HOUSE DOCKET, NO. 94438Â Â Â Â Â Â FILED ON: 1/25/2010

HOUSEÂ .

Â Â Â Â Â Â Â Â Â Â Â Â Â Â Â Â Â No. 4438

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The Commonwealth of Massachusetts

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PRESENTED BY:

By Mr.

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of Boston, for the committee on Public Health, on Senate, No. 861,.

and

House, No

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2063,

2075

and 2092

, a Bill relative to school nutrition (House, No. 4438).Â January 25, 2010.

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An Act relative to school nu

trition.

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OR THE COMMITTEE

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Name:

District/Address:

Jeffrey

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15th Suffolk

The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine

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SECTION 1.

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Chapter 6 of the General Laws is hereby amended by adding at the end thereof, the following new section:

Section 214.

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There is hereby established the Governor's Commission on Childhood Obesity which shall be responsible for developing, maintaining and coordinated a statewide plan to reduce childhood obesity through promotion of evidence based programs to provide proper nutrition and exercise for the children of the Commonwealth.

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Said commission shall make a comprehensive review of current evidence-based research and programs that promote proper nutrition for children at each stage of development as well as appropriate levels of physical education and activity for all children, and shall annually assess the progress in the state toward reducing childhood obesity and report to the Governor and the general public.

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Said programs shall, insofar as possible, involve parents and families to ensure that the effort to reduce childhood obesity is not limited to time in school.

The commission shall be co-chaired by the commissioners of the departments of public health, education, and early education and care, or their designees; and shall include: the commissioner of mental health or his designee; the commissioner of transitional assistance or her designee; the commissioner of medical assistance or his designee; the commissioner of insurance, or his designee; the commissioner of insurance, or his designee; the chair of the statewide student advisory council, or a designee; and five additional members appointed by the Governor; one of whom shall be an expert in childhood nutrition; one of whom shall be an expert in exercise and fitness, and one of whom shall be an expert in eating disorders. Said commission members shall serve without financial compensation.

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

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

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

c) Developing and implementing a method for evaluating annual progress toward the goals of the statewide plan;

d) Making recommendations to the Governor and General Court relative to the revision of school nutrition standards in coordination with ongoing efforts pursuant to section (e) of section 9

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of chapter 71.

SECTION 2.

Chapter 15 of the General Laws is hereby amended by inserting after section 1E the following section:â€"

Section 1EÂ½ (a) The department of public health, in consultation with the department of education, shall establish, and periodically review,

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regulations and guidelines for the training of all elementary, middle, and high school nurses in behavioral health and appropriate treatment and resources for eating disorders; recognition, treatment and resources for children at risk for and diagnosed with type 2 diabetes; regulations and guidelines for professional development and training of school nurses and staff to gain the most up-to-date knowledge on eating disorder and type 2 diabetes treatment and identification; and guidelines to establish a referral program where medical resources in the community shall collaborate with schools to identify children in need of services and provide these resources through in-school, outpatient and inpatient settings, where appropriate.

SECTION 3.

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Section 1D of chapter 69 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the ninth sentence and inserting in place thereof the following 2 sentences

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The standards shall provide for instruction in the issues of nutrition and exercise.

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The standards may provide for instruction in the issues of physical education, AIDS education, violence prevention, and drug, alcohol, and tobacco abuse prevention.

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SECTION 4.

Section 1I of

said

Chapter 69 is hereby amended by adding the following subparagraph after the words â€œgrade 8 education â€:

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(l). nutrition and wellness programs.

SECTION

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Chapter 71 of the General Laws is hereby amended by adding at the end thereof the following section:â€"

Section 9

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(a) The following words, as used in this section, shall have the following meanings, unless the context clearly requires otherwise:â€"

â€œCompetitive foods or beverages â€: all foods or beverages sold or provided in Â Â. la carte lines in school cafeterias, school stores, school snack bars or vending machines or any other locations in public schools but not including foods sold as part of the National School Lunch Program and School Breakfast and Child Care and Adult Programs.

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â€œElementary school â€: a public school that maintains any grade from pre-kindergarten to grade 6, inclusive, but no grade higher than grade 8.

â€œHigh school â€: a public school maintaining any of grades 9 to 12, inclusive.

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â€œMiddle school â€: a public school that maintains any of grades 5 or 6 to 9, inclusive, but no grade higher than grade 9.

â€œPublic school â€: an elementary, middle, high school or charter school as defined in this chapter.

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â€œLeading Nutritional Standards â€: the Institute of Medicine April 2007 report, Nutrition Standards for Foods in Schools: Leading the Way toward Healthier Youth.

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(b) The department of public health in consultation with the department of education shall establish guidelines for the phase in and implementation of nutrition standards for competitive foods and beverages sold or provided in public schools.

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In establishing these guidelines, the department of public health in consultation with the department of education shall consider such factors as: (1) adequate phase in time for public schools to implement new nutritional standards; (2) the times of the school day during which the guidelines shall apply; (3) additional training in nutrition and diet available for school food service directors; (4) the current capacity, resources, and equipment available in public school kitchens to prepare recommended foods; (5) adequate amounts of time for school lunch periods; provided that the departments shall create reasonable exceptions from said standards and guidelines for competitive foods or beverages sold before or after the end of the school day, during school sponsored fundraisers and events, and at booster sales, concession stands and other activities at school related events.

(c) The department of public health shall develop nutritional guidelines and standards for the sale or provision of competitive foods or beverages in Massachusetts public schools within the requirements of this section, provided that competitive foods or beverages sold or provided in public schools shall be limited to foods or beverages that comply with the leading nutritional

standards and other regulations promulgated by the department.

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Such competitive foods and beverages may include: (1) foods that are (

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) non-fried fruits or non-fried vegetables; (ii) whole grains, and related combination products; (iii) nonfat and low-fat dairy products; and (2) beverages that are (

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) water without additives or carbonation; (ii) 100 per cent fruit juice; (iii) nonfat or low fat dairy drinks.

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

(e) The department of public health in consultation with the department of education shall conduct a review of the implementation of this section and the appropriateness of maintaining the standards recommended by the leading nutritional standards within 5 years of the effective date of this section.

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Upon review of said standards, the department of public health shall use the most updated recommendations made by authoritative scientific and public health organizations concerning appropriate nutritional standards for foods sold outside of reimbursable meal programs in schools as well as the United States department of health and human services â€" and the United States department of agriculture â€"s most current dietary guidelines for healthy Americans.

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Included in its review, the department shall consider: (1) the proportion of public schools that have successfully implemented the standards and guidelines for competitive foods and beverages; (2) challenges or barriers experienced by public schools upon implementation of the competitive foods and beverages standards; (3) changes in revenue received from the sale of federally reimbursable school meals; (4) changes in total revenue (federal reimbursable meals and competitive sales combined) lost or gained after implementation of the standards for competitive foods and beverages; (5) notable changes in students participation in the federal reimbursable meals programs; (6) recommendations for improvement of said standards and guidelines.

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

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

(h) The department of public health in consultation with the department of education shall establish guidelines for the phase-out of

frydators

in all public schools in the commonwealth within five years from the effective date of this act. These guidelines shall include, but need not

be limited to (1) a timeline for the removal of all

frydators

from public schools; (2) a list of alternative products to replace those prepared in

frydators

. (3) mechanisms for monitoring and enforcing the removal of

frydators

from all public schools in the commonwealth.

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) The department of education shall require implementation of competitive food and beverage standards in public schools in accordance with this section and shall be responsible for enforcing said standards.

SECTION

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Section 9

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of Chapter 71 of the General Laws is hereby amended by striking the definition â€œLeading Nutrition Standards â€ and inserting in place thereof the definition:â€"

â€œLeading Nutrition Standards â€ â€: the Institute of Medicine April 2007 report, Nutrition Standards for Foods in Schools: Leading the Way toward Healthier Youth and other recommendations made pursuant to subsection (e) of section 9

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of chapter 71.

SECTION

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Chapter 111 of the General Laws is hereby amended by adding the following section:â€"

Section 22

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The department of public health in consultation with the department of education shall review and analyze the trend in reported cases of obesity and eating disorders in students. Such review shall include but not be limited to:

(a)

development

and promulgation of data collection and reporting regulations and guidelines associated with the implementation of this section;

(b)

evaluation

of the trends of reported cases of obesity and eating disorders across the Commonwealth;

(c)

study

of the access to quality health care and whether students are receiving appropriate and adequate care in the treatment of their obesity or eating disorder.

Said information shall be reported to the governor â€"s commission on childhood obesity established pursuant to section 6

of

this act.

SECTION

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(a) Notwithstanding any general or special law to the contrary, the department of agricultural resources in consultation with the department of education shall make an investigation into the feasibility of developing and establishing a farm to school program to facilitate and promote the purchase of Massachusetts â€" farm products by schools, universities and other educational institutions in the commonwealth. The investigation shall include: (1) the development of a farm to school program that facilitates the acquisition of Massachusetts â€" farm products by schools, universities and educational institutions; (2) the development of procurement standards to meet efficiently access Massachusetts â€" farm products; (3) an analysis

of the capacity of schools to appropriately store, process, prepare, and serve farm products in schools, labor costs required to support the program; and (4) the manner in which such a program may include 1 or more activities that promote a comprehensive approach to nutrition and wellness, including, but not limited to school garden programs, cooking demonstrations and food samplings, and farm tours.

(b) The department of agricultural resources in collaboration with the department of education shall collect data including, but not limited to: (1) school districts and other educational institutions interested in purchasing Massachusetts â€" farm products; (2) the type and amount of such products schools wish to purchase; (3) the name of the appropriate contact person from the interested school district; (4) farm organizations and businesses that market Massachusetts â€" farm products; and (5) the availability of Massachusetts â€" farm products, including but not limited to, the types and amount of products, the names and contact information of farmers, and farm organizations and businesses marketing such products.

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(c)

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Based upon the data collected from the investigation, the department of agriculture in collaboration with the department of education shall develop a mechanism and process by which schools interested in purchasing Massachusetts â€" farm products may notify farms; provided that such a process ensures fair opportunities for all farms interested in selling products to schools; and provided that fair negotiation and pricing processes are established for purchasing and selling of Massachusetts â€" farm products to schools.

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(d) A report shall be made to the speaker of the house of representatives, the president of the senate, the governor, the house and senate chairs of the joint committee on health care financing, the house and senate chairs of the joint committee on public health, and the house and senate chairs of the joint committee on environment, natural resources and agriculture that details the results of the investigation and study and provides recommendations, together with drafts of legislation necessary to carry recommendations into effect, not less than 1 year after the effective date of this section.

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SECTION

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Notwithstanding the provisions of any other general or special law to the contrary, the department of education shall evaluate the success of the chefâ€"s pilot program in the Boston Public Schools and identify other schools in the commonwealth where such a program could be implemented including, but not limited to a proposed budget for implementing a similar program in such additional schools.

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SECTION

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The department of public health shall report the findings of the review made pursuant to paragraph (e) of section 9

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of chapter 71 to the speaker of the house of representatives, the president of the senate, the house and senate chairs of the joint

committee on health care financing and the house and senate chairs of the joint committee on public health on or before September 1, 2014.

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SECTION 1

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The departments of public health and education shall promulgate rules and regulations to carry out the provisions of section 9

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of chapter 71 within 90 days of its implementation, provided that these regulations shall become effective for the fiscal year following final approval of said regulations, provided, however, that not less than twelve months shall have elapsed between final approval of the regulations and the date of implementation in order to provide sufficient time to implement the regulations.

SECTION 1

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Section

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shall take effect five years after the implementation of this act.