

5432--A

2015-2016 Regular Sessions

I N   S E N A T E

May 14, 2015

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Introduced by Sens. FUNKE, AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture -- recommitted to the Committee on Agriculture in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 ASSEMBLY, 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-

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

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1 TIONS TO SUPERMARKETS DUE TO TRAVEL DISTANCE, AS DETERMINED BY THE  
2 DEPARTMENT;

3 (II) "AT-RISK COMMUNITIES" MEANS THOSE AREAS THE DEPARTMENT OF HEALTH  
4 HAS IDENTIFIED AS SUFFERING FROM HIGH RATES OF OBESITY, DIABETES AND  
5 OTHER HEALTH PROBLEMS ASSOCIATED WITH LIMITED ACCESS TO NUTRITIOUS FOODS  
6 AND BEVERAGES; AND

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

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

17 3. THE COMMISSIONER SHALL DETERMINE ELIGIBILITY REQUIREMENTS FOR  
18 PARTICIPATION IN THE PROGRAM, PROVIDED, HOWEVER, THAT SUCH REQUIREMENTS  
19 SHALL INCLUDE THE FOLLOWING:

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

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

23 (I) STOCK AND SELL WHOLESOME FOODS, AS DETERMINED BY THE DEPARTMENT,  
24 SUCH AS FRESH FRUITS, VEGETABLES, WHOLE GRAIN PRODUCTS AND DAIRY  
25 PRODUCTS;

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

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

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

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

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

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

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

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

3 49. CREDIT FOR CONVENIENCE STORES AND SMALL GROCERS PARTICIPATING IN  
4 THE HEALTHY OPTIONS AND COMMUNITY OUTREACH PROGRAM. (A) ALLOWANCE OF  
5 CREDIT. A TAXPAYER THAT IS A CONVENIENCE STORE OR SMALL GROCER PARTIC-  
6 IPATING IN THE HEALTHY OPTIONS AND COMMUNITY OUTREACH PROGRAM PURSUANT  
7 TO SECTION FIVE HUNDRED TWENTY OF THE AGRICULTURE AND MARKETS LAW SHALL  
8 BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR THE  
9 PURCHASE, INSTALLATION OR UPGRADE OF ANY REFRIGERATION, STORAGE OR  
10 DISPLAY UNITS NECESSARY FOR PARTICIPATION IN THE PROGRAM. THE AMOUNT OF  
11 THE CREDIT SHALL BE EQUAL TO ONE HUNDRED PERCENT OF THE EXPENDITURE  
12 INCURRED IN PURCHASING, INSTALLING OR UPGRADING ANY REFRIGERATION, STOR-  
13 AGE OR DISPLAY EQUIPMENT.

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

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

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

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

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

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

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

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

53 S 4. The empire state development corporation shall develop, establish  
54 and implement a public awareness campaign regarding the healthy options  
55 and community outreach program established pursuant to section 520 of  
56 the agriculture and markets law. The campaign shall include information

1 on the benefits of healthy eating and on the availability of healthy  
2 foods and beverages in the local community. Such public awareness  
3 campaign shall be made available to the public by any means deemed  
4 appropriate by the corporation including, but not limited to, internet,  
5 radio, and print advertising such as billboards and posters. The  
6 campaign may also identify and recruit individuals to serve as visible,  
7 public ambassadors to promote this message. The campaign may include an  
8 internet website providing information on the benefits of healthy foods  
9 and beverages and on the availability of such foods and beverages at  
10 local convenience stores and small grocers. The campaign shall begin no  
11 later than January 1, 2017.

12 S 5. This act shall take effect immediately; provided that sections  
13 two and three of this act shall apply to taxable years beginning on and  
14 after January 1, 2017.