

SENATE No. 2449

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

Senate, December 30, 2019

Senate, December 26, 2019 -- The committee on Public Health, to whom was referred the petition (accompanied by bill, Senate, No. 1290) of Jason M. Lewis, Paul A. Schmid, III, David Allen Robertson, Danielle W. Gregoire and other members of the General Court for legislation to expand access to healthy food choices in vending machines on state property; and (accompanied by, House, No. 3738) (subject to Joint Rule 12) of Natalie M. Blais and others relative to expanding access to healthy food choices in vending machines on state property,- reports the accompanying bill (Senate, No. 2449).

For the committee,
Joanne M. Comerford

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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
2 2018 Official Edition, is hereby amended by striking out, in lines 18 to 19, the words “no later
3 than December thirty-first, nineteen hundred and eighty-three” and inserting in place thereof the
4 following words:- annually, on or before December 31

5 SECTION 2. Chapter 111 of the General Laws, as so appearing, is hereby amended by
6 adding the following section: - Section 238. (a) As used in this section, the following words
7 shall, unless the context clearly indicates otherwise, have the following meanings:-

8 “Commissioner”, the commissioner of public health

9 “Department”, the department of public health

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

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 subsection (b).

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

21 “Vendor”, a blind person licensed by the commission for the blind to operate a vending
22 facility under the terms of the Randolph-Shepard Act, 20 U.S.C. chapter 6A, section 107; 29
23 U.S.C. sections 701 et. seq.; and sections 129, 130, 131J and 133 through 133E, inclusive, of
24 chapter 6 of the General Laws.

25 (b) All foods or beverages sold through vending machines located in government
26 buildings or on property owned or managed by the commonwealth shall be limited to food and
27 beverage items that comply with the nutritional standards established by the commissioner of
28 public health. The commissioner shall promulgate regulations establishing evidence-based
29 nutrition and food procurement standards that meet or exceed those set forth in “Health and
30 Sustainability Guidelines for Federal Concessions and Vending Operations,” issued by the
31 federal general services administration, or “Healthy Workplace Food and Beverage Toolkit,”
32 issued by the American Heart Association or “Model Beverage and Food Vending Machine
33 Standards,” issued by the National Alliance for Nutrition and Activity. The Commissioner shall
34 complete these regulations no later than 180 days after this is signed into law.

35 The commissioner shall periodically review such nutritional and procurement standards
36 and amend the regulations to reflect advancements in nutrition science, dietary data, and new
37 product availability. The commissioner shall also establish by regulation rules regarding
38 requirements for display of nutritional information on or near vending machines located in
39 government buildings or on property owned or managed by the commonwealth about products
40 sold in such vending machines. The commissioner shall also establish regulations regarding that
41 food and beverage items that meet the nutrition standards should be placed so as to be
42 prominently and easily visible, and in the prime selling positions; that food and beverage items
43 that meet the nutrition standards should be available at prices equal to or less than the prices for
44 similar products that are available and that do not meet the nutrition standards; and that food and
45 beverage items that do not meet the nutrition standards options should not be promoted through
46 discounted prices, bundled meals, or promotional signs. The commissioner shall also establish by
47 regulation a schedule for compliance by vendors and non-RSA vendors with the nutritional
48 standards established by the commissioner.

49 (c) To assist in the implementation of the nutritional standards set forth in this section, the
50 commissioner shall designate an appropriate position within the department to disseminate
51 information and train staff on the nutritional standards to ensure compliance. The designated
52 position shall monitor compliance and report to the commissioner every year on the status of
53 implementation. The annual report shall include: an assessment of compliance with the
54 nutritional standards; a description of any issues encountered in implementation of the nutritional
55 standards; and recommendations for improvement of the nutritional standards and compliance.

56 (d) The commissioner shall take the following actions:

57 (1) notify current vendors and non-RSA vendors of the nutritional standards and the
58 required schedule for compliance.

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

61 (3) determine whether products sold through vending machines located in government
62 buildings or on property owned or managed by the commonwealth meet the nutritional standards
63 established by the commissioner.

64 (4) Any vendor or non-RSA vendor who is found to be in noncompliance shall be subject
65 to termination of contract within any state facility or on state property; provided, however, that
66 any such vendor or non-RSA vendor shall have 60 days to cure any such non-compliance before
67 termination.

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