

# STATE OF NEW YORK

3944

2017-2018 Regular Sessions

## IN ASSEMBLY

January 30, 2017

Introduced by M. of A. QUART -- Multi-Sponsored by -- M. of A. BICHOTTE,  
PEOPLES-STOKES -- 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 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:

### ARTICLE 29-A

#### HEALTHY OPTIONS AND COMMUNITY OUTREACH PROGRAM

#### Section 520. Healthy options and community outreach program.

6 § 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;

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

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1 (ii) "at-risk communities" means those areas the department of health  
2 has identified as suffering from high rates of obesity, diabetes and  
3 other health problems associated with limited access to nutritious foods  
4 and beverages; and

5 (iii) "small grocer" means any retail establishment with less than  
6 three thousand five hundred square feet where foodstuffs are regularly  
7 and customarily sold in a bona fide manner for consumption off the prem-  
8 ises.

9 2. The department shall identify and inform eligible convenience  
10 stores and small grocers of the outreach program and the tax benefits  
11 should such stores or grocers choose to participate. Participating  
12 convenience stores and small grocers found to be in compliance with the  
13 program shall be eligible to receive tax credits pursuant to sections  
14 two hundred ten-B and six hundred six of the tax law.

15 3. The commissioner shall determine eligibility requirements for  
16 participation in the program, provided, however, that such requirements  
17 shall include the following:

18 (a) a participating convenience store or small grocer shall be located  
19 in an underserved area and serve an at-risk community;

20 (b) a participating convenience store or small grocer shall:

21 (i) stock and sell wholesome foods, as determined by the department,  
22 such as fresh fruits, vegetables, whole grain products and dairy  
23 products;

24 (ii) prominently display such foods and beverages; and

25 (iii) label and promote such foods and beverages.

26 4. Applications for participation in the program shall be submitted by  
27 each convenience store or small grocer seeking to participate in the  
28 program, and shall be in the form and contain such information as the  
29 commissioner may prescribe. The commissioner shall review all applica-  
30 tions for participation in the program for eligibility and shall regis-  
31 ter eligible applicants. The department shall annually visit each  
32 participating convenience store or small grocer to assess each partic-  
33 ipant's compliance with this section. After such visit, the commissioner  
34 shall provide a certificate certifying that the registered convenience  
35 store or small grocer is eligible for tax credits pursuant to this arti-  
36 cle.

37 5. The department, in consultation with the empire state development  
38 corporation, shall promote such program within at-risk communities  
39 through educational and informational materials in print, audio, visual,  
40 electronic or other media as well as public service announcements and  
41 advertisements.

42 6. The department, in consultation with the empire state development  
43 corporation, shall provide store owners with information on local  
44 distributors including farmers' markets. The department shall also  
45 provide technical assistance and training to participants including  
46 guidance on store layouts and food displays.

47 7. The department may produce, make available to others for reprod-  
48 uction, or contract with others to develop such materials mentioned in  
49 this section as the commissioner deems appropriate. These materials  
50 shall be made available to the public and for distribution in partic-  
51 ipating convenience stores and small grocers.

52 8. The commissioner may make rules and regulations necessary and  
53 appropriate for implementation of this section.

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

1 49. Credit for convenience stores and small grocers participating in  
2 the healthy options and community outreach program. (a) Allowance of  
3 credit. A taxpayer that is a convenience store or small grocer partic-  
4 ipating in the healthy options and community outreach program pursuant  
5 to section five hundred twenty of the agriculture and markets law shall  
6 be allowed a credit against the tax imposed by this article for the  
7 purchase, installation or upgrade of any refrigeration, storage or  
8 display units necessary for participation in the program. The amount of  
9 the credit shall be equal to one hundred percent of the expenditure  
10 incurred in purchasing, installing or upgrading any refrigeration, stor-  
11 age or display equipment.

12 (b) When credit allowed. The credit provided for herein shall be  
13 allowed with respect to the taxable year commencing in which the equip-  
14 ment is installed, upgraded or purchased.

15 (c) Proof of claim. The commissioner may require a qualified taxpayer  
16 to furnish proof of participation in the healthy options and community  
17 outreach program and of the cost of any purchase, upgrade, or installa-  
18 tion in support of his or her claim for credit under this subdivision.

19 (d) Carryover of credit. If the amount of the credit, and carryovers  
20 of such credit, allowable under this subdivision for any taxable year  
21 shall exceed the taxpayer's tax for such year, such excess amount may be  
22 carried over to the five taxable years next following the taxable year  
23 with respect to which the credit is allowed and may be deducted from the  
24 taxpayer's tax for such year or years.

25 § 3. Section 606 of the tax law is amended by adding a new subsection  
26 (ccc) to read as follows:

27 (ccc) Credit for convenience stores and small grocers participating in  
28 the healthy options and community outreach program. (1) Allowance of  
29 credit. A taxpayer that is a convenience store or a small grocer partic-  
30 ipating in the healthy options and community outreach program pursuant  
31 to section five hundred twenty of the agriculture and markets law shall  
32 be allowed a credit against the tax imposed by this article for the  
33 purchase, installation or upgrade of any refrigeration, storage or  
34 display units necessary for participation in the program. The amount of  
35 the credit shall be equal to one hundred percent of the expenditure  
36 incurred in purchasing, installing or upgrading any refrigeration, stor-  
37 age or display equipment.

38 (2) When credit allowed. The credit provided for herein shall be  
39 allowed with respect to the taxable year commencing in which the equip-  
40 ment is installed, upgraded or purchased.

41 (3) Proof of claim. The commissioner may require a qualified taxpayer  
42 to furnish proof of participation in the healthy options and community  
43 outreach program and of the cost of any purchase, upgrade, or installa-  
44 tion in support of his or her claim for credit under this subsection.

45 (4) Carryover of credit. If the amount of the credit, and carryovers  
46 of such credit, allowable under this subsection for any taxable year  
47 shall exceed the taxpayer's tax for such year, such excess amount may be  
48 carried over to the five taxable years next following the taxable year  
49 with respect to which the credit is allowed and may be deducted from the  
50 taxpayer's tax for such year or years.

51 § 4. The empire state development corporation shall develop, establish  
52 and implement a public awareness campaign regarding the healthy options  
53 and community outreach program established pursuant to section 520 of  
54 the agriculture and markets law. The campaign shall include information  
55 on the benefits of healthy eating and on the availability of healthy  
56 foods and beverages in the local community. Such public awareness

1 campaign shall be made available to the public by any means deemed  
2 appropriate by the corporation including, but not limited to, internet,  
3 radio, and print advertising such as billboards and posters. The  
4 campaign may also identify and recruit individuals to serve as visible,  
5 public ambassadors to promote this message. The campaign may include an  
6 internet website providing information on the benefits of healthy foods  
7 and beverages and on the availability of such foods and beverages at  
8 local convenience stores and small grocers. The campaign shall begin no  
9 later than January 1, 2018.

10 § 5. This act shall take effect immediately; provided that sections  
11 two and three of this act shall apply to taxable years beginning on and  
12 after January 1, 2018.