

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S

1

SENATE BILL 296*

Short Title: Healthy Food Small Retailer/Corner Store Act. (Public)

Sponsors: Senators D. Davis, Pate (Primary Sponsors); Bryant, Daniel, Foushee, Hartsell, J. Jackson, Lowe, Smith, Smith-Ingram, Tarte, Van Duyn, Waddell, and Woodard.

Referred to: Rules and Operations of the Senate.

March 18, 2015

A BILL TO BE ENTITLED

AN ACT TO ENACT THE CORNER STORE INITIATIVE ACT TO ASSIST HEALTHY FOOD SMALL RETAILERS.

The General Assembly of North Carolina enacts:

SECTION 1. Part 2J of Article 10 of Chapter 143B of the General Statutes is reenacted and reads as rewritten:

~~"Part 2J. Wine and Grape Growers Council.~~ Healthy Food Small Retailer Act.

"§ 143B-437.92. Healthy Food Small Retailer Fund.

(a) Findings. – The General Assembly finds the following:

- (1) Overweight children and adults are at greater risk for numerous adverse health consequences, including type 2 diabetes, heart disease, stroke, high blood pressure, high cholesterol, certain cancers, asthma, low self-esteem, depression, and other debilitating diseases. In North Carolina, over sixty-five percent (65%) of adult residents were considered overweight or obese and over thirty-one percent (31%) of children were considered overweight or obese. Obese children are at least twice as likely as non-obese children to become obese adults.
- (2) The medical costs of obesity are rising rapidly in the United States and are estimated to be one hundred forty-seven billion dollars (\$147,000,000,000) per year. Roughly half of these obesity-related costs are paid by Medicare and Medicaid, indicating taxpayers bear the majority of the cost for obesity-related medical care. Obesity-related health care spending accounts for eight and one-half percent (8.5%) of Medicare spending, eleven and eight-tenths percent (11.8%) of Medicaid spending, and twelve and nine-tenths percent (12.9%) of private payer spending.
- (3) Many Americans, particularly those in low-income neighborhoods, rural areas, and communities of color, live in communities that lack adequate access to full-service grocery stores. Low-income areas have more than twice as many convenience stores and four times as many small grocery stores as high-income areas. Proximity to convenience stores within a neighborhood is associated with higher rates of obesity and diabetes.
- (4) Research indicates that small food stores sell little fresh produce, whole grains, and low-fat dairy products but sell larger quantities of foods that are



1 high in fat and low in nutrients. Small food stores regularly charge higher
2 prices for food as compared to grocery stores and supermarkets.

3 (5) Providing assistance to existing small food retailers to stock fresh produce
4 and other healthy foods and promote good nutrition can provide residents
5 with access to healthier foods. Community programs that work with these
6 small food retailers have shown promise in increasing healthy food sales,
7 improving store offerings, and promoting good nutrition.

8 (6) Efforts are currently underway among the Department of Commerce, the
9 Department of Agriculture, and the Department of Health and Human
10 Services to utilize existing retail outlet infrastructure to facilitate access to
11 and increase consumption of nutrient-dense foods in order to improve
12 overall health and reduce public medical care costs.

13 (b) Purpose. – The program established pursuant to this section is intended to provide a
14 source of funding and assistance for small food retailers operating in the State, in both urban
15 and rural areas with the goal of increasing availability and sales of fresh fruits, vegetables, and
16 other nutrient-dense foods at affordable prices to local residents and improving the diet and
17 health of local residents, especially in food desert zones.

18 (c) Fund. – The Healthy Food Small Retailer Fund is created as a restricted reserve in
19 the Department of Commerce. Funds in the Fund do not revert but remain available to the
20 Department for food desert relief purposes.

21 (d) Definitions. – The following definitions apply in this section:

22 (1) Business. – A corporation, sole proprietorship, cooperative association,
23 partnership, S corporation, limited liability company, nonprofit corporation,
24 or other form of business organization, located either within or outside this
25 State.

26 (2) Department. – The Department of Commerce.

27 (3) Food desert relief. – Moneys allocated to a county or regional public health
28 department to provide funds, equipment, or other assistance to a small food
29 retailer located in a food desert zone to enable the small food retailer to carry
30 and sell nutrient-dense foods.

31 (4) Food desert zone. – A census tract that has been identified by the Economic
32 Research Service of the United States Department of Agriculture as meeting
33 each of the following criteria:

34 a. The tract has a poverty rate of twenty percent (20%) or greater or has
35 a median family income at or below eighty percent (80%) of the
36 median family income for the State.

37 b. The tract has at least 500 persons or at least thirty-three percent
38 (33%) of the population who, for a metropolitan area, live more than
39 one mile from a grocery store or healthy, affordable food retail outlet
40 store or, for a nonmetropolitan area, more than 10 miles from a
41 grocery store or healthy, affordable food retail outlet store.

42 (5) Nutrient dense food. – A food that has high levels of nutrients in relationship
43 to the number of calories the food contains. The term includes fresh
44 vegetables and fruits, whole grains, nuts, seeds, beans and legumes, low-fat
45 dairy products, lean-meats, and seafood.

46 (6) Small food retailer. – A business that is a small retail outlet, including corner
47 stores, convenience stores, cooperatives, and bodegas, of no more than 3,000
48 heated square feet that sells a limited selection of foods and other products.

49 (e) Designation. – Upon application of a county, the Secretary of Commerce shall make
50 a written determination whether an area is a food desert zone, as defined in this section. A
51 determination under this section is effective until December 31 of the year 10 years following

1 the year in which the determination is made. The Department of Commerce shall publish
2 annually a list of all food desert zones with a description of their boundaries. The application
3 required by this subsection shall include all of the following:

- 4 (1) A map showing the census tracts and block groups that would comprise the
5 zone.
- 6 (2) A detailed description of the boundaries of the area that would comprise the
7 zone.
- 8 (3) Detailed census information on the county and the proposed zone.
- 9 (4) A resolution of the board of county commissioners requesting the
10 designation of the area as a food desert zone.
- 11 (5) Any other material required by the Secretary of Commerce.

12 (f) Administration. – The Department shall develop guidelines providing for the
13 administration of the program and selection of recipients of food desert relief. The Department
14 may use up to twelve percent (12%) of funds appropriated to the Fund to administer the Fund.
15 The guidelines developed shall include the following provisions, which shall apply to food
16 desert relief awards from the Fund:

- 17 (1) The funds shall be used only for the following:
 - 18 a. Amounts to a county or regional public health department to
19 purchase and install at a small food retailer refrigeration equipment,
20 display shelving, and other equipment necessary for stocking
21 nutrient-dense foods. Total funding under this sub-subdivision may
22 not exceed five thousand dollars (\$5,000) per small food retailer.
 - 23 b. Amounts to a county or regional public health department to be given
24 to a small food retailer to offset initial expenses related to
25 participating in food desert relief efforts. Total funding under this
26 sub-subdivision may not exceed one hundred dollars (\$100.00) per
27 small food retailer.
 - 28 c. Amounts to a county or regional public health department to cover
29 salaries and associated costs of either employees or contractors
30 providing technical assistance to small food retailers on
31 nutrient-dense food safety and handling, nutrition education, and
32 business operations and promotion related to nutrient-dense food
33 inventory. Total funding under this sub-subdivision may not exceed
34 one thousand five hundred dollars (\$1,500) per small food retailer.
- 35 (2) In determining disbursements of moneys from the Fund, the Department
36 shall consider the level of need in the area to be served.
- 37 (3) The Department shall establish monitoring and accountability mechanisms
38 for recipients.
- 39 (4) Funds may be used only for assistance of small food retailers in food desert
40 zones.
- 41 (5) Small food retailers receiving moneys from the Fund must accept or agree to
42 accept Supplemental Nutrition Assistance Program benefits and must accept
43 or agree to apply to accept Special Supplemental Nutrition Program for
44 Women, Infants and Children benefits.
- 45 (6) Recipients must provide defined goals, standards, and accountability
46 mechanisms to ensure that expenditure of moneys from the Fund are
47 consistent with this section, including (i) providing a plan describing specific
48 goals for increasing the sales of nutrient-dense foods by small food retailers,
49 engaging the community to support participating small food retailers, and
50 establishing standards to assess whether goals are being met and (ii)

- 1 recruiting county, municipal, and other agencies to provide expertise,
2 support, and coordination of efforts to support small food retailers.
- 3 (g) Agreements. – Funds may be disbursed from the Healthy Food Small Retailer Fund
4 only in accordance with agreements entered into between the State and one or more county or
5 regional public health departments and between the county or regional public health department
6 and a small food retailer.
- 7 (h) Retailer Performance Agreements. – An agreement between a county or regional
8 public health department and a small retailer must contain the following provisions:
- 9 (1) A commitment to promote and sell nutrient-dense foods at a specific
10 location and the minimum time period for which the promotion and sales
11 must be maintained.
- 12 (2) A commitment to provide proof satisfactory to the county or regional public
13 health department and the State of nutrient-dense food promotion and sales.
- 14 (3) A provision that funds received under the agreement may be used only for a
15 purpose specified in this section.
- 16 (4) A provision allowing the State or the county or regional public health
17 department to inspect all records of the small food retailer that may be used
18 to confirm compliance with the agreement or with the requirements of this
19 section.
- 20 (5) A provision establishing the method for determining compliance with the
21 agreement.
- 22 (6) A provision establishing a schedule for disbursement of funds for purchasing
23 and installing equipment under the agreement that allows disbursement of
24 funds only after a small food retailer has submitted a plan of implementation
25 for the stocking, promotion, and sale of nutrient-dense foods.
- 26 (7) A provision requiring recapture of equipment provided to a small food
27 retailer if the small food retailer subsequently fails to comply with the terms
28 of the agreement for a period of not less than five years following receipt of
29 the equipment.
- 30 (8) A provision allowing a small food retailer receiving equipment pursuant to
31 this section to purchase the equipment for a nominal amount five years
32 following receipt of the equipment.
- 33 (9) A provision encouraging the small food retailer to contract with local
34 producers of available nutrient-dense foods.
- 35 (10) Any other provision the State or the county or regional public health
36 department finds necessary to ensure the proper use of State or local funds.
- 37 (i) Local Food Desert Relief Agreement. – An agreement between the State and one or
38 more county or regional public health departments shall contain the following provisions:
- 39 (1) A provision requiring the county or regional public health department to
40 recapture any funds to which the county or regional public health department
41 is entitled under the retailer performance agreement.
- 42 (2) A provision requiring the county or regional public health department to
43 reimburse the State for any funds improperly disbursed or funds recaptured
44 by the county or regional public health department.
- 45 (3) A provision allowing the State access to all records possessed by county or
46 regional public health department necessary to ensure compliance with the
47 retailer performance agreement and with the requirements of this section.
- 48 (4) A provision establishing a schedule for the disbursement of funds from the
49 Healthy Food Small Retailer Fund to the county or regional public health
50 department that reflects the disbursement schedule established in the retailer
51 performance agreement.

1 (5) Any other provision the State finds necessary to ensure the proper use of
2 State funds.

3 (j) Disbursement of Funds. – Funds may be disbursed from the Healthy Food Small
4 Retailer Fund to the county or regional public health department only after the county or
5 regional public health department has demonstrated that the retailer has complied with the
6 terms of the retailer performance agreement. The State shall disburse funds allocated under the
7 Healthy Food Small Retailer Fund to a county or regional public health department in
8 accordance with the disbursement schedule established in the local food desert relief
9 agreement.

10 (k) Reports. – The Department shall publish a report on the use of funds in the Healthy
11 Food Small Retailer Fund on or before April 30 of each year. The Department shall submit the
12 report electronically to the Joint Legislative Oversight Committee on Health and Human
13 Services, the Joint Legislative Economic Development and Global Engagement Oversight
14 Committee, and the Fiscal Research Division. The report shall include the amount of funds
15 disbursed, the geographic distribution of disbursements, and an evaluation of the outcome of
16 the disbursements, including the health impact associated with the funding.

17 (l) Guidelines. – The Department of Commerce shall develop guidelines related to the
18 administration of the Healthy Food Small Retailer Fund and to the selection of projects to
19 receive allocations from the Fund. At least 20 days before the effective date of any guidelines
20 or nontechnical amendments to guidelines, the Department of Commerce must publish the
21 proposed guidelines on the Department's Web site and provide notice to persons who have
22 requested notice of proposed guidelines. In addition, the Department must accept oral and
23 written comments on the proposed guidelines during the 15 business days beginning on the first
24 day that the Department has completed these notifications. For the purpose of this section, a
25 technical amendment is either of the following:

26 (1) An amendment that corrects a spelling or grammatical error.

27 (2) An amendment that makes a clarification based on public comment and
28 could have been anticipated by the public notice that immediately preceded
29 the public comment."

30 **SECTION 2.** There is appropriated from the General Fund to the Department of
31 Commerce the sum of one million dollars (\$1,000,000) for the 2015-2016 fiscal year to be
32 allocated to the Healthy Food Small Retailer Fund to be used for purposes consistent with this
33 act.

34 **SECTION 3.** This act is effective when it becomes law.