

## Acts (2020)

### Chapter 133

#### AN ACT REGARDING BREAKFAST AFTER THE BELL.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to forthwith provide breakfast after the beginning of the instructional day in public schools, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation \_\_\_\_\_ of \_\_\_\_\_ the \_\_\_\_\_ public convenience. \_\_\_\_\_

*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. Chapter 69 of the General Laws, as appearing in the 2018 Official Edition, is hereby amended by striking out section 1C and inserting in place thereof the following section:-

Section 1C. (a) The board shall establish minimum nutritional standards for all school food services in all public elementary, secondary and vocational-technical schools. The board shall require all public schools to make lunches available to children. Standards and regulations of the board promulgated pursuant to this subsection shall be adopted in the following manner. A copy of such regulations and standards shall be filed by the board with the clerk of the house of

representatives and of the senate who shall refer such regulations and standards to the joint committee on education for review. Within 30 days after such filing, said committee shall hold a public hearing on the regulations and standards, shall issue a report, and file a copy thereof with the board of education. The board shall adopt final regulations and standards making such revisions in the interim regulations and standards as it deems appropriate in view of such report and shall forthwith file a copy of the regulations and standards with the chairpersons of the joint committee on education and not earlier than 30 days after the date of such filing, the board shall file the final regulations and standards with the state secretary and the regulations shall thereupon take effect.

(b) The board shall further require all public schools that draw their attendance from areas with a high number of needy children, as defined by the board, to make school breakfast programs available to children, and to operate such programs in accordance with the federal laws and regulations pertaining to school breakfast programs. Such breakfast programs shall be made available to children who do not qualify for free or reduced-price breakfast under federal income eligibility guidelines at a price to each such child that is not less than the cost to the school of making such breakfast available to such child. The commonwealth shall reimburse each city or town required by this subsection to make school breakfast programs available to children who qualify for free or reduced-price meals pursuant to federal income eligibility guidelines, at a uniform rate determined pursuant to subsection (d), which rate shall provide for the payment by the commonwealth of the reasonable costs of making breakfast available to such children, reduced by the amount of revenue received by the

city or town from federal reimbursements or any other source with respect to the provision of such breakfasts. The department shall make said reimbursements in accordance with the same schedule as federal reimbursements are made to the city or town with respect to such breakfast programs.

(c) All public schools required to serve breakfast under subsection (b) and where not less than 60 per cent of the students at the school are eligible for free or reduced-price meals under the National School Lunch Program, as determined by the department, shall offer all students a school breakfast after the beginning of the instructional day. A school subject to this subsection may use the breakfast service model that best suits its students in accordance with this section and the department's guidelines or regulations, including, but not limited to: breakfast in the classroom, grab and go breakfast or second chance breakfast. The department shall issue guidelines or promulgate regulations to implement this subsection and may consult with nonprofit organizations with experience regarding equity, the opportunity gap, hunger and food security issues and best practices for improving student access to school breakfast. The department shall annually: (i) collect information about availability and participation rates of students who partake in a school breakfast after the beginning of the instructional day under this subsection at each school; and (ii) make the information publicly available on its website not later than July 1.

(d) The secretary for administration and finance shall convene a working committee made up of the secretary's designee, a designee of the Massachusetts Association of School Committees, Inc., a designee of the Massachusetts Association of School Business Managers, Inc.,

a designee of the commissioner of education and a designee of the local government advisory committee to establish guidelines for the purpose of reimbursing cities and towns for the reasonable costs associated with the implementation of school breakfast programs pursuant to subsection (b). Such guidelines shall be filed by the working committee with the clerk of the house of representatives and of the senate only upon approval of said committee. Reimbursements of costs made pursuant to such guidelines shall constitute complete satisfaction of the obligation of the commonwealth to assume such costs pursuant to any general or special law.

(e) The board may require that all public schools provide for immunization against Hepatitis B for any school employee who works with developmentally disabled students and requests such immunization; provided, however, that such employee is not covered for immunization against Hepatitis B by the employee's own health insurance. The commissioner shall establish guidelines for the purpose of reimbursing cities and towns for such immunization.

SECTION 2. (a) The department of elementary and secondary education shall, not later than September 1, 2021, develop and distribute a schedule for districts to begin implementing the breakfast after the beginning of the instructional day program established in subsection (c) of section 1C of chapter 69 of the General Laws. Not later than December 31, 2021, the department shall make an initial determination of all public schools in the commonwealth required to offer a school breakfast after the beginning of the instructional day pursuant to said subsection (c) of said section 1C of said chapter 69. Subject to subsection (b), a public school in the commonwealth required to offer school breakfast after the beginning of the

instructional day pursuant to subsection (c) of said section 1C of said chapter 69 shall begin doing so not later than the beginning of the academic year beginning in 2022.

(b) The requirement to provide breakfast after the beginning of the instructional day pursuant to said subsection (c) of section 1C of said chapter 69 may be waived for a period of 1 year by the department if a public school demonstrates that in the previous academic year it consistently met an 80 per cent or higher breakfast participation rate with its current delivery model, or if the school demonstrates an extreme hardship to implementation, as determined by the department; provided, however, that within 3 months after any such waiver is granted, the public school shall demonstrate to the department, according to department guidelines: (1) the progress it has made toward the implementation of providing breakfast after the beginning of the instructional day pursuant to said subsection (c) of said section 1C of said chapter 69; and (2) a plan for completion of said implementation by the end of the 1-year waiver period.

*Approved, August 4, 2020.*