

7829

2015-2016 Regular Sessions

I N A S S E M B L Y

May 28, 2015

Introduced by M. of A. QUART -- read once and referred to the Committee
on Agriculture

AN ACT to amend the agriculture and markets law and the tax law, in
relation to the healthy options and community outreach program and to
direct the empire state development corporation to establish a public
awareness campaign regarding such program

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The agriculture and markets law is amended by adding a new
2 article 29-A to read as follows:

3 ARTICLE 29-A

4 HEALTHY OPTIONS AND COMMUNITY OUTREACH PROGRAM

5 SECTION 520. HEALTHY OPTIONS AND COMMUNITY OUTREACH PROGRAM.

6 S 520. HEALTHY OPTIONS AND COMMUNITY OUTREACH PROGRAM. 1. (A) THERE IS
7 HEREBY CREATED WITHIN THE DEPARTMENT THE HEALTHY OPTIONS AND COMMUNITY
8 OUTREACH PROGRAM. THE DEPARTMENT SHALL CONDUCT AN OUTREACH PROGRAM FOR
9 THE PURPOSE OF EXPANDING THE NUMBER OF CONVENIENCE STORES AND SMALL
10 GROCERS OFFERING HEALTHY FOOD AND BEVERAGE OPTIONS TO AT-RISK COMMUNI-
11 TIES IN UNDERSERVED AREAS. THE OUTREACH PROGRAM SHALL ALSO EDUCATE THE
12 PUBLIC ON THE IMPORTANCE OF HEALTHY EATING AND THE AVAILABILITY OF HEAL-
13 THY PRODUCTS IN LOCAL COMMUNITIES.

14 (B) FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE
15 FOLLOWING MEANINGS:

16 (I) "UNDERSERVED AREAS" MEANS LOW OR MODERATE-INCOME CENSUS TRACTS,
17 AREAS OF BELOW AVERAGE SUPERMARKET DENSITY OR HAVING A SUPERMARKET
18 CUSTOMER BASE WITH MORE THAN FIFTY PERCENT LIVING IN LOW-INCOME CENSUS
19 TRACTS, OR OTHER AREAS DEMONSTRATED TO HAVE SIGNIFICANT ACCESS LIMITA-
20 TIONS TO SUPERMARKETS DUE TO TRAVEL DISTANCE, AS DETERMINED BY THE
21 DEPARTMENT;

22 (II) "AT-RISK COMMUNITIES" MEANS THOSE AREAS THE DEPARTMENT OF HEALTH
23 HAS IDENTIFIED AS SUFFERING FROM HIGH RATES OF OBESITY, DIABETES AND

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 OTHER HEALTH PROBLEMS ASSOCIATED WITH LIMITED ACCESS TO NUTRITIOUS FOODS
2 AND BEVERAGES; AND

3 (III) "SMALL GROCER" MEANS ANY RETAIL ESTABLISHMENT WITH LESS THAN
4 THREE THOUSAND FIVE HUNDRED SQUARE FEET WHERE FOODSTUFFS ARE REGULARLY
5 AND CUSTOMARILY SOLD IN A BONA FIDE MANNER FOR CONSUMPTION OFF THE PREM-
6 ISES.

7 2. THE DEPARTMENT SHALL IDENTIFY AND INFORM ELIGIBLE CONVENIENCE
8 STORES AND SMALL GROCERS OF THE OUTREACH PROGRAM AND THE TAX BENEFITS
9 SHOULD SUCH STORES OR GROCERS CHOOSE TO PARTICIPATE. PARTICIPATING
10 CONVENIENCE STORES AND SMALL GROCERS FOUND TO BE IN COMPLIANCE WITH THE
11 PROGRAM SHALL BE ELIGIBLE TO RECEIVE TAX CREDITS PURSUANT TO SECTIONS
12 TWO HUNDRED TEN-B AND SIX HUNDRED SIX OF THE TAX LAW.

13 3. THE COMMISSIONER SHALL DETERMINE ELIGIBILITY REQUIREMENTS FOR
14 PARTICIPATION IN THE PROGRAM, PROVIDED, HOWEVER, THAT SUCH REQUIREMENTS
15 SHALL INCLUDE THE FOLLOWING:

16 (A) A PARTICIPATING CONVENIENCE STORE OR SMALL GROCER SHALL BE LOCATED
17 IN AN UNDERSERVED AREA AND SERVE AN AT-RISK COMMUNITY;

18 (B) A PARTICIPATING CONVENIENCE STORE OR SMALL GROCER SHALL:

19 (I) STOCK AND SELL WHOLESOME FOODS, AS DETERMINED BY THE DEPARTMENT,
20 SUCH AS FRESH FRUITS, VEGETABLES, WHOLE GRAIN PRODUCTS AND DAIRY
21 PRODUCTS;

22 (II) PROMINENTLY DISPLAY SUCH FOODS AND BEVERAGES; AND

23 (III) LABEL AND PROMOTE SUCH FOODS AND BEVERAGES.

24 4. APPLICATIONS FOR PARTICIPATION IN THE PROGRAM SHALL BE SUBMITTED BY
25 EACH CONVENIENCE STORE OR SMALL GROCER SEEKING TO PARTICIPATE IN THE
26 PROGRAM, AND SHALL BE IN THE FORM AND CONTAIN SUCH INFORMATION AS THE
27 COMMISSIONER MAY PRESCRIBE. THE COMMISSIONER SHALL REVIEW ALL APPLICA-
28 TIONS FOR PARTICIPATION IN THE PROGRAM FOR ELIGIBILITY AND SHALL REGIS-
29 TER ELIGIBLE APPLICANTS. THE DEPARTMENT SHALL ANNUALLY VISIT EACH
30 PARTICIPATING CONVENIENCE STORE OR SMALL GROCER TO ASSESS EACH PARTIC-
31 IPANT'S COMPLIANCE WITH THIS SECTION. AFTER SUCH VISIT, THE COMMISSIONER
32 SHALL PROVIDE A CERTIFICATE CERTIFYING THAT THE REGISTERED CONVENIENCE
33 STORE OR SMALL GROCER IS ELIGIBLE FOR TAX CREDITS PURSUANT TO THIS ARTI-
34 CLE.

35 5. THE DEPARTMENT, IN CONSULTATION WITH THE EMPIRE STATE DEVELOPMENT
36 CORPORATION, SHALL PROMOTE SUCH PROGRAM WITHIN AT-RISK COMMUNITIES
37 THROUGH EDUCATIONAL AND INFORMATIONAL MATERIALS IN PRINT, AUDIO, VISUAL,
38 ELECTRONIC OR OTHER MEDIA AS WELL AS PUBLIC SERVICE ANNOUNCEMENTS AND
39 ADVERTISEMENTS.

40 6. THE DEPARTMENT, IN CONSULTATION WITH THE EMPIRE STATE DEVELOPMENT
41 CORPORATION, SHALL PROVIDE STORE OWNERS WITH INFORMATION ON LOCAL
42 DISTRIBUTORS INCLUDING FARMERS' MARKETS. THE DEPARTMENT SHALL ALSO
43 PROVIDE TECHNICAL ASSISTANCE AND TRAINING TO PARTICIPANTS INCLUDING
44 GUIDANCE ON STORE LAYOUTS AND FOOD DISPLAYS.

45 7. THE DEPARTMENT MAY PRODUCE, MAKE AVAILABLE TO OTHERS FOR REPROD-
46 UCTION, OR CONTRACT WITH OTHERS TO DEVELOP SUCH MATERIALS MENTIONED IN
47 THIS SECTION AS THE COMMISSIONER DEEMS APPROPRIATE. THESE MATERIALS
48 SHALL BE MADE AVAILABLE TO THE PUBLIC AND FOR DISTRIBUTION IN PARTIC-
49 IPATING CONVENIENCE STORES AND SMALL GROCERS.

50 8. THE COMMISSIONER MAY MAKE RULES AND REGULATIONS NECESSARY AND
51 APPROPRIATE FOR IMPLEMENTATION OF THIS SECTION.

52 S 2. Section 210-B of the tax law is amended by adding a new subdivi-
53 sion 49 to read as follows:

54 49. CREDIT FOR CONVENIENCE STORES AND SMALL GROCERS PARTICIPATING IN
55 THE HEALTHY OPTIONS AND COMMUNITY OUTREACH PROGRAM. (A) ALLOWANCE OF
56 CREDIT. A TAXPAYER THAT IS A CONVENIENCE STORE OR SMALL GROCER PARTIC-

1 IPATING IN THE HEALTHY OPTIONS AND COMMUNITY OUTREACH PROGRAM PURSUANT
2 TO SECTION FIVE HUNDRED TWENTY OF THE AGRICULTURE AND MARKETS LAW SHALL
3 BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR THE
4 PURCHASE, INSTALLATION OR UPGRADE OF ANY REFRIGERATION, STORAGE OR
5 DISPLAY UNITS NECESSARY FOR PARTICIPATION IN THE PROGRAM. THE AMOUNT OF
6 THE CREDIT SHALL BE EQUAL TO ONE HUNDRED PERCENT OF THE EXPENDITURE
7 INCURRED IN PURCHASING, INSTALLING OR UPGRADING ANY REFRIGERATION, STOR-
8 AGE OR DISPLAY EQUIPMENT.

9 (B) WHEN CREDIT ALLOWED. THE CREDIT PROVIDED FOR HEREIN SHALL BE
10 ALLOWED WITH RESPECT TO THE TAXABLE YEAR COMMENCING IN WHICH THE EQUIP-
11 MENT IS INSTALLED, UPGRADED OR PURCHASED.

12 (C) PROOF OF CLAIM. THE COMMISSIONER MAY REQUIRE A QUALIFIED TAXPAYER
13 TO FURNISH PROOF OF PARTICIPATION IN THE HEALTHY OPTIONS AND COMMUNITY
14 OUTREACH PROGRAM AND OF THE COST OF ANY PURCHASE, UPGRADE, OR INSTALLA-
15 TION IN SUPPORT OF HIS OR HER CLAIM FOR CREDIT UNDER THIS SUBDIVISION.

16 (D) CARRYOVER OF CREDIT. IF THE AMOUNT OF THE CREDIT, AND CARRYOVERS
17 OF SUCH CREDIT, ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR
18 SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, SUCH EXCESS AMOUNT MAY BE
19 CARRIED OVER TO THE FIVE TAXABLE YEARS NEXT FOLLOWING THE TAXABLE YEAR
20 WITH RESPECT TO WHICH THE CREDIT IS ALLOWED AND MAY BE DEDUCTED FROM THE
21 TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

22 S 3. Section 606 of the tax law is amended by adding a new subsection
23 (ccc) to read as follows:

24 (CCC) CREDIT FOR CONVENIENCE STORES AND SMALL GROCERS PARTICIPATING IN
25 THE HEALTHY OPTIONS AND COMMUNITY OUTREACH PROGRAM. (1) ALLOWANCE OF
26 CREDIT. A TAXPAYER THAT IS A CONVENIENCE STORE OR A SMALL GROCER PARTIC-
27 IPATING IN THE HEALTHY OPTIONS AND COMMUNITY OUTREACH PROGRAM PURSUANT
28 TO SECTION FIVE HUNDRED TWENTY OF THE AGRICULTURE AND MARKETS LAW SHALL
29 BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR THE
30 PURCHASE, INSTALLATION OR UPGRADE OF ANY REFRIGERATION, STORAGE OR
31 DISPLAY UNITS NECESSARY FOR PARTICIPATION IN THE PROGRAM. THE AMOUNT OF
32 THE CREDIT SHALL BE EQUAL TO ONE HUNDRED PERCENT OF THE EXPENDITURE
33 INCURRED IN PURCHASING, INSTALLING OR UPGRADING ANY REFRIGERATION, STOR-
34 AGE OR DISPLAY EQUIPMENT.

35 (2) WHEN CREDIT ALLOWED. THE CREDIT PROVIDED FOR HEREIN SHALL BE
36 ALLOWED WITH RESPECT TO THE TAXABLE YEAR COMMENCING IN WHICH THE EQUIP-
37 MENT IS INSTALLED, UPGRADED OR PURCHASED.

38 (3) PROOF OF CLAIM. THE COMMISSIONER MAY REQUIRE A QUALIFIED TAXPAYER
39 TO FURNISH PROOF OF PARTICIPATION IN THE HEALTHY OPTIONS AND COMMUNITY
40 OUTREACH PROGRAM AND OF THE COST OF ANY PURCHASE, UPGRADE, OR INSTALLA-
41 TION IN SUPPORT OF HIS OR HER CLAIM FOR CREDIT UNDER THIS SUBSECTION.

42 (4) CARRYOVER OF CREDIT. IF THE AMOUNT OF THE CREDIT, AND CARRYOVERS
43 OF SUCH CREDIT, ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR
44 SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, SUCH EXCESS AMOUNT MAY BE
45 CARRIED OVER TO THE FIVE TAXABLE YEARS NEXT FOLLOWING THE TAXABLE YEAR
46 WITH RESPECT TO WHICH THE CREDIT IS ALLOWED AND MAY BE DEDUCTED FROM THE
47 TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

48 S 4. The empire state development corporation shall develop, establish
49 and implement a public awareness campaign regarding the healthy options
50 and community outreach program established pursuant to section 520 of
51 the agriculture and markets law. The campaign shall include information
52 on the benefits of healthy eating and on the availability of healthy
53 foods and beverages in the local community. Such public awareness
54 campaign shall be made available to the public by any means deemed
55 appropriate by the corporation including, but not limited to, internet,
56 radio, and print advertising such as billboards and posters. The

1 campaign may also identify and recruit individuals to serve as visible,
2 public ambassadors to promote this message. The campaign may include an
3 internet website providing information on the benefits of healthy foods
4 and beverages and on the availability of such foods and beverages at
5 local convenience stores and small grocers. The campaign shall begin no
6 later than January 1, 2016.

7 S 5. This act shall take effect immediately; provided that sections
8 two and three of this act shall apply to taxable years beginning on and
9 after January 1, 2016.