

HOUSE No. 4218

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, November 20, 2019.

The committee on Ways and Means, to whom was referred the Bill regarding breakfast after the bell (House, No. 591), reports recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 4218).

For the committee,

AARON MICHLEWITZ.

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

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:

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

4 Section 1C. (a) The board shall establish minimum nutritional standards for all school
5 food services in all public elementary, secondary and vocational-technical schools. The board
6 shall require all public schools to make lunches available to children. Standards and regulations
7 of the board promulgated pursuant to this subsection shall be adopted in the following manner. A
8 copy of such regulations and standards shall be filed by the board with the clerk of the house of
9 representatives and of the senate who shall refer such regulations and standards to the joint
10 committee on education of the general court for review. Within 30 days after such filing, said
11 committee shall hold a public hearing on the regulations and standards, shall issue a report, and

12 file a copy thereof with the board of education. The board shall adopt final regulations and
13 standards making such revisions in the interim regulations and standards as it deems appropriate
14 in view of such report and shall forthwith file a copy of the regulations and standards with the
15 chairpersons of said committee of the general court and not earlier than 30 days after the date of
16 such filing, the board shall file the final regulations and standards with the state secretary and the
17 said regulations shall thereupon take effect.

18 (b) The board shall further require all public schools that draw their attendance from
19 areas with a high number of needy children, as defined by the board, to make school breakfast
20 programs available to children, and to operate such programs in accordance with the federal laws
21 and regulations pertaining to school breakfast programs. Such breakfast programs shall be made
22 available to children who do not qualify for free or reduced-price breakfast under federal income
23 eligibility guidelines at a price to each such child that is not less than the cost to the school of
24 making such breakfast available to such child. The commonwealth shall reimburse each city or
25 town required by this subsection to make school breakfast programs available to children who
26 qualify for free or reduced-price meals pursuant to federal income eligibility guidelines, at a
27 uniform rate determined pursuant to subsection (d), which rate shall provide for the payment by
28 the commonwealth of the reasonable costs of making breakfast available to such children,
29 reduced by the amount of revenue received by the city or town from federal reimbursements or
30 any other source with respect to the provision of such breakfasts. The department shall make said
31 reimbursements in accordance with the same schedule as federal reimbursements are made to the
32 city or town with respect to such breakfast programs.

33 (c) All public schools required to serve breakfast under subsection (b) and where not less
34 than 60 per cent of the students at the school are eligible for free or reduced-price meals under

35 the National School Lunch Program, as determined by the department, shall offer all students a
36 school breakfast after the beginning of the instructional day. A school subject to this subsection
37 may use the breakfast service model that best suits its students in accordance with this section
38 and the department's guidelines or regulations, including, but not limited to: breakfast in the
39 classroom, grab and go breakfast or second chance breakfast. The department shall issue
40 guidelines or promulgate regulations to implement this subsection and may consult with
41 nonprofit organizations with experience regarding equity, the opportunity gap, hunger and food
42 security issues and best practices for improving student access to school breakfast. The
43 department shall annually: (i) collect information about availability and participation rates of
44 students who partake in a school breakfast after the beginning of the instructional day under this
45 subsection at each school; and (ii) make the information publicly available on its website not
46 later than July 1.

47 (d) The secretary for administration and finance shall convene a working committee
48 made up of the secretary's designee, a designee of the Massachusetts Association of School
49 Committees, Inc., a designee of the Massachusetts Association of School Business Managers,
50 Inc., a designee of the commissioner of education and a designee of the local government
51 advisory committee to establish guidelines for the purpose of reimbursing cities and towns for
52 the reasonable costs associated with the implementation of school breakfast programs pursuant to
53 subsection (b). Such guidelines shall be filed by the working committee with the clerk of the
54 house of representatives and of the senate only upon approval of said committee.
55 Reimbursements of costs made pursuant to such guidelines shall constitute complete satisfaction
56 of the obligation of the commonwealth to assume such costs pursuant to any general or special
57 law.

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

63 SECTION 2. (a) The department of elementary and secondary education shall, not later
64 than January 1, 2020, develop and distribute a schedule for districts to begin implementing the
65 breakfast after the beginning of the instructional day program established in subsection (c) of
66 section 1C of chapter 69 of the General Laws. Not later than December 31, 2021, the department
67 shall make an initial determination of all public schools in the commonwealth required to offer a
68 school breakfast after the beginning of the instructional day pursuant to said subsection (c) of
69 said section 1C of said chapter 69. Subject to subsection (b), a public school in the
70 commonwealth required to offer school breakfast after the beginning of the instructional day
71 pursuant to subsection (c) of said section 1C of said chapter 69 shall begin doing so not later than
72 the beginning of the academic year beginning in 2022.

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

- 81 instructional day pursuant to said subsection (c) of said section 1C of said chapter 69; and (2) a
- 82 plan for completion of said implementation by the end of the 1-year waiver period.