

HOUSE No. 2092

The Commonwealth of Massachusetts

PRESENTED BY:

Peter J. Koutoujian

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to school nutrition.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Peter J. Koutoujian	10th Middlesex
Stephen R. Canessa	12th Bristol
Martha M. Walz	8th Suffolk
John W. Scibak	2nd Hampshire
Timothy J. Toomey, Jr.	26th Middlesex
Denise Provost	27th Middlesex
Tom Sannicandro	7th Middlesex
Robert F. Fennell	10th Essex
Michael F. Rush	10th Suffolk
Elizabeth A. Malia	11th Suffolk
William N. Brownsberger	24th Middlesex
James B. Eldridge	Middlesex and Worcester
Susan C. Fargo	Third Middlesex
Mark V. Falzone	9th Essex
Matthew C. Patrick	3rd Barnstable
Barbara A. L'Italien	18th Essex
Alice K. Wolf	25th Middlesex
Jonathan Hecht	29th Middlesex
Paul McMurtry	11th Norfolk

Thomas A. Golden, Jr.	16th Middlesex
Anthony D. Galluccio	Middlesex, Suffolk and Essex
Lori Ehrlich	8th Essex
Carl M. Sciortino, Jr.	34th Middlesex
Thomas P. Conroy	13th Middlesex
Brian A. Joyce	Norfolk, Bristol and Plymouth
Geraldo Alicea	6th Worcester
Cory Atkins	14th Middlesex
Christine E. Canavan	10th Plymouth
Thomas P. Conroy	13th Middlesex
Steven J. D'Amico	4th Bristol
Christopher J. Donelan	2nd Franklin
Lewis G. Evangelidis	1st Worcester
Jennifer L. Flanagan	Worcester and Middlesex
Gloria L. Fox	7th Suffolk
John P. Fresolo	16th Worcester
Sean Garballey	23rd Middlesex
Mary E. Grant	6th Essex
Denis E. Guyer	2nd Berkshire
Louis L. Kafka	8th Norfolk
Robert M. Koczera	11th Bristol
Stephen Kulik	1st Franklin
William Lantigua	16th Essex
Jennifer M. Callahan	18th Worcester
David P. Linsky	5th Middlesex
Allen J. McCarthy	7th Plymouth
James R. Miceli	19th Middlesex
Elizabeth Poirier	14th Bristol
Pam Richardson	6th Middlesex
Richard J. Ross	9th Norfolk
Frank I. Smizik	15th Norfolk
Todd M. Smola	1st Hampden
Ellen Story	3rd Hampshire
Steven M. Walsh	11th Essex
Robert J. Nyman	5th Plymouth
Ruth B. Balser	12th Middlesex
James J. O'Day	14th Worcester District
Joyce A. Spiliotis	12th Essex

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 4376 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

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:

1 SECTION 1. Chapter 6 of the General Laws is hereby amended by adding at the end
2 thereof, the following new section:

3 Section 214. There is hereby established the Governor's Commission on Childhood Obesity
4 which shall be responsible for developing, maintaining and coordinated a statewide plan to
5 reduce childhood obesity through promotion of evidence-based programs to provide proper
6 nutrition and exercise for the children of the Commonwealth. Said commission shall make a
7 comprehensive review of current evidence-based research and programs that promote proper
8 nutrition for children at each stage of development as well as appropriate levels of physical
9 education and activity for all children, and shall annually assess the progress in the state toward
10 reducing childhood obesity and report to the Governor and the general public. Said programs
11 shall, insofar as possible, involve parents and families to ensure that the effort to reduce
12 childhood obesity is not limited to time in school.

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

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

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

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

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

32 d) Making recommendations to the Governor and General Court relative to the revision of school
33 nutrition standards in coordination with ongoing efforts pursuant to section (e) of section 90 of
34 chapter 71.

35 SECTION 2. Chapter 15 of the General Laws is hereby amended by inserting after section 1E
36 the following section:—

37 Section 1E½ (a) The department of public health, in consultation with the department of
38 education, shall establish, and periodically review, regulations and guidelines for the training of
39 all elementary, middle, and high school nurses in behavioral health and appropriate treatment
40 and resources for eating disorders; recognition, treatment and resources for children at risk for
41 and diagnosed with type 2 diabetes; regulations and guidelines for professional development and
42 training of school nurses and aid staff to gain the most up-to-date knowledge on eating disorder
43 and type 2 diabetes treatment and identification; and guidelines to establish a referral program
44 where medical resources in the community shall collaborate with schools to identify children in
45 need of services and provide these resources through in-school, outpatient and inpatient settings,
46 where appropriate.

47 SECTION 3. Section 1D of chapter 69 of the General Laws, as appearing in the 2006 Official
48 Edition, is hereby amended by striking out the ninth sentence and inserting in place thereof the
49 following 2 sentences:- The standards shall provide for instruction in the issues of nutrition and
50 exercise. The standards may provide for instruction in the issues of physical education, AIDS
51 education, violence prevention, and drug, alcohol, and tobacco abuse prevention.

52 SECTION 4. Chapter 71 of the General Laws is hereby amended by adding at the end thereof the
53 following section:—

54 Section 90. (a) The following words, as used in this section, shall have the following meanings,
55 unless the context clearly requires otherwise:—

56 “Competitive foods or beverages”, all foods or beverages sold or provided in à la carte lines in
57 school cafeterias, school stores, school snack bars or vending machines or any other locations in
58 public schools but not including foods sold as part of the National School Lunch Program and
59 School Breakfast and Child Care and Adult Programs.

60 “Elementary school”, a public school that maintains any grade from pre-kindergarten to grade 6,
61 inclusive, but no grade higher than grade 8.

62 “High school”, a public school maintaining any of grades 9 to 12, inclusive.

63 “Middle school”, a public school that maintains any of grades 5 or 6 to 9, inclusive, but no grade
64 higher than grade 9.

65 “Public school”, an elementary, middle, high school or charter school as defined in this chapter.

66 “Leading Nutritional Standards”, the Institute of Medicine April 2007 report, Nutrition Standards
67 for Foods in Schools: Leading the Way toward Healthier Youth.

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

80 (c) The department of public health shall develop nutritional guidelines and standards for the sale
81 or provision of competitive foods or beverages in Massachusetts public schools within the
82 requirements of this section, provided that competitive foods or beverages sold or provided in
83 public schools shall be limited to foods or beverages that comply with the leading nutritional
84 standards and other regulations promulgated by the department. Such competitive foods and
85 beverages may include: (1) foods that are (i) non-fried fruits or non-fried vegetables; (ii) whole
86 grains, and related combination products; (iii) nonfat and low-fat dairy products; and (2)
87 beverages that are (i) water without additives or carbonation; (ii) 100 per cent fruit juice; (iii)
88 nonfat or low-fat dairy drinks.

89 (d) Competitive food items not prepackaged with nutritional information by the distributor that
90 are not fresh fruit or fresh vegetables shall be required to have nutritional information (calories,

91 percentage of calories from fat, percentage of calories from saturated fat, cholesterol, protein,
92 carbohydrate, fiber, calcium, iron, vitamin A and vitamin C) available to students, either on a
93 display case, in a binder or within information packets held by food service staff for requests by
94 students.

95 (e) The department of public health in consultation with the department of education shall
96 conduct a review of the implementation of this section and the appropriateness of maintaining
97 the standards recommended by the leading nutritional standards within 5 years of the effective
98 date of this section. Upon review of said standards, the department of public health shall use the
99 most updated recommendations made by authoritative scientific and public health organizations
100 concerning appropriate nutritional standards for foods sold outside of reimbursable meal
101 programs in schools as well as the United States department of health and human services' and
102 the United States department of agriculture's most current dietary guidelines for healthy
103 Americans. Included in its review, the department shall consider: (1) the proportion of public
104 schools that have successfully implemented the standards and guidelines for competitive foods
105 and beverages; (2) challenges or barriers experienced by public schools upon implementation of
106 the competitive foods and beverages standards; (3) changes in revenue received from the sale of
107 federally reimbursable school meals; (4) changes in total revenue (federal reimbursable meals
108 and competitive sales combined) lost or gained after implementation of the standards for
109 competitive foods and beverages; (5) notable changes in students participation in the federal
110 reimbursable meals programs; (6) recommendations for improvement of said standards and
111 guidelines.

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

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

116 (h) The department of public health in consultation with the department of education shall
117 establish guidelines for the phase-out of fryolators in all public schools in the commonwealth
118 within five years from the effective date of this act. These guidelines shall include, but need not
119 be limited to (1) a timeline for the removal of all fryolators from public schools; (2) a list of
120 alternative products to replace those prepared in fryolators; (3) mechanisms for monitoring and
121 enforcing the removal of fryolators from all public schools in the commonwealth.

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

125 SECTION 5. Section 90 of Chapter 71 of the General Laws is hereby amended by striking the
126 definition "Leading Nutrition Standards" and inserting in place thereof the definition:—

127 “Leading Nutrition Standards””, the Institute of Medicine April 2007 report, Nutrition Standards
128 for Foods in Schools: Leading the Way toward Healthier Youth and other recommendations
129 made pursuant to subsection (e) of section 90 of chapter 71.

130 SECTION 6. Chapter 111 of the General Laws is hereby amended by adding the following
131 section:—

132 Section 221. The department of public health in consultation with the department of education
133 shall review and analyze the trend in reported cases of obesity and eating disorders in students.
134 Such review shall include but not be limited to:

135 (a) development and promulgation of data collection and reporting regulations and guidelines
136 associated with the implementation of this section;

137 (b) evaluation of the trends of reported cases of obesity and eating disorders across the
138 Commonwealth;

139 (c) study of the access to quality health care and whether students are receiving appropriate and
140 adequate care in the treatment of their obesity or eating disorder.

141 Said information shall be reported to the governor’s commission on childhood obesity
142 established pursuant to section 6 this act.

143 SECTION 7. (a) Notwithstanding any general or special law to the contrary, the department of
144 agricultural resources in consultation with the department of education shall make an
145 investigation into the feasibility of developing and establishing a farm-to-school program to
146 facilitate and promote the purchase of Massachusetts’ farm products by schools, universities and
147 other educational institutions in the commonwealth. The investigation shall include: (1) the
148 development of a farm-to-school program that facilitates the acquisition of Massachusetts’ farm
149 products by schools, universities and educational institutions; (2) the development of
150 procurement channels to more efficiently access Massachusetts’ farm products; (3) an analysis of
151 the capacity of schools to appropriately store, process, prepare, and serve farm products in
152 schools, labor costs required to support the program; and (4) the manner in which such a
153 program may include 1 or more activities that promote a comprehensive approach to nutrition
154 and wellness, including, but not limited to school garden programs, cooking demonstrations and
155 food samplings, and farm tours.

156 (b) The department of agricultural resources in collaboration with the department of education
157 shall collect data including, but not limited to: (1) school districts and other educational
158 institutions interested in purchasing Massachusetts’ farm products; (2) the type and amount of
159 such products schools wish to purchase; (3) the name of the appropriate contact person from the
160 interested school district; (4) farm organizations and businesses that market Massachusetts’ farm
161 products; and (5) the availability of Massachusetts’ farm products, including but not limited to,

162 the types and amount of products, the names and contact information of farmers, and farm
163 organizations and businesses marketing such products.

164 (c) Based upon the data collected from the investigation, the department of agriculture in
165 collaboration with the department of education shall develop a mechanism and process by which
166 schools interested in purchasing Massachusetts' farm products may notify farms; provided that
167 such a process ensures fair opportunities for all farms interested in selling products to schools;
168 and provided that fair negotiation and pricing processes are established for purchasing and
169 selling of Massachusetts' farm products to schools.

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

177 SECTION 8. Notwithstanding the provisions of any other general or special law to the contrary,
178 the department of education shall evaluate the success of the chef's pilot program in the Boston
179 Public Schools and identify other schools in the commonwealth where such a program could be
180 implemented including, but not limited to a proposed budget for implementing a similar program
181 in such additional schools.

182 SECTION 9. The department of public health shall report the findings of the review made
183 pursuant to paragraph (e) of section 90 of chapter 71 to the speaker of the house of
184 representatives, the president of the senate, the house and senate chairs of the joint committee on
185 health care financing and the house and senate chairs of the joint committee on public health on
186 or before September 1, 2014.

187 SECTION 10. The departments of public health and education shall promulgate rules and
188 regulations to carry out the provisions of section 90 of chapter 71 within 90 days of its
189 implementation, provided that these regulations shall become effective for the fiscal year
190 following final approval of said regulations, provided, however, that not less than twelve months
191 shall have elapsed between final approval of the regulations and the date of implementation in
192 order to provide sufficient time to implement the regulations.

193 SECTION 11. Section 5 shall take effect five years after the implementation of this act.