

**HOUSE . . . . . No. 4441**

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*The Commonwealth of Massachusetts*

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By Mr. Murphy of Burlington, for the committee on Ways and Means, on House, No. 4438, a Bill relative to school nutrition (House, No. 4441). January 28, 2010.

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An Act relative to school nutrition.

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FOR THE COMMITTEE:

NAME:	DISTRICT/ADDRESS:
Charles Murphy	21st Middlesex

# The Commonwealth of Massachusetts

In the Year Two Thousand and Ten

An Act relative to school nutrition.

*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 1D of chapter 69 of the General Laws, as so appearing, is hereby  
2 amended by striking out the ninth sentence, in lines 30 to 32, inclusive, and inserting in place  
3 thereof the following 2 sentences:- The standards shall provide for instruction in the issues of  
4 nutrition and exercise. The standards may provide for instruction in the issues of physical  
5 education, HIV/AIDS education, violence prevention and drug, alcohol and tobacco abuse  
6 prevention.

7 SECTION 2. Section 1I of said chapter 69 is hereby amended by striking out subparagraphs (j)  
8 and (k), in lines 176 and 177, and inserting in place thereof the following 3 subparagraphs:-

9 (j) multi-cultural education training for students and teachers;

10 (k) global education; and

11 (l) nutrition and wellness programs.

12 SECTION 3. Chapter 111 of the General Laws is hereby amended by adding the following 3  
13 sections:-

14 Section 222. The department, in consultation with the department of elementary and secondary  
15 education, shall establish, and periodically review, guidelines for: (i) the training of all  
16 elementary, middle and high school nurses in behavioral health and appropriate treatment and  
17 resources for eating disorders; (ii) the recognition, treatment and availability of resources for  
18 children at risk for and diagnosed with type 2 diabetes; (iii) professional development and  
19 training of school nurses and aid staff to gain the most up-to-date knowledge on eating disorder  
20 and type 2 diabetes treatment and identification; and (iv) the establishment of a referral program  
21 where medical resources in the community shall collaborate with schools to identify children in

22 need of services and provide these resources through in-school, outpatient and inpatient settings,  
23 where appropriate.

24 Section 223. (a) As used in this section, the following words shall, unless the context clearly  
25 requires otherwise, have the following meanings:-

26 “Competitive foods or beverages”, all foods or beverages sold or provided in à la carte lines in  
27 school cafeterias, school stores, school snack bars or vending machines or any other locations in  
28 public schools; provided, however, that competitive foods or beverages shall not include foods  
29 sold as part of the National School Lunch Program and School Breakfast and Child Care and  
30 Adult Programs.

31 “Elementary school”, a public school that maintains any of grades pre-kindergarten to grade 8,  
32 inclusive.

33 “High school”, a public school that maintains any of grades 9 to 12, inclusive.

34 “Middle school”, a public school that maintains any of grades 5 to 9, inclusive.

35 “Public school”, an elementary, middle, high, charter or innovation school operated by a public  
36 school district or board of trustees pursuant to chapter 71.

37 “Leading nutritional standards”, the Institute of Medicine’s April 2007 report, Nutrition  
38 Standards for Foods in Schools: Leading the Way Toward Healthier Youth.

39 (b) The department shall develop nutritional guidelines and standards for the sale or provision of  
40 competitive foods or beverages in public schools; provided, however, that competitive foods or  
41 beverages sold or provided in public schools shall be limited to foods or beverages that comply  
42 with the leading nutritional standards and other regulations promulgated by the  
43 department. Such competitive foods and beverages may include: (1) foods that are (i) non-fried  
44 fruits or non-fried vegetables; (ii) whole grains and related combination products; (iii) nonfat and  
45 low-fat dairy products; and (2) beverages that are (i) water without additives or carbonation; (ii)  
46 100 per cent fruit juice; (iii) nonfat or low-fat dairy drinks.

47 (c) The department in consultation with the department of elementary and secondary education  
48 shall establish regulations for the phase-in and implementation of nutrition standards for  
49 competitive foods and beverages sold or provided in public schools developed pursuant to  
50 paragraph (b). In establishing these regulations, the department, in consultation with the  
51 department of elementary and secondary education, shall consider such factors as: (1) adequate  
52 phase-in time for public schools to implement new nutritional standards; (2) additional training  
53 in nutrition and diet available for school food service directors; and (3) the current capacity,  
54 resources and equipment available in public school kitchens to prepare recommended foods.

55 (d) Competitive food items not prepackaged with nutritional information by the distributor that  
56 are not fresh fruit or fresh vegetables shall be required to have nutritional information including:  
57 calories, percentage of calories from fat, percentage of calories from saturated fat, cholesterol,  
58 protein, carbohydrate, fiber, calcium, iron, vitamin A and vitamin C, available to students, either  
59 on a display case, in a binder or within information packets held by food service staff for  
60 requests by students.

61 (e) The department in consultation with the department of elementary and secondary education  
62 shall conduct a review of the implementation of this section and the appropriateness of  
63 maintaining the leading nutritional standards at least once every 5 years after the effective date of  
64 this section, and shall report the findings of its review to the speaker of the house of  
65 representatives, the president of the senate, the joint committee on health care financing, the  
66 joint committee on public health and the joint committee on education. To assist in the review of  
67 said standards, the department shall use the most updated peer reviewed scientific studies and  
68 data concerning appropriate nutritional standards for foods sold outside of reimbursable meal  
69 programs in schools as well as the United States Department of Health and Human Services' and  
70 the United States Department of Agriculture's most current dietary guidelines for healthy  
71 Americans. Included in its review, the department shall consider: (1) the proportion of public  
72 schools that have successfully implemented the standards and guidelines for competitive foods  
73 and beverages; (2) challenges or barriers experienced by public schools upon implementation of  
74 the competitive foods and beverages standards; (3) changes in revenue received from the sale of  
75 federally reimbursable school meals; (4) changes in total revenue from federal reimbursable  
76 meals and competitive sales combined that were lost or gained after implementation of the  
77 standards for competitive foods and beverages; (5) notable changes in student participation in the  
78 federal reimbursable meals programs; and (6) recommendations for improvement of the  
79 standards and guidelines for competitive foods and beverages.

80 (f) Public schools shall offer for sale fresh fruit and non-fried vegetables at any location where  
81 food is sold.

82 (g) Public schools shall make available plain, potable water to all public school students during  
83 the school day at no cost.

84 (h) Public schools shall not use fryolators in the preparation of food; provided, however, that  
85 the department, in consultation with the department of elementary and secondary education, may  
86 establish reasonable exceptions for the use of fryolators in the preparation of food sold after the  
87 end of the school day, during school-sponsored fundraisers and events, at booster sales,  
88 concession stands and other activities at school-related events.

89 (i) The department of elementary and secondary education shall require implementation of  
90 competitive food and beverage standards in public schools in accordance with this section and  
91 shall be responsible for enforcing said standards.

92 Section 224. The department in consultation with the department of elementary and secondary  
93 education shall (i) collect data and review and analyze trends in reported cases of obesity and  
94 eating disorders in students; (ii) develop reporting requirements to assist in the collection of said  
95 data; and (iii) conduct a study of whether students are receiving appropriate and adequate,  
96 effective and quality care in the treatment of their obesity or eating disorder.

97 The department shall annually, on or before January 15, report the results of its review to  
98 the joint committee on public health and the joint committee on education.

99 SECTION 4. Section 223 of said chapter 111, inserted by section 3, is hereby amended by  
100 striking out the definition of “Leading nutrition standards” and inserting in place thereof the  
101 following definition:-

102 “Leading nutrition standards”, the Institute of Medicine’s April 2007 report, Nutrition Standards  
103 for Foods in Schools: Leading the Way Toward Healthier Youth and other recommendations  
104 made pursuant to subsection (e).

105 SECTION 5. There is hereby established a commission on childhood obesity which shall be  
106 responsible for developing a statewide plan to reduce childhood obesity through the promotion  
107 of evidence-based programs to provide proper nutrition and exercise for the children of the  
108 commonwealth. Said commission shall make a comprehensive review of current evidence-based  
109 research and programs that promote proper nutrition for children at each stage of development as  
110 well as appropriate levels of physical education and activity for all children. Said programs  
111 shall, insofar as possible, involve parents and families to ensure that the effort to reduce  
112 childhood obesity is not limited to time in school.

113 The commission shall be co-chaired by the commissioners of the departments of public health,  
114 elementary and secondary education, and early education and care, or their designees; and shall  
115 include: the commissioner of mental health or his designee; the commissioner of medical  
116 assistance or his designee; the commissioner of agricultural resources or his designee; the  
117 commissioner of transitional assistance or his designee, the commissioner of insurance or his  
118 designee; the chair of the statewide student advisory council or his designee; and 5 members  
119 appointed by the governor, 1 of whom shall be an expert in childhood nutrition, 1 of whom shall  
120 be an expert in exercise and fitness and 1 of whom shall be an expert in eating disorders. Said  
121 commission members shall serve without compensation.

122 In developing said statewide plan to reduce childhood obesity, the commission shall consider  
123 such concepts as:

124 (a) Requiring health insurance programs supported in whole or in part with public funds to  
125 include coverage for nutrition counseling, weight loss clinics, wellness programs and other  
126 programs that promote proper nutrition and exercise for children;

127 (b) Requiring private health insurers, by establishing mandated insurance benefits, to cover  
128 nutrition counseling, weight loss clinics, wellness programs and other programs that promote  
129 proper nutrition and exercise for children; and

130 (c) Developing and implementing a method for evaluating annual progress toward the goals of  
131 the statewide plan.

132 The commission shall annually assess the progress in the state toward reducing childhood  
133 obesity, make recommendations relative to the reduction of childhood obesity rates taking into  
134 consideration the ongoing efforts to evaluate the appropriateness of maintaining leading  
135 nutritional standards in public schools pursuant to subsection (e) of section 223 of chapter 111 of  
136 the General Laws and provide a copy of the statewide plan and drafts of legislation necessary to  
137 carry its statewide plan into effect, including an estimate the fiscal impact of the statewide plan,  
138 if any, by filing the same with the governor, the house and senate committees on ways and  
139 means, the joint committee on public health and the joint committee on education.

140 SECTION 6. Notwithstanding the provisions of any general or special law to the contrary, the  
141 department of elementary and secondary education shall evaluate the success of the chef's pilot  
142 program in the Boston public school system and identify other schools in the commonwealth  
143 where such a program could be implemented and shall include a proposed budget for  
144 implementing a similar program in such additional schools and shall report its findings to the  
145 joint committee on public health and the joint committee on education on or before December  
146 31, 2010.

147 SECTION 7. The departments of public health and elementary and secondary education shall  
148 promulgate rules and regulations to carry out the provisions of section 223 of chapter 111 of the  
149 General Laws within 90 days of the effective date of this act; provided that these regulations  
150 shall become effective for the fiscal year following final approval of said regulations; provided,  
151 however, that not less than 12 months shall have elapsed between final approval of the  
152 regulations and the date of implementation in order to provide sufficient time to implement the  
153 regulations.

154 SECTION 8. Section 4 shall take effect on February 1, 2015.