

**HOUSE . . . . . No.**

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**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:

Peter J. Koutoujian

DISTRICT/ADDRESS:

10th Middlesex

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

## The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine

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### 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.