HOUSE DOCKET, NO. 2021 FILED ON: 1/15/2015

HOUSE . . . . . No. 2005

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:
Stephen Kulik	*1st Franklin*	*1/15/2015*
Louis L. Kafka	*8th Norfolk*	*10/10/2019*
Paul McMurtry	*11th Norfolk*	*10/10/2019*
Jason M. Lewis	*Fifth Middlesex*	*10/10/2019*
Ruth B. Balser	*12th Middlesex*	*10/10/2019*
Angelo J. Puppolo, Jr.	*12th Hampden*	*10/10/2019*
Marjorie C. Decker	*25th Middlesex*	*10/10/2019*
Elizabeth A. Poirier	*14th Bristol*	*10/10/2019*
James B. Eldridge	*Middlesex and Worcester*	*10/10/2019*
Denise C. Garlick	*13th Norfolk*	*10/10/2019*
Frank I. Smizik	*15th Norfolk*	*10/10/2019*
Marcos A. Devers	*16th Essex*	*10/10/2019*
Jonathan Hecht	*29th Middlesex*	*10/10/2019*
Brian M. Ashe	*2nd Hampden*	*10/10/2019*
Alice Hanlon Peisch	*14th Norfolk*	*10/10/2019*
David M. Rogers	*24th Middlesex*	*10/10/2019*

HOUSE DOCKET, NO. 2021 FILED ON: 1/15/2015

HOUSE . . . . . No. 2005

By Mr. Kulik of Worthington, a petition (accompanied by bill, House, No. 2005) of Stephen Kulik and others relative to expanding access to healthy food choices in vending machines on state property. Public Health.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *4351* OF 2013-2014.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

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:

SECTION 1. Section 133A of chapter 6 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking out, in lines 17 to 18, the words “no later than December thirty-first, nineteen hundred and eighty-three” and inserting in place thereof the following words:- annually, on or before December thirty-first.

SECTION 2. Chapter 111 of the General Laws is hereby amended by adding the following section: - Section 230. (a) As used in this section, the following words shall, unless the context clearly indicates otherwise, have the following meanings:-

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

“Habitual violations”, instances in which a vendor or non-RSA vendor violates this section or more times within a 6 month period.

“Non RSA-vendor”, any person who by contract, agreement or ownership is responsible for furnishing, installing, servicing, operating or maintaining a vending machine or vending facility who is not licensed by the commission for the blind to operate such machine or facility.

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

“Vending facility”, snack bars, cart service, shelters, counters, and such other auxiliary equipment necessary for the sale of newspapers, periodicals, confections, tobacco products, foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, and including the vending or exchange of chances for any lottery authorized by law, and conducted by any agency of the commonwealth.

“Vending machine”, any self-service device offered for public use which, upon insertion of a coin, coins, token, paper currency, or by any other means, dispenses servings of food or beverage, either in bulk or in package.

"Vendor", a blind person licensed by the commission for the blind to operate a vending facility under the terms of the Randolph-Shepard Act, Public Law 74-732, as amended from time to time.

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

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

(a) water, including carbonated water; provided that such beverages shall not contain 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

(d) calcium- and vitamin-D-fortified soymilk with less than 200 calories per container

(e) 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;

(f) 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

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

(2) 100 per cent of snack-type food items shall 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 1 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 shall 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) zero 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 2 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) For each article of food sold from a vending machine that does not permit a purchaser to examine the Nutrition Facts Panel, as provided for in federal law before purchasing the article, or does not otherwise provide visible nutrition information at the point of purchase, a vendor or non-RSA vendor shall provide a sign in close proximity to each article of food or the selection button that includes a clear and conspicuous statement disclosing the number of calories contained in the article. This subsection requires that calorie information is posted for each food item, as packaged. Vendors and non-RSA vendors shall also align product labeling in conformity with federal law, as amended from time to time for vending machines.

(d) (1) Until such time as either a non-RSA vendor or a vendor meets the requirements of clause (v) of paragraphs (3) and (4), a vending machine for beverages shall comply with the following product placement: (i) water, including carbonated water without added caloric sweetener, shall be stocked in at least 2 slots or selection buttons per machine and shall be placed at eye level, in the highest selling position or promoted on the most prominent selection button; and (ii) beverages with added caloric sweeteners shall be placed farthest from eye level, or in the lowest selling position.

(2) Until such time as either a non-RSA vendor or a vendor meets the requirements of paragraphs (3) and (4), a vending machine for foods shall comply with the following product placement: (1) fruit, nuts, seeds or whole grain as a first ingredient food shall be placed at eye level, in the highest selling position or in the most prominent selection button; and (2) foods not meeting the nutritional standard in paragraph (2) of subsection (b) shall be placed farthest from eye level, or in the lowest selling position.

(3) A non-RSA vendor may meet the requirements in subsection (b) by: (i) offering 20 per cent of the food or beverages in a vending machine that meet nutritional standards by January 1, 2017; (ii) offering 40 per cent of the food or beverages required to meet nutritional standards by January 1, 2018; (iii) offering 60 per cent of the food or beverages required to meet nutritional standards by January 1, 2019; (iv) offering 80 per cent of the food or beverages required to meet nutritional standards by January 1, 2020; and (v) offering 100 per cent of the food or beverages required to meet accepted nutritional standards by January 1, 2021 and thereafter.

(4) A vendor licensed by the state licensing agency pursuant to sections 133A to 133F, inclusive, of chapter 6 may meet the requirements in subsection (b) by: (i) offering 10 per cent of the food or beverages in a vending machine that meet nutritional standards by January 1, 2017; (ii) offering 30 per cent of the food or beverages required to meet nutritional standards by January 1, 2018; (iii) offering 50 per cent of the food or beverages required to meet nutritional standards by January 1, 2019; (iv) offering 70 per cent of the food or beverages required to meet nutritional standards by January 1, 2020; and (v) offering 100 per cent of the food or beverages required to meet accepted nutritional standards by January 1, 2022 and thereafter.

(d) Five years after enactment of this act and every 5 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) To assist in the implementation of the nutritional standards set forth 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.

(g) The department shall take the following actions:

(1) contact current vendors and non-RSA 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.

(4) Any vendor or non-RSA vendor who is found to be in noncompliance shall be subject to termination of contract within any state facility or on state property.

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