

By Mr. Moore, a petition (accompanied by bill, Senate, No. 107) of Richard T. Moore, William Smitty Pignatelli, Paul J. Donato, Scott P. Brown and other members of the General Court for legislation to promote healthy alternatives in public school food programs. Children and Families.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT PROMOTING HEALTHY ALTERNATIVES IN PUBLIC SCHOOL FOOD PROGRAMS.

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. The General Court finds it alarming that the rate
2 of obesity among Massachusetts's children is increasing. Massa-
3 chusetts's medical, educational and public health communities are
4 looking for solutions and research literature suggests physical
5 activity and school nutrition program as a method of combating
6 obesity. Some states have already implemented school nutrition
7 programs and have introduced legislation to ban soft drink sales in
8 schools.

9 The purpose of this act is to reduce obesity and improve the
10 health of children by establishing a 5-year school nutrition
11 demonstration project that implements stricter standards of nutri-
12 tion in public schools.

1 SECTION 2. (a) As used in this act the following words shall
2 have the following meanings unless the context clearly requires
3 otherwise:—

4 "Added sweetener", any additive that enhances the sweetness
5 of the beverage, including but not limited to added sugar, but does
6 not include the natural sugar or sugars that are contained within
7 the fruit juice which is a component of the beverage.

8 “Elementary school”, a public school that maintains any grade
9 from pre-kindergarten to grade 6, inclusive, but no grade higher
10 than grade 8.

11 “Full meal”, any combination of food items that meet a United
12 States Department of Agriculture-approved meal pattern.

13 “High school”, a public school maintaining any of grades 9 to
14 12, inclusive.

15 “Middle school”, a public school that maintains any of grades 6
16 to 9, inclusive, but no grade higher than grade 9.

1 SECTION 3. (a) There is hereby established the school nutri-
2 tion demonstration program to be administered by the department
3 of education in consultation with the department of public health.
4 At least 20 high schools, middle schools, elementary schools, or
5 any combination thereof, may voluntarily participate in the school
6 nutrition demonstration program. The department must ensure
7 that no more than 5 schools are from the western part of the state,
8 no more than 5 schools are from the central part of the state, no
9 more than 5 schools are from the eastern part of the state and no
10 more than 5 schools are from the Boston public school system.
11 The pilot program shall commence in the fall of the school year
12 immediately following the passage of this act. Each participating
13 school district must provide the department with a 5-year average
14 of any money received from food and or soft-drink vendors for
15 the 5 years immediately preceding the start of the demonstration
16 program. Participating schools shall be eligible to receive a grant
17 of no more than the average of the amount received from vendors
18 for the 5-year period prior to the commencement of the demon-
19 stration program.

20 (b) Each school participating in the school nutrition demonstra-
21 tion program shall comply with the following requirements:
22 (1) only the following types of beverages shall be sold to pupils
23 from 30 minutes before the start of the school day until 30 min-
24 utes after the end of the school day: (A) Hundred per cent fruit
25 juices or fruit-based drinks that are composed of no less than 50
26 per cent fruit juice and have no added sweeteners; (B) Drinking
27 water; (C) milk, including but not limited to chocolate milk, soy
28 milk, rice milk and other similar dairy or nondairy milk; and
29 (D) electrolyte replacement beverages that do not contain more

30 than 42 grams of added sweetener per 20 ounce serving; (2) car-
31 bonated beverages shall not be sold to pupils from 30 minutes
32 before the start of the school day until 30 minutes after the end of
33 the school day; (3) no beverage that exceeds 12 ounces per
34 serving shall be sold to pupils from 30 minutes before the start of
35 the school day until 30 minutes after the end of the school day;
36 provided that the 12 ounce maximum serving requirement shall
37 not apply to any of the following: (A) drinking water; (B) milk,
38 including but not limited to chocolate milk, soy milk, rice milk,
39 and other similar dairy or nondairy milk; or (C) an electrolyte
40 replacement beverage; provided that it does not exceed 20 ounces
41 per serving.

42 (c) No food item shall be sold to pupils from 30 minutes before
43 the start of the school day until 30 minutes after the end of the
44 school day unless it does not exceed 12 ounces per serving and it
45 meets the following standards: (1) not more than 35 per cent of its
46 total calories shall be from fat. This requirement does not apply to
47 the sale of nuts or seeds;

48 (2) not more than 10 per cent of its total calories shall be from
49 saturated fat; and (3) not more than 35 per cent of its total weight
50 shall be composed of sugar. This requirement does not apply to
51 the sale of fruits or vegetables.

52 (d) Entrée and side dish serving sizes shall be no larger than the
53 portions of those foods served as part of the federal school meal
54 program.

55 (e) Fruit and non-fried vegetables shall be offered for sale at
56 any location where food is sold.

1 SECTION 4. (a) At those schools participating in the demon-
2 stration project created in by act, the sale of all foods on school
3 grounds shall be approved for compliance with the nutrition stan-
4 dards as established by the department of education in consulta-
5 tion with the department of public health for implementing these
6 provisions as designated by the school principal.

7 (b) At elementary schools:

8 (1) The only food that may be sold to pupils during breakfast
9 and lunch periods is food that is sold as a full meal. This para-
10 graph does not prohibit the sale of fruit, non-fried vegetables,

11 legumes, beverages, dairy products, or grain products as indi-
12 vidual food items if they meet the requirements set forth in
13 section 3(c).

14 (2) An individual food item sold to a pupil during morning or
15 afternoon breaks shall meet all of the standards set forth in
16 section (3).

17 (3) Regardless of the time of day, water, milk, 100 per cent
18 fruit juices, or fruit-based drinks that are composed of no less
19 than 50 per cent fruit juice and that have no added sweeteners are
20 the only beverages that may be sold to pupils.

21 (c) In middle schools:

22 (1) From 30 minutes before the start of the school day until
23 after the end of the last lunch period, no carbonated beverage
24 shall be sold to pupils; and

25 (2) Vending machines that contain beverage items that do not
26 meet the requirements in this section shall remain locked or be
27 rendered inoperable until after the end of the last lunch period.

28 (d) An elementary school may permit the sale of food items
29 that do not comply with this section as part of a school
30 fundraising event in any of the following circumstances: (1) The
31 sale of those items by pupils of the school takes place off school
32 premises; or (2) The sale of those items by pupils of the school
33 takes place at least 30 minutes after the end of the school day.

1 SECTION 5. (a) The commissioner of education and the board
2 of education, in consultation with the department of public health
3 shall develop rules and regulations relative to school policies on
4 nutrition and physical activity based on the findings and recom-
5 mendations of schools participating in the school nutrition
6 demonstration project. In developing the policy, the board of edu-
7 cation shall hold at least 4 public hearings.

8 (b) The policies shall address the issues and goals, including
9 but not limited to the following: (1) state-wide implementation
10 the nutritional standards set forth in section 3(c); (2) encouraging
11 fundraisers and other school-sponsored activities that promote
12 good health habits and discourages fundraisers and other activi-
13 ties that promote unhealthy foods and sedentary activities;
14 (3) ensuring that no student is hungry; (4) improving nutritional
15 standards; (5) increasing the availability of fresh fruits and veg-

16 etables, including provisions that encourage schools to make fruits
17 and vegetables available at all locations where food is sold; (6)
18 ensuring, to the extent possible, that food is served fresh;
19 (7) encouraging eligible pupils to participate in the school lunch
20 program; (8) integrating nutrition and physical activity into the
21 overall curriculum; (9) ensuring regular professional development
22 for food services staff; (10) ensuring pupils a minimum of thirty
23 minutes to eat lunch and twenty minutes to eat breakfast, when
24 provided; (11) ensuring pupils engage in healthful levels of vig-
25 orous physical activity; (12) ensuring pupils receive nutrition edu-
26 cation; (13) improving the quality of physical education curricula
27 and increasing training of physical education teachers;
28 (14) enforcing existing physical education requirements;
29 (15) altering the economic structures in place to encourage
30 healthy eating by pupils and reduce dependency on generating
31 profits for the school from the sale of unhealthy foods; (16) devel-
32 oping a financing plan to implement the policies; (17) increasing
33 the availability of organic fruits and vegetables and school gar-
34 dens; and (18) collaborating with local farmers' markets.

1 SECTION 6. (a) Each school participating in the school nutri-
2 tion demonstration program shall submit annual status reports, as
3 designed by the department of education in consultation with the
4 department of public health to the commissioners of education
5 and public health at the end of each school year, including an
6 accounting of any moneys used to implement the program and
7 recommendations for the development of school policies on nutri-
8 tion and physical activity.

9 (b) Based on the reports of the participating schools, the com-
10 missioner shall submit a report to the legislature's joint commit-
11 tees on health care, education arts and the humanities and the
12 senate and house committees on ways and means on the status of
13 the school nutrition demonstration program and the recommenda-
14 tions for the development of a state-wide program on nutrition and
15 physical activity for the commonwealth's school-aged children no
16 later than 180 days after the completion of said 5-year demonstra-
17 tion program.

