

SENATE No. 1262

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act promoting wellness in the workplace..

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 63 of the General Laws is hereby amended by inserting after
2 section 38Z the following section:-

3 Section 38AA. (a) A corporation subject to tax under this chapter which participates in a
4 certified wellness plan as defined by section 221 of chapter 111 may take credit against the
5 excise imposed by this chapter in an amount equal to 50% of the costs associated with
6 implementing the plan.

7 (b) As used in this paragraph, “DPH” means the Department of Public Health as defined
8 in chapter 111. A credit allowed under this section may be taken only after the taxpayer
9 completes a report signed by an authorized representative of the corporation, and files the report
10 with the DPH, hereinafter referred to as the DPH, within 2 years after the initial plan certification
11 by DPH and annually thereafter. Based upon the information provided in the report and its own
12 independent investigation, DPH shall determine whether the certified plan is in compliance with
13 the definition of certified plan set forth in this section and whether the project has a reasonable
14 chance of increasing employee health as advanced in the initial proposal as certified by DPH. If

15 DPH determines that the certified project is no longer in compliance, then DPH shall revoke
16 certification of the plan as provided in section 221 of said chapter 111 and notification of
17 decertification shall be given to the commissioner of revenue who shall disallow any future
18 credits under this section. If the project is considered decertified for reasons of fraud or material
19 misrepresentation, as determined by DPH and the commissioner of revenue, the commissioner of
20 revenue shall have a cause of action against the controlling business of the plan for the value of
21 any economic benefits received, including, but not limited to, the amount of the tax credit
22 allowed under this section. Nothing in this section shall limit the authority of the commissioner
23 to make adjustments to a corporation's liability upon audit.

24 (c) In the case of a corporation that is subject to a minimum excise under any provision of
25 this chapter, the amount of the credit allowed by this section shall not reduce the excise to an
26 amount less than such minimum excise.

27 (d) The commissioner of revenue shall, in consultation with the department of public
28 health, promulgate such rules and regulations as are necessary to implement the provisions of
29 this section.

30 SECTION 2. Chapter 111 of the General Laws is hereby amended by inserting after
31 section 220 the following sections:-

32 (a) There shall be an Employer Wellness Program. Participating employers shall
33 establish a wellness plan to improve the physical health of employees. Under the program,
34 employers shall conduct a health assessment to determine the greatest health risks to its
35 employees in order to determine their overall wellness plan. In particular, employers shall
36 determine employee health risk for, but not be limited to, high blood pressure, diabetes, high

37 cholesterol, cardiovascular disease, and obesity. All wellness plans shall provide assistance or
38 rewards for employee:

39 i. Appropriate weight loss

40 ii. Smoking cessation; and,

41 iii. Pursuit of preventative health care services.

42 (b) An employer shall submit to the department for certification a wellness plan
43 developed by the employer based on their employee health assessment. The department shall
44 certify an employer wellness plan based on the criteria established in (a). If a wellness plan is
45 certified by the department, notice shall be given to the department of revenue for credit under
46 section 38U of chapter 63.

47 SECTION 3. The executive office of Health and Human Services shall promulgate
48 regulations, in consultation with department of revenue and department of insurance, to
49 implement section 2.