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SENATE BILL DRS15126-MHa-18A (01/09)

Short Title: Healthy Food Small Retailer Program. (Public)

Sponsors: Senators D. Davis and Pate (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE CORNER STORE INITIATIVE ACT TO ASSIST HEALTHY
3 FOOD SMALL RETAILERS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Chapter 106 of the General Statutes is amended by adding a new
6 Article to read:

7 "Article 62B.

8 "Healthy Food Small Retailer Act.

9 **"§ 106-755.5. Healthy Food Small Retailer Fund.**

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

11 (1) Overweight children and adults are at greater risk for numerous adverse
12 health consequences, including type 2 diabetes, heart disease, stroke, high
13 blood pressure, high cholesterol, certain cancers, asthma, low self-esteem,
14 depression, and other debilitating diseases. In North Carolina, over sixty-five
15 percent (65%) of adult residents were considered overweight or obese and
16 over thirty-one percent (31%) of children were considered overweight or
17 obese. Obese children are at least twice as likely as non-obese children to
18 become obese adults.

19 (2) The medical costs of obesity are rising rapidly in the United States and are
20 estimated to be one hundred forty-seven billion dollars (\$147,000,000,000)
21 per year. Roughly half of these obesity-related costs are paid by Medicare
22 and Medicaid, indicating taxpayers bear the majority of the cost for
23 obesity-related medical care. Obesity-related health care spending accounts
24 for eight and one-half percent (8.5%) of Medicare spending, eleven and
25 eight-tenths percent (11.8%) of Medicaid spending, and twelve and
26 nine-tenths percent (12.9%) of private payer spending.

27 (3) Many Americans, particularly those in low-income neighborhoods, rural
28 areas, and communities of color, live in communities that lack adequate
29 access to full-service grocery stores. Low-income areas have more than
30 twice as many convenience stores and four times as many small grocery
31 stores as high-income areas. Proximity to convenience stores within a
32 neighborhood is associated with higher rates of obesity and diabetes.

33 (4) Research indicates that small food stores sell little fresh produce, whole
34 grains, and low-fat dairy products but sell larger quantities of foods that are
35 high in fat and low in nutrients. Small food stores regularly charge higher
36 prices for food as compared to grocery stores and supermarkets.



- 1 (5) Providing assistance to existing small food retailers to stock fresh produce
2 and other healthy foods and promote good nutrition can provide residents
3 with access to healthier foods. Community programs that work with these
4 small food retailers have shown promise in increasing healthy food sales,
5 improving store offerings, and promoting good nutrition.
- 6 (6) Efforts are currently underway between the Department of Agriculture and
7 the Department of Health and Human Services to utilize existing retail outlet
8 infrastructure to facilitate access to and increase consumption of
9 nutrient-dense foods in order to improve overall health and reduce public
10 medical care costs.
- 11 (b) Purpose. – The program established pursuant to this section is intended to provide a
12 source of funding and assistance for small food retailers operating in the State, in both urban
13 and rural areas, with the goal of increasing availability and sales of fresh fruits, vegetables, and
14 other nutrient-dense foods at affordable prices to local residents and improving the diet and
15 health of local residents, especially in food desert zones.
- 16 (c) Fund. – The Healthy Food Small Retailer Fund is created as a restricted reserve in
17 the Department of Agriculture and Consumer Services. Funds in the Fund do not revert but
18 remain available to the Department for food desert relief purposes.
- 19 (d) Definitions. – The following definitions apply in this section:
- 20 (1) Business. – A corporation, sole proprietorship, cooperative association,
21 partnership, S corporation, limited liability company, nonprofit corporation,
22 or other form of business organization, located either within or outside this
23 State.
- 24 (2) Department. – The Department of Agriculture and Consumer Services.
- 25 (3) Food desert relief. – Moneys allocated to a county or regional public health
26 department to provide funds, equipment, or other assistance to a small food
27 retailer located in a food desert zone to enable the small food retailer to carry
28 and sell nutrient-dense foods.
- 29 (4) Food desert zone. – A census tract that has been identified by the Economic
30 Research Service of the United States Department of Agriculture as meeting
31 each of the following criteria:
- 32 a. The tract has a poverty rate of twenty percent (20%) or greater or has
33 a median family income at or below eighty percent (80%) of the
34 median family income for the State.
- 35 b. The tract has at least 500 persons or at least thirty-three percent
36 (33%) of the population who, for a metropolitan area, live more than
37 one mile from a grocery store or healthy, affordable food retail outlet
38 store or, for a nonmetropolitan area, more than 10 miles from a
39 grocery store or healthy, affordable food retail outlet store.
- 40 (5) Nutrient dense food. – A food that has high levels of nutrients in relationship
41 to the number of calories the food contains. The term includes fresh
42 vegetables and fruits, whole grains, nuts, seeds, beans and legumes, low-fat
43 dairy products, lean meats, and seafood.
- 44 (6) Small food retailer. – A business that is a small retail outlet, including corner
45 stores, convenience stores, cooperatives, and bodegas, of no more than 5,000
46 heated square feet that sells a limited selection of foods and other products.
- 47 (e) Designation. – Upon application of a county, the Commissioner of Agriculture shall
48 make a written determination whether an area is a food desert zone, as defined in this section.
49 A determination under this section is effective until December 31 of the year 10 years
50 following the year in which the determination is made. The Department shall publish annually

1 a list of all food desert zones with a description of their boundaries. The application required by
2 this subsection shall include all of the following:

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

11 (f) Administration. – The Department shall develop guidelines providing for the
12 administration of the program and selection of recipients of food desert relief. The Department
13 may use up to ten percent (10%) of funds appropriated to the Fund to administer the Fund. The
14 guidelines developed shall include the following provisions, which shall apply to food desert
15 relief awards from the Fund:

- 16 (1) The local health department may contract with another state agency or
17 program or local nonprofit organization to provide services funded under
18 this subdivision. The funds shall be used only for the following:
 - 19 a. Amounts to a local health department or contractor to purchase and
20 install at a small food retailer refrigeration equipment, display
21 shelving, and other equipment necessary for stocking nutrient-dense
22 foods. Total funding under this sub-subdivision may not exceed
23 fifteen thousand dollars (\$15,000) per small food retailer.
 - 24 b. Amounts to a local health department or contractor to be given to a
25 small food retailer to offset initial expenses related to participating in
26 food desert relief efforts. Total funding under this sub-subdivision
27 may not exceed one hundred dollars (\$100.00) per small food
28 retailer.
 - 29 c. Amounts to a local health department to cover salaries and associated
30 costs of either employees or contractors providing technical
31 assistance to small food retailers on nutrient-dense food safety and
32 handling, nutrition education, and business operations and promotion
33 related to nutrient-dense food inventory.
- 34 (2) In determining disbursements of moneys from the Fund, the Department
35 shall consider the level of need in the area to be served.
- 36 (3) The Department shall establish monitoring and accountability mechanisms
37 for recipients.
- 38 (4) Funds may be used only for assistance of small food retailers in food desert
39 zones.
- 40 (5) Small food retailers receiving moneys from the Fund must accept or agree to
41 accept Supplemental Nutrition Assistance Program benefits.
- 42 (6) Recipients must provide defined objectives, standards, and accountability
43 mechanisms to ensure that expenditure of moneys from the Fund are
44 consistent with this section, including (i) submitting a plan describing
45 specific goals for increasing the sales of nutrient-dense foods by small food
46 retailers, engaging the community to support participating small food
47 retailers, and establishing standards to assess whether goals are being met
48 and (ii) recruiting county, municipal, and other agencies to provide
49 expertise, support, and coordination of efforts to support small food retailers.

50 (g) Agreements. – Funds may be disbursed from the Healthy Food Small Retailer Fund
51 only in accordance with agreements entered into between the State and one or more local health

1 departments as set forth in this subsection and between a local health department and a small
2 food retailer as set forth in subsection (h) of this section. Agreements between local health
3 departments and retailers must contain, at a minimum, the following provisions:

4 (1) Specifications for the stocking, promotion, and sales of nutrient-dense foods
5 by retailers, procedures, and schedules for required actions by retailers and
6 disbursement of funds by the local health department

7 (2) A provision requiring recapture of equipment provided to a small food
8 retailer if the small food retailer subsequently fails to comply with the terms
9 of the agreement for a period of not less than five years following receipt of
10 the equipment.

11 (3) A provision allowing a small food retailer receiving equipment pursuant to
12 this section to purchase the equipment for a nominal amount five years
13 following receipt of the equipment.

14 (4) A provision encouraging the small food retailer to contract with local
15 producers of available nutrient-dense foods.

16 (h) Local Food Desert Relief Agreement. – An agreement between the State and one or
17 more local health departments shall specify, at a minimum, procedures for recapture by the
18 State of funds improperly disbursed and for access by the State to records of the local health
19 department necessary to determine compliance by (i) small food retailers with the agreements
20 required by subsection (g) of this section and (ii) local health departments with the agreement
21 required by this subsection.

22 (i) Disbursement of Funds. – Funds may be disbursed from the Healthy Food Small
23 Retailer Fund to the local health department only after the local health department has
24 demonstrated that the retailer has complied with the terms of the retailer performance
25 agreement. The State shall disburse funds allocated under the Healthy Food Small Retailer
26 Fund to a local health department in accordance with the disbursement schedule established in
27 the agreement.

28 (j) Reports. – The Department shall publish a report on the use of funds in the Healthy
29 Food Small Retailer Fund on or before April 30 of each year. The Department shall submit the
30 report electronically to the Joint Legislative Oversight Committee on Health and Human
31 Services, the House and Senate appropriations committees with jurisdiction over agriculture
32 and natural and economic resources, and the Fiscal Research Division. The report shall include
33 the amount of funds disbursed, the geographic distribution of disbursements, and an evaluation
34 of the outcome of the disbursements, including the health impact associated with the funding.

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

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

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

48 **SECTION 2.** This act is effective when it becomes law.