

Adopted by the House

, on motion of Mr. Sanchez of Boston,

as a further amendment of the Senate amendment to the  
House Bill relative to school nutrition (House, No. 4459).

July 21, 2010.

The Commonwealth of Massachusetts

In the Year Two Thousand and Ten

By striking out all after the enacting clause (as inserted by amendment by the Senate), and inserting in place thereof the following:--

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SECTION

Section 23B of chapter 7 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 2 and 3, the words “or authority”, and inserting in place thereof the following words:—, authority or trustees or officers of a state college or university designated by such trustees.

SECTION

Said section 23B of said chapter 7, as so appearing, is hereby further amended by striking out subsection (b) and inserting in place thereof the following 2 subsections:--

(b) To effectuate the preference for those products of agriculture grown or produced using locally-grown products, the state purchasing agent responsible for procuring the products on behalf of a state agency, authority or trustees or officers of a state college or university designated by such trustees shall, in advertising for bids, contracts or otherwise procuring products of agriculture, make reasonable efforts to facilitate the purchase of such products of agriculture grown or produced using products grown in the commonwealth.

(c) The state purchasing agent responsible for procuring the products on behalf of a state agency or authority shall purchase the products of agriculture grown or produced using products grown in the commonwealth, unless the price of the goods exceeds, by more than 10 per cent, the price of products of agriculture grown or produced using products grown outside of the commonwealth.

SECTION

Section 4 of chapter 30B of the General Laws, as so appearing, is here

by amended by striking out subsection (d) and inserting in place thereof the following subsection:--

(d) A procurement officer who follows

sound

business practices may award contracts which include individual purchases of less than \$25,000 to Massachusetts

farm operations for the procurement of products of agriculture as defined in section 1A of chapter 128 including, but not limited to, fruits, vegetables, eggs, dairy products, meats, crops, horticultural products and products processed into value added products

products, that are grown or produced using products grown in the commonwealth as well as fish, seafood and other aquatic products, without seeking quotations as required under subsection (a)

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SECTION

The third paragraph of section 1D

of chapter 69 of the General Laws, as so appearing, is hereby amended by striking out the fourth sentence and inserting in place thereof the following 2 sentences:--

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

The

standards may provide for instruction in the issues of physical education, human immunodeficiency virus and acquired immune deficiency syndrome education, violence prevention, including teen dating violence, bullying prevention, conflict resolution and drug

use, alcohol and tobacco abuse prevention.

SECTION

The fourteenth paragraph of section 11 of said chapter 69, as so appearing, is hereby amended by striking out clauses (j) and (k) and inserting in place thereof the following 3 clauses:--

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

(k) global education; and

(l) nutrition and wellness programs.

SECTION

Chapter 111 of the General Laws is hereby amended by adding the following section:--

Section

222. (a) As used in this section, the following words shall have the following meanings:--

“Competitive foods or beverages”, all foods or beverages sold or provided in:

(i) à la carte lines in school cafeterias;

(ii) school stores; (iii)

school snack bars;

(iv) vending machines; and (v)

at any other locations in public schools; provided, however, that competitive foods or beverages shall not include foods sold or provided as part of the School Breakfast Program, the School Lunch Program and the Child and Adult Care Food Program of the United States Department of Agriculture; provided further, that competitive foods or beverages shall not include non-sweetened carbonated water.

“Nutritional standards”, the standards promulgated by the department in accordance

with subsection (c).

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

“School day”, the hours of the day that students must attend school.

(b) The

department, in consultation with the department of elementary and secondary education and the department of mental health, shall establish, and periodically review,

guidelines for:

(1) the training of all public school nurses in behavioral health and appropriate

screening and treatment of childhood obesity and behavioral health disorders, including eating disorders;

(2) the recognition, resource and availability of resources for children at risk for and diagnosed with childhood obesity

and type 2 diabetes;

(3) professional development and training of public school nurses and aid staff to gain the most up-to-date knowledge on childhood obesity, eating disorders and type 2 diabetes so that they can become more effective at screening for

these conditions and making appropriate referrals for treatment; and

(4) the establishment of a referral program where medical resources in the community shall collaborate with public schools to identify children in need of nutritional services, and provide

these resources through in-school, outpatient and inpatient settings, where appropriate.

(c)(1) The department shall promulgate regulations establishing nutritional standards for the sale or provision of competitive foods or beverages in public schools

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(2) All competitive foods or beverages sold or provided in public schools shall be limited to foods or beverages that comply with the nutritional standards; provided, however, that the nutritional standards shall not apply, unless a public school district or board of trustees elects to

apply the nutritional standards beyond this timeframe, to competitive foods or beverages sold on school grounds up to 30 minutes before the beginning of the school day or 30 minutes after the end of the school day, with the exception of competitive foods or beverages sold through vending machines, in which case the nutritional standards shall apply at all times; and provided further, that the department may make reasonable exceptions for the application of the nutritional

standards to competitive foods or beverages sold during the school day at booster sales, concession stands, and other school-sponsored or school-related fundraisers and events.

(3) In developing the regulations, the department shall consider nutritional

and dietary recommendations developed by state, federal and independent departments and health advisory associations including, but not limited to: the United States Department of Health and Human Services, the United States Department of Agriculture, the

American Dietetic Association, the national School Nutrition Association, the Institute of Medicine, the American Heart Association and the School Nutrition Association of Massachusetts; provided, however, that the department, where appropriate, may develop

the regulations in conformity with federal nutritional standards.

(4) The regulations shall include, but not be limited to, the following requirements for public schools:

(i) making available plain, potable water to all public school students during the

school day, at no cost to the students;

(ii) offering for sale fresh fruit and non-fried vegetables at any location where food is sold; provided, however, that this shall not include non-refrigerated vending machines and vending machines which dispense only beverages;

(iii) making nutritional information available to students for non-prepackaged competitive foods or beverages; provided, however, that this shall not include fresh fruit or fresh vegetables and foods or beverages sold during the school day at booster sales

, concession stands, and other school-sponsored or school-related fundraisers and events;

(iv) prohibiting fryolators in the preparation of competitive foods; provided, however, that the department may establish exceptions for the use of fryolators in the preparation of competitive foods sold during the school day at booster sales, concession stands and other school-sponsored or school-related fundraisers and events; and

(v) ensuring that all foods, including competitive foods or beverages sold or provided

to students during the school day, meet state and federal food safety requirements.

(d) The department, in collaboration with the department of elementary and secondary education, shall assist public schools in the implementation of the nutritional

standards relative to the sale or provision of competitive foods or beverages in public schools. The assistance may include:

(1) additional training in nutrition and diet available for school food service directors;

(2) an assessment of a school's capacity, resources and equipment to prepare and provide recommended foods; and

(3) recommendations on the duration of school lunch periods.

(e) Every 5 years, the department, in consultation with the department of elementary and secondary education, shall

conduct a review of the nutritional standards and update the nutritional standards as needed pursuant to subsection (c)

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In August of the last year of the 5-

year period, the department shall report the findings of the review to the speaker of the house or

representatives, the president of the senate, the joint committee on health care financing, the joint committee on public health and the joint committee on education.

The report shall include, but not be limited to, the following information:

(1) an as

essment of the success of implementing the nutritional standards in public schools;

(2) the challenges or barriers experienced by public schools upon implementation of the nutritional standards and guidelines for the sale or provision of competitive foods and beverages;

(3) changes in revenue received from the sale of federally-reimbursable school meals;

(4) changes in total revenue from federally-reimbursable school meals and competitive sales combined that were lost or gained after implementation of the nutritional standards and guidelines for the sale or provision of competitive foods and beverages;

(5) notable changes in student participation in the federally-reimbursable school meals programs; and

(6) recommendations for improvement of the nutritional

standards and guidelines for the sale or provision of competitive foods and beverages.

(f) The department, in collaboration with the department of elementary and secondary education, shall promulgate regulations facilitating the establishment of school

wellness advisory committees within school districts in order to maximize school districts' eligibility as recipients of federal grant awards. The regulations may require the wellness advisory committees to develop and recommend district-wide wellness

policies addressing school nutrition, nutrition

education and physical activity. The regulations may further require the wellness advisory committees to periodically review the district-wide wellness policies and implement any recommendations made as a result of this review prior to the following school year. Committee members may include school administrators, school nurses, food service directors, food service staff, parents of students in the school district, students, physical and health education teachers

and other interested community members.

(g) To promote food safety, the department, in collaboration with the department of elementary and secondary education, shall promulgate regulations requiring local health officials

to conduct food safety inspections at public schools, in accordance with the frequency required by state and federal law, or as a result of public complaint or food recall, and to track and report the results of these inspections for each school

to the department and the department of elementary and secondary education, including any violations and steps to remediate the violations. The regulations may include minimal qualifications for local health officials responsible with conducting food safety

inspections at public schools. All reports and information collected or received by the departments pursuant to the requirements of this subsection shall be public records pursuant to section 7 of chapter 4.

SECTION

(a) There

is hereby established a commission on school nutrition and childhood obesity for the purpose of making an investigation and study of childhood obesity and effective programs promoting proper nutrition and exercise for the children of the commonwealth. The

commission shall be co-chaired by the commissioner of public health and the commissioner of elementary and secondary education, or their designees, and shall also include: the commissioner of mental health or the commissioner's designee; the commissioner of

agricultural resources or the commissioner's designee; the chair of the statewide student advisory

council or the chair's designee; 2 members appointed by the Massachusetts Association of School Superintendents; 1 member appointed by the Massachusetts Secondary School Administrators' Association; 1 member appointed by the Massachusetts Nutrition Board; 1 member appointed by the Massachusetts Association for Health, Physical Education, Recreation and Dance; 1 member appointed by the American Heart Association; 1 member appointed by the American Diabetes Association; 1 member appointed by the Massachusetts Parent Teacher Association; 1 member appointed by the Massachusetts Academy of Pediatrics; 1 member of the Massachusetts School Nutrition Association; 2 members appointed by the governor, 1 of whom shall be a representative of the food or beverage industry; 3 members appointed by the senate president and 3 members appointed by the speaker of the house of representatives. The members of the commission shall

serve without compensation.

(b) The commission shall conduct a comprehensive review of programs promoting proper nutrition for children at each stage of development, both inside and outside of the school setting. The commission's review shall consider, but not be limited to: (1) current school district practices concerning nutrition and physical education in public schools, including, but not limited to, physical education course offerings, class duration and frequency and the physical space and time allot

ted, if any, for public school students to participate in recess each week; (2) current practices related to the treatment and management of childhood obesity, type 2 diabetes and eating disorders in the school setting; (3) methods for encouraging the consumption of well-balanced, healthy meals, in accordance with the nutritional standards established by the department of public health in subsection (c) of section 222 of chapter 111 of the General Laws, for students both inside and outside of the school set

ting; (4) the appropriate levels of physical education and activity for all children of the commonwealth; and (5) the utility of developing and

implementing pilot initiatives to reduce childhood obesity through school-based, behavioral and incentive-driven programs.

(c) The commission shall file a report detailing its review and recommendations, along with any legislative proposals to implement the recommendations, with the clerk of the senate and the clerk of the house of representatives not later than July 31, 2011.

SECTION

Notwithstanding any general or special law to the contrary, the department of elementary and secondary education shall evaluate the success of the Boston public school system's pilot program, known as Chefs in Schools, to provide healthy, cost-effective meals to students during the school day. The department's report shall identify other public schools in the commonwealth in which similar programs may be implemented and shall include an estimated budget for implementing such programs. The department shall report its findings to the joint committee on public health and the joint committee on education by December 31, 2010.

SECTION

9. (a) The department of agricultural resources shall collect data including,

but not limited to:

(1) public school districts and other educational institutions currently purchasing locally-grown farm and locally-harvested fish products, as well as school districts or other educational institutions not yet preferentially purchasing locally-grown farm or locally-harvested fish products;

(2) the type of farm or fish products public schools wish to purchase;

(3) farms interested in selling locally-grown farm or locally-harvested fish products to public schools or other educational institutions;

(4) the

types of locally-grown farm and locally-harvested fish products available; and

(5) the names and contact information of farmers, farm organizations, fishermen, or fish processors marketing the locally-grown farm products.

(b) The department of elementary

and secondary education shall collect and report data including, but not limited to:

(1) the name of the procurement contact person at each public school district;

(2) a

list of public school districts that feature locally-grown or locally-harvested fish foods on their published cafeteria menus;

(3) a list of public school districts that have school garden or greenhouse projects;

(4) a list of public school districts

that include local agriculture or fishing in their curricula; and

(5) a list of public school districts that include serving locally-grown or locally-harvested foods in their wellness policies as a strategy to encourage healthy student meals.

(c) Based

upon the data collected under subsections (a) and (b), the department of agricultural resources, in consultation with the department of elementary and secondary education, shall work with programs that facilitate the purchase of locally-harvested fish products by public schools, including existing farm-to-school projects, to develop a process by which farms or fish processors interested in selling to public schools may notify public schools and public schools interested in

purchasing locally-grown farm or locally-harvested fish products may notify farms; provided, however, that the process ensures fair

opportunities for all farms or fish processors interested in selling products to public schools in accordance with applicable

laws and regulations

(d) The department of agricultural resources, in consultation with the department of elementary and secondary education, shall file a report with the office of the governor, the speaker of the house of representatives, the president

of the senate, the joint committee on education, the joint committee on public health and the joint committee on environment, natural resources and agriculture that details the results of the data collected under subsections (a) and (b) of this section,

and the steps taken to comply with subsection (c) and any recommendations, together with drafts of legislation necessary to carry out those recommendations, by March 1, 2011.

SECTION 10.

Notwithstanding any general or special law to the contrary, the department

of public health, in consultation with the department of elementary and secondary education, shall develop the nutritional standards as provided in section 222 of chapter 111 of the General Laws not later than January 1, 2011 and the nutritional standards

shall be implemented in public schools

not later than August 1, 2012.”.