

# SENATE . . . . . No. 1435

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## The Commonwealth of Massachusetts

PRESENTED BY:

***Benjamin B. Downing***

*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 promoting wellness in the workplace..

PETITION OF:

NAME:

*Benjamin B. Downing*

DISTRICT/ADDRESS:

*Berkshire, Hampshire, Franklin and  
Hampden*

# SENATE . . . . . No. 1435

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By Mr. Downing, a petition (accompanied by bill, Senate, No. 1435) of Benjamin B. Downing for legislation to promote wellness in the workplace. Revenue.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 1262 OF 2009-2010.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven  
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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. Section 6 of chapter 62 of the General Laws, as appearing in the 2008  
2   Official Edition, is hereby amended by inserting after subsection (q) the following section:-

3           (q). (1) An employer subject to tax under this chapter which participates in a certified  
4   wellness plan as defined by section 223 of chapter 111 may take credit against the excise  
5   imposed under this chapter in an amount equal to 50% of the costs associated with implementing  
6   the plan, with a maximum credit of \$10,000.

7           (2) 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

by DPH and annually thereafter. Based upon the information provided in the report and its own independent investigation, DPH shall determine whether the certified plan is in compliance with the definition of certified plan set forth in this section and whether the project has a reasonable chance of increasing employee health as advanced in the initial proposal as certified by DPH. If DPH determines that the certified project is no longer in compliance, then DPH shall revoke certification of the plan as provided in section 223 of said chapter 111 and notification of decertification shall be given to the commissioner of revenue who shall disallow any future credits under this section. If the project is considered decertified for reasons of fraud or material misrepresentation, as determined by DPH and the commissioner of revenue, the commissioner of revenue shall have a cause of action against the controlling business of the plan for the value of any economic benefits received, including, but not limited to, the amount of the tax credit allowed under this section. Nothing in this section shall limit the authority of the commissioner to make adjustments to a corporation's liability upon audit.

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

SECTION 2. Chapter 63 of the General Laws is hereby amended by inserting after section 38BB the following section:-

Section 38CC. (a) A corporation subject to tax under this chapter which participates in a certified wellness plan as defined by section 223 of chapter 111 may take credit against the excise imposed under this chapter in an amount equal to 50% of the costs associated with implementing the plan, with a maximum credit of \$10,000.

(b) As used in this paragraph, “DPH” means the Department of Public Health as defined in chapter 111. A credit allowed under this section may be taken only after the taxpayer completes a report signed by an authorized representative of the corporation, and files the report with the DPH, hereinafter referred to as the DPH, within 2 years after the initial plan certification by DPH and annually thereafter. Based upon the information provided in the report and its own independent investigation, DPH shall determine whether the certified plan is in compliance with the definition of certified plan set forth in this section and whether the project has a reasonable chance of increasing employee health as advanced in the initial proposal as certified by DPH. If DPH determines that the certified project is no longer in compliance, then DPH shall revoke certification of the plan as provided in section 223 of said chapter 111 and notification of decertification shall be given to the commissioner of revenue who shall disallow any future credits under this section. If the project is considered decertified for reasons of fraud or material misrepresentation, as determined by DPH and the commissioner of revenue, the commissioner of revenue shall have a cause of action against the controlling business of the plan for the value of any economic benefits received, including, but not limited to, the amount of the tax credit allowed under this section. Nothing in this section shall limit the authority of the commissioner to make adjustments to a corporation’s liability upon audit.

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

SECTION 3. Chapter 111 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after section 222 the following sections:-

223. Employer Wellness Program.

(a) There shall be an Employer Wellness Program. Participating employers shall establish a wellness plan to improve the physical health of employees. Under the program, employers shall conduct a health assessment to determine the greatest health risks to its employees in order to determine their overall wellness plan. In particular, employers shall determine employee health risk for, but not be limited to, high blood pressure, diabetes, high cholesterol, cardiovascular disease, and obesity. All wellness plans shall provide assistance or rewards for employee:

- i. Appropriate weight loss
- ii. Smoking cessation; and,
- iii. Pursuit of preventative health care services.

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

SECTION 4. The executive office of Health and Human Services shall promulgate regulations, in consultation with department of revenue and department of insurance, to implement section 3.