby established a commission on school nutrition and
159 childhood obesity for the purpose of making an investigation and study of childhood obesity and
160 effective programs promoting proper nutrition and exercise for the children of the
161 commonwealth. The commission shall be co-chaired by the commissioner of public health and

162 the commissioner of elementary and secondary education, or their designees, and shall also
163 include: the commissioner of mental health or the commissioner's designee; the commissioner of
164 agricultural resources or the commissioner's designee; the chair of the statewide student advisory
165 council or the chair's designee; 2 members appointed by the Massachusetts Association of
166 School Superintendents; 1 member appointed by the Massachusetts Secondary School
167 Administrators' Association; 1 member appointed by the Massachusetts nutrition board; 1
168 member appointed by the Massachusetts Association for Health, Physical Education, Recreation
169 and Dance; 1 member appointed by the American Heart Association; 1 member appointed by the
170 American Diabetes Association; 1 member appointed by the Massachusetts Parent Teacher
171 Association; 1 member appointed by the Massachusetts Academy of Pediatrics; 1 member of the
172 Massachusetts School Nutrition Association; 2 members appointed by the governor, 1 of whom
173 shall be a representative of the food or beverage industry; 3 members appointed by the senate
174 president and 3 members appointed by the speaker of the house of representatives. The members
175 of the commission shall serve without compensation.

176 (b) The commission shall conduct a comprehensive review of programs promoting proper
177 nutrition for children at each stage of development, both inside and outside of the school setting.
178 The commission's review shall consider, but not be limited to: (1) current school district
179 practices concerning nutrition and physical education in public schools, including, but not
180 limited to, physical education course offerings, class duration and frequency and the physical
181 space and time allotted, if any, for public school students to participate in recess each week; (2)
182 current practices related to the treatment and management of childhood obesity, type 2 diabetes
183 and eating disorders in the school setting; (3) methods for encouraging the consumption of well-
184 balanced, healthy meals, in accordance with the nutritional standards established by the

185 department of public health in subsection (c) of section 222 of chapter 111 of the General Laws,
186 for students both inside and outside of the school setting; (4) the appropriate levels of physical
187 education and activity for all children of the commonwealth; and (5) the utility of developing and
188 implementing pilot initiatives to reduce childhood obesity through school-based, behavioral and
189 incentive-driven programs.

190 (c) The commission shall file a report detailing its review and recommendations, along
191 with any legislative proposals to implement the recommendations, with the clerk of the senate
192 and the clerk of the house of representatives not later than July 31, 2011.

193 SECTION Notwithstanding any general or special law to the contrary, the department of
194 elementary and secondary education shall evaluate the success of the Boston public school
195 system's pilot program, known as Chefs in Schools, to provide healthy, cost-effective meals to
196 students during the school day. The department's report shall identify other public schools in the
197 commonwealth in which similar programs may be implemented and shall include an estimated
198 budget for implementing such programs. The department shall report its findings to the joint
199 committee on public health and the joint committee on education by December 31, 2010.

200 SECTION 9. (a) The department of agricultural resources shall collect data including,
201 but not limited to:

202 (1) public school districts and other educational institutions currently purchasing locally-
203 grown farm and locally-harvested fish products, as well as school districts or other educational
204 institutions not yet preferentially purchasing locally-grown farm or locally-harvested fish
205 products;

206 (2) the type of farm or fish products public schools wish to purchase;

207 (3) farms interested in selling locally-grown farm or locally-harvested fish products to
208 public schools or other educational institutions;

209 (4) the types of locally-grown farm and locally-harvested fish products available; and

210 (5) the names and contact information of farmers, farm organizations, fishermen, or fish
211 processors marketing the locally-grown farm products.

212 (b) The department of elementary and secondary education shall collect and report data
213 including, but not limited to:

214 (1) the name of the procurement contact person at each public school district;

215 (2) a list of public school districts that feature locally-grown or locally-harvested fish
216 foods on their published cafeteria menus;

217 (3) a list of public school districts that have school garden or greenhouse projects;

218 (4) a list of public school districts that include local agriculture or fishing in their
219 curricula; and

220 (5) a list of public school districts that include serving locally-grown or locally-harvested
221 foods in their wellness policies as a strategy to encourage healthy student meals.

222 (c) Based upon the data collected under subsections (a) and (b), the department of
223 agricultural resources, in consultation with the department of elementary and secondary
224 education, shall work with programs that facilitate the acquisition of local agricultural products
225 or locally-harvested fish products by public schools, including existing farm-to-school projects,
226 to develop a process by which farms or fish processors interested in selling to public schools may
227 notify public schools and public schools interested in purchasing locally-grown farm or locally-

228 harvested fish products may notify farms; provided, however, that the process ensures fair
229 opportunities for all farms or fish processors interested in selling products to public schools in
230 accordance with applicable laws and regulations

231 (d) The department of agricultural resources, in consultation with the department of
232 elementary and secondary education, shall file a report with the office of the governor, the
233 speaker of the house of representatives, the president of the senate, the joint committee on
234 education, the joint committee on public health and the joint committee on environment, natural
235 resources and agriculture that details the results of the data collected under subsections (a) and
236 (b) of this section, the steps taken to comply with subsection (c) and any recommendations,
237 together with drafts of legislation necessary to carry out those recommendations, by March 1,
238 2011.

239 SECTION 10. Notwithstanding any general or special law to the contrary, the
240 department of public health, in consultation with the department of elementary and secondary
241 education, shall develop the nutritional standards as provided in section 222 of chapter 111 of the
242 General Laws not later than January 1, 2011 and the nutritional standards shall be implemented
243 in public schools not later than August 1, 2012.”.