

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

**HOUSE . . . . . No. 2005**

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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.

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

**The Commonwealth of Massachusetts**

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**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:*

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

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

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

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

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

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

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

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

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

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

33 (1) 100 per cent of beverage items shall be 1 or a combination of the following:

34 (a) water, including carbonated water; provided that such beverages shall not contain  
35 added caloric sweeteners;

36 (b) coffee or tea; provided that such beverages shall not contain added caloric sweeteners;  
37 provided further that condiments for such beverages may be provided, including sugar, sugar  
38 substitutes and milk or creamer products, such as whole or two-per cent milk; provided further  
39 that any condiments provided must have less fat than cream;

40 (c) fat-free or 1 per cent low-fat dairy milk

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

42 (e) 100 per cent fruit juice or fruit juice combined with water or carbonated water;  
43 provided that such beverages are limited to a container that holds 12 fluid ounces or less;  
44 provided further that such beverages do not contain added caloric sweeteners;

45 (f) 100 per cent vegetable juice; provided that such beverages are limited to a container  
46 that holds 12 fluid ounces or less, contain 200 milligrams of sodium or less per container;  
47 provided further that such beverages do not contain added caloric sweeteners; and

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

49 (2) 100 per cent of snack-type food items shall meet all of the following criteria and  
50 contain:

51 (a) no more than 200 calories per item as offered, per package;

52 (b) no more than 35 per cent of calories from fat; provided that packages that contain 100  
53 per cent nuts or seeds may contain more than 35 per cent of calories from fat;

54 (c) no more than 10 per cent of calories from saturated fat; provided that packages that  
55 contain 100 per cent nuts or seeds may contain more than 10 per cent of calories from saturated  
56 fat;

57 (d) 0 grams of trans fat;

58 (e) no more than 35 per cent of calories from total sugars and a maximum of 10 grams of  
59 total sugars per package; provided, that fruits and vegetables that do not contain added  
60 sweeteners or fats may contain more than 35 per cent of calories from total sugars and 10 grams  
61 of total sugars per package; provided further that yogurt may contain up to 30 grams of total  
62 sugars per 8-ounce container, adjusted proportionally for smaller containers;

63 (f) no more than 200 milligrams of sodium per item as offered, per package; and

64 (g) at least 1 of the following: (i) a quarter cup of fruit, non-fried vegetable, or fat-free or  
65 low-fat dairy; (ii) 1 ounce of nuts or seeds or 1 tablespoon of nut butter; (iii) grain ingredients  
66 consisting of at least 50 per cent whole grain as determined by the product manufacturer listing  
67 whole grain as the first ingredient or making a whole grain claim; or (iv) at least 10 per cent of

68 the daily value of a naturally occurring nutrient of public health concern: calcium, potassium,  
69 vitamin D or fiber.

70 (h) sugarless chewing gum can be sold without having to meet the above nutrition  
71 standards.

72 (3) 100 per cent of entrée-type food items such as sandwiches shall meet all of the  
73 following criteria and contain:

74 (a) no more than 400 calories per item as offered, per package;

75 (b) no more than 35 per cent of calories from fat;

76 (c) no more than 10 per cent of calories from saturated fat;

77 (d) zero grams trans fat;

78 (e) no more than 35 per cent of calories from total sugars and no more than 15 grams of  
79 total sugars per package;

80 (f) no more than 480 milligrams of sodium per package; and

81 (g) at least 2 of the following: (i) a quarter cup of fruit, non-fried vegetable, or fat-free or  
82 low-fat dairy; (ii) 1 ounce of nuts or seeds or 1 tablespoon of nut butter; (iii) grain ingredients  
83 consisting of at least 50 per cent whole grain as determined by the product manufacturer listing  
84 whole grain as the first ingredient or making a whole grain claim; or (iv) at least 10 per cent of  
85 the daily value of a naturally occurring nutrient of public health concern: calcium, potassium,  
86 vitamin D or fiber.

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

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

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

108 (3) A non-RSA vendor may meet the requirements in subsection (b) by: (i) offering 20  
109 per cent of the food or beverages in a vending machine that meet nutritional standards by January  
110 1, 2017; (ii) offering 40 per cent of the food or beverages required to meet nutritional standards  
111 by January 1, 2018; (iii) offering 60 per cent of the food or beverages required to meet nutritional  
112 standards by January 1, 2019; (iv) offering 80 per cent of the food or beverages required to meet  
113 nutritional standards by January 1, 2020; and (v) offering 100 per cent of the food or beverages  
114 required to meet accepted nutritional standards by January 1, 2021 and thereafter.

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

123 (d) Five years after enactment of this act and every 5 years thereafter, the department  
124 shall review, and if necessary, revise and update the nutritional standards set forth subsections  
125 (b) and (c) to reflect advancements in nutrition science, dietary data, and new product  
126 availability.

127 (e) To assist in the implementation of the nutritional standards set forth in this section, the  
128 department shall designate an appropriate position within the department to disseminate  
129 information and train staff on the nutritional standards to ensure compliance. The designated



130 position shall monitor compliance and report back to the department every year on the status of  
131 implementation. The annual report shall include: an assessment of compliance with the  
132 nutritional standards; a list of successes, challenges, and barriers experienced in implementation;  
133 and recommendations for improvement of the nutritional standards and compliance.

134 (g) The department shall take the following actions:

135 (1) contact current vendors and non-RSA vendors and request that they transition to food  
136 and beverage items that comply with the nutritional standards within 6 months of enactment;

137 (2) require future procurement or vending contracts to include a provision stipulating that  
138 all food and beverage items will meet the nutritional standards; and

139 (3) make the final decision as to whether products to be vended meet the nutritional  
140 standards.

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

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