



The Coming Food Police

The Massachusetts legislature and its Department of Public Health recently set off a national furor over a proposed statewide ban on bake sales at school events under the guise of fighting obesity.

The national exposure forced Massachusetts Governor Deval Patrick to lift the proposed ban from the regulations. “Nobody’s interested in banning bake sales,” Patrick [told](#) the *Boston Herald* May 10, backtracking. “We are interested in student nutrition and good choices.” The state house had just overwhelmingly voted to amend the healthcare law they had passed a year earlier.



Massachusetts public health bureaucrats were clearly unhappy that the politicians chickened out. “The School Nutrition standards have always been about reducing childhood obesity in Massachusetts and protecting our kids from the serious long-term health impacts that obesity can cause,” DPH Commissioner John Auerbach wrote in a defensive statement. “At the direction of Governor Patrick, the department will seek to remove these provisions. We hope to return the focus to how we can work together to make our schools healthy environments in which our children can thrive.” In other words, we’ll try again when the public outcry subsides.

Just as Romneycare in Massachusetts was the precursor to ObamaCare nationally, so the proposed statewide ban on bake sales and control of the population’s food is a precursor of what will happen nationally. Massachusetts isn’t alone. *Bloomberg Businessweek* [reported](#) May 3, “Schools in California, Colorado, Hawaii, Mississippi, Nevada, New Mexico, New York, and Texas have regulations aimed at limiting bake sales to nutritious food.” And nobody stopped food control in those states.

New York City’s regulations on food are rife with contradictions, [according to Bloomberg Businessweek](#). “Under the rules, grandma’s fresh-from-the oven banana bread can be declared contraband, while some Kellogg’s Pop Tarts are deemed wholesome.”

Back in February, a preschooler at West Hoke Elementary School, North Carolina, was [told](#) to eat chicken nuggets for lunch by a visiting state official because the lunch her mother packed — a turkey sandwich, a banana, apple juice, and a bag of potato chips — was deemed not healthy enough.

“If a bake sale is going on, it’s reported to administration and it’s taken care of,” Montgomery County, Maryland official Marla Caplon of the county’s food and nutrition services [told](#) Bloomberg. “You can’t sell Girl Scout cookies, candy, cakes, any of that stuff.”

Have no fear about the lack of uniformity in the nutrition police. National standards and rules are coming, [according to Bloomberg](#). And the excuse will be that it is a necessary control on healthcare costs, which the federal government is now managing under ObamaCare.

Indeed, the obese do incur far more healthcare costs than normal weight people. Obese men cost



Written by [Thomas R. Eddlem](#) on May 31, 2012

\$1,152 a year more in healthcare costs than normal weighted individuals according to a [study](#) by LeHigh University, and obese women use \$3,613 a year more in healthcare. That's a \$190 billion per year increased cost at current rates of obesity. But current rates are rising, and if trends continue, costs would increase proportionately.

The Centers for Disease Control [says](#) that overweight and obese people are more likely to contract coronary heart disease, type two diabetes, some cancers, high blood pressure, high cholesterol, stroke, liver and gallbladder disease, sleep apnea and respiratory problems, and osteoarthritis, among other problems.

"The U.S. health care reform law of 2010 [allows](#) employers to charge obese workers 30 percent to 50 percent more for health insurance if they decline to participate in a qualified wellness program." Of course, employers should charge their obese employees more for health coverage if they cost more from activity that results from their own lifestyle choices. But allowing employers to do this and requiring them to do it are two entirely different things. Eventually, the federal government will require exercise and a proper diet in order to control out-of-control healthcare costs.

And the federal government already has a Supreme Court precedent in place to justify their demands, the 1942 case of [Wickard v. Filburn](#). In that case, a farmer was charged with violating federal interstate commerce laws for growing feed on his farm to feed to his own livestock. In that case, the federal government ruled, "It is well established by decisions of this Court that the power to regulate commerce includes the power to regulate the prices at which commodities in that commerce are dealt in and practices affecting such prices." And clearly obesity affects healthcare prices.

In the 1930s, the agriculture industry was heavily subsidized by federal payments. It's not unlike both the agriculture and healthcare industries today. In the *Wickard v. Filburn* case, the court ruled, "It is hardly lack of due process for the Government to regulate that which it subsidizes."

The food police are coming, and in some states so are the exercise police. But that may only be the beginning.

Fox News Channel personality John Stossel got it right, as he usually does, in his [April 25 column](#). "When government pays for your health care, it will inevitably be drawn into regulating your personal life. First, politicians promise to pay. Then, they propose to control you. Where does it stop? If we must control diet to balance the government's budget, will the health squad next ban skydiving and extramarital sex? How about another try at Prohibition?"

None of this would be necessary if the federal government lived within its constitutional mandate to stick to the 25 or so powers [enumerated in Article I, Section 8](#) of the U.S. Constitution and stopped abusing the commerce clause outside of its original intent. Americans have a choice: They can have freedom under the Constitution, or a federal government that tells them what to eat and when to exercise.

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