

The Commonwealth of Massachusetts

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.

An Act relative to school nutrition.

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:

SECTION 1.

[Section 1D of chapter 69](#) of the General Laws, as so appearing, is hereby amended by striking out the ninth sentence, in lines 30 to 32, inclusive, and inserting in place thereof the following 2 sentences:- The standards shall provide for instruction in the

the issues of nutrition and exercise.

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

SECTION 2. Section 1

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of said chapter 69 is hereby

amended by striking out subparagraphs (j) and (k), in lines 176 and 177, and inserting in place thereof the following 3 subparagraphs:-

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

(k) global education; and

(l) nutrition and wellness

programs.

SECTION 3. [Chapter 111 of the General Laws](#) is hereby amended by adding the following 3 sections:-

Section 222. The department, in consultation with the department of elementary and secondary education, shall establish, and periodically review,

guidelines for: (i) the training of all elementary, middle and high school nurses in behavioral health and appropriate treatment and resources for eating disorders; (ii) the recognition, treatment and availability of resources for children at risk for and

diagnosed with type 2 diabetes; (iii) professional development and training of school nurses and aid staff to gain the most up-to-date knowledge on eating disorder and type 2 diabetes treatment and identification; and (iv) the establishment of a referral p

rogram 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 223.

(a) As used in this s

ection, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Competitive foods or beverages”, all foods or beverages sold or provided in à la carte lines in school cafeterias, school stores, school snack

bars or vending machines or any other locations in public schools; provided, however, that competitive foods or beverages shall not include foods sold as part of the National School Lunch Program and School Breakfast and Child Care and Adult Programs.

“Ele

mentary school”, a public school that maintains any of grades pre-kindergarten to grade 8, inclusive.

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

“Middle school”, a public school that maintains any of grades 5 to 9, inc

lusive.

“Public school”, an elementary, middle, high, charter or innovation school operated by a public school district or board of trustees pursuant to [chapter 71](#)

“Leading nutritional standards”, the Institute of Medicine’s April 2007 report, Nutrition

Standards for Foods in Schools: Leading the Way Toward Healthier Youth.

(b) The department shall develop nutritional guidelines and standards for the sale or provision of competitive foods or beverages in public schools; provided, however, that competitiv

e 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.

Such competitive foods and beverages may include: (1) fo

ods that are (i) 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 (i) water without additives or carbonation; (ii) 100 per cent fruit juice; (i

ii) nonfat or low-fat dairy drinks.

(c) The department in consultation with the department of elementary and secondary education shall establish regulations for the phase-in and implementation of nutrition standards for competitive foods and beverages so

ld or provided in public schools developed pursuant to paragraph (b).

In establishing these regulations, the department, in consultation with the department of elementary and secondary education, shall consider such factors as: (1) adequate phase-in time

for public schools to implement new nutritional standards; (2) additional training in nutrition and diet available for school food service directors; and (3) the current capacity, resources and equipment available in public

school kitchens to prepare recom

mended foods.

(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 including: calories, percentage of

calories from fat, p

ercentage of calories from saturated fat, cholesterol, protein, 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 in consultation with the department of elementary and secondary education shall conduct a review of the implementation of this section and the appropriateness of maintaining the leading nutritional

standards

at least once ev

ery 5 years after the effective date of this section, and shall report the findings of its review to the speaker of the house of representatives, the president of the senate, the joint committee on health care financing, the joint

committee on public heal

th and the joint committee on education.

To assist in the review of said standards, the department shall use the most updated peer reviewed scientific studies and data 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’ and the United States Department of Agriculture’s most current dietary guidelines for healthy Americans.

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 standa

nds; (3) changes in revenue received from the sale of federally reimbursable school meals; (4) changes in total revenue from federal reimbursable meals and competitive sales combined that were lost or gained after

implementation of the standards for compet

itive foods and beverages; (5) notable changes in student participation in the federal reimbursable meals programs; and (6) recommendations for improvement of the standards and guidelines for competitive foods and

beverages.

(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)

Public schools shall not use fryolators

in the preparation of food; provided, however, that the department, in consultation with the department of elementary and secondary education, may establish reasonable exceptions for the use of fryolators in the

preparation of food sold after the end of t

he school day, during school-sponsored fundraisers and events, at booster sales, concession stands and other activities at school-related events.

(i) The department of elementary and secondary 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 224.

The department in consultation with the department of elementary and secondary education shall (i) collect data and

review and analyze trends in reported cases of obesity and eating disorders in students; (ii) develop reporting requirements to assist in the collection of said data; and (iii) conduct a study of whether students are receiving

appropriate and adequate, eff

ective and quality care in the treatment of their obesity or eating disorder.

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

SECTION 4.

[Section 223 of said chapter 111](#), inserted by section 3, is hereby amended by striking out the definition of “Leading nutrition standards” and inserting in place thereof the following definition:-

“Leading nutrition standards”, the Institute of Medicine’s

April 2007 report, Nutrition Standards for Foods in Schools: Leading the Way Toward Healthier Youth and other recommendations made pursuant to subsection (e).

SECTION 5.

There is hereby established a commission on childhood obesity which shall be respons

ible for developing a statewide plan to reduce childhood obesity through the promotion of evidence-based programs to provide proper nutrition and exercise for the children of the commonwealth.

Said commission shall make a comprehensive review of current e

vidence-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.

Said programs shall, insofar as possible, involve parents and fa

milies 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, elementary and secondary education, and early education and care, or

their designees; and shall include: the commissioner of mental health or his designee; the commissioner of medical assistance or his designee; the commissioner of agricultural resources or his designee; the commissioner

of transitional assistance or his d

esignee, the commissioner of insurance or his designee; the chair of the statewide student advisory council or his designee; and 5 members appointed by the governor, 1 of whom shall be an expert in childhood nutrition, 1

of whom shall be an expert in exerc

ise and fitness and 1 of whom shall be an expert in eating disorders. Said commission members shall serve without compensation.

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

(a) Requiring he

alth 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 for

children;

(b) Requiring private h

ealth insurers, by establishing mandated insurance benefits, to cover nutrition counseling, weight loss clinics, wellness programs and other programs that promote proper nutrition and exercise for children; and

(c) Developing and implementing a method for

evaluating annual progress toward the goals of the statewide plan.

The commission shall annually assess the progress in the state toward reducing childhood obesity, make recommendations relative to the reduction of childhood obesity rates taking into consi

deration the ongoing efforts to evaluate the appropriateness of maintaining leading nutritional standards in public schools pursuant to subsection (e) of [section 223 of chapter 111](#) of the General Laws and provide a copy of

the statewide plan and drafts of

legislation necessary to carry its statewide plan into effect, including an estimate the fiscal impact of the statewide plan, if any, by filing the same with the governor, the house and senate committees on ways and means, the

joint committee on public hea

lth and the joint committee on education.

SECTION 6.

Notwithstanding the provisions of any general or special law to the contrary, the department of elementary and secondary education shall evaluate the success of the chef’s pilot program in the Boston

public school system and identify other schools in the commonwealth where such a program could be implemented and shall include a proposed budget for implementing a similar program in such additional schools and

shall report its findings to the joint commi

ttee on public health and the joint committee on education on or before December 31, 2010.

SECTION 7.

The departments of public health and elementary and secondary education shall promulgate rules and regulations to carry out the provisions of section 2

23 of [chapter 111 of the General Laws](#) within 90 days of the effective date of this act; provided that these regulations shall become effective for the fiscal year following final approval of said regulations; provided, however,

that not less than 12 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 8. Section 4 shall take effect on February 1, 2015.