STATE OF NEW YORK

2262

2023-2024 Regular Sessions

IN ASSEMBLY

January 25, 2023

Introduced by M. of A. SIMON, DAVILA, TAYLOR, GIBBS, COOK -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to establishing the sanitary retail food store grant program

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The agriculture and markets law is amended by adding a new section 501 to read as follows:

§ 501. Sanitary retail food store grant program. 1. Legislative intent. The legislature hereby finds, determines, and declares that retail food stores located in New York should maintain proper sanitary conditions to ensure the health and safety of all patrons. Preserving stores that are unable to meet proper sanitary conditions, and are located in areas where low-income people have limited access to affordable and nutritious food, is in the best interest of those communities and the state. The legislature hereby declares that in order to ensure the health and safety of its citizens, and preserve retail food stores located in food deserts, the department shall create a sanitary retail food store grant program.

2. Definitions. For the purposes of this section, the following terms shall have the following meanings:

(a) "Critical deficiencies" means factors that are leading causes of foodborne illnesses, including but not limited to the following:

(i) insect, rodent, bird, or vermin activity likely to result in product contamination;

(ii) contact surfaces are unclean or not properly sanitized, such as food contact equipment, utensils, or conveyances for potentially hazardous foods;

(iii) employee handwashing facilities inadequate for establishments handling exposed foods;

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

LBD03193-01-3

(iv) equipment cleaning or sanitizing facilities inadequate for establishments handling potentially hazardous foods; and

(v) potentially hazardous foods are not stored at safe temperatures.

(b) "Food desert" shall mean an area with limited access to affordable and nutritious food, particularly such an area that is composed of predominately lower-income neighborhoods and communities.

3. Sanitary retail food store grant program. Subject to the availability of funds, the commissioner shall establish a sanitary retail food store grant program to ensure that retail food stores that are unable to sustain the costs to immediately correct critical deficiencies, are located in food deserts, and would otherwise be unable to stay in operation due to their inability to meet and maintain sanitary standards, may be awarded funds to correct such critical deficiencies to ensure communities with limited food sources are held harmless and have access to retail food stores with proper sanitary conditions.

4. Eligibility. To be eligible to receive sanitary retail food store grant program funding, retail food stores shall meet the following criteria:

(a) found to have critical deficiencies that were not or could not be corrected at the time of inspection creating a need for immediate corrective action or fails for two consecutive inspections;

(b) located in a food desert whereby closing the retail food store would have a substantial impact on the community it serves;

(c) the retail food store is able to establish that it does not have adequate funding or resources to correct the critical deficiencies, nor would it be able to attain such funding within a reasonable amount of time to prevent a negative impact to the community;

(d) the retail food store is able to establish that it is unable to attain credit or loan for all or part of the costs needed to correct the critical deficiencies; and

(e) the retail food store supplies the community with affordable and nutritious food, such as fresh produce, canned goods, and refrigerated foods.

5. Grants. The commissioner shall make grants to retail food stores located in food deserts and meet all eligibility criteria that submit a plan to correct the critical deficiencies and maintain proper sanitation for at least five years. The grant shall be based on the scope and nature of the resources associated with correcting the critical deficiencies and the long-term maintenance of the correction of critical deficiencies. Grants shall be approved and released every six months in order to provide retail food stores with certainty on when they will be able to attain funding and resources to correct the critical deficiencies and failed inspections.

§ 2. Subdivision 4 of section 500 of the agriculture and markets law, as amended by section 8 of part I1 of chapter 62 of the laws of 2003, is amended to read as follows:

4. (a) The department shall inspect each retail food store at least once in every twelve month period. Any store that fails two consecutive inspections shall be inspected at least once in every six month period until [~~it has passed~~] no critical deficiencies were found or critical deficiencies were found but remedied at the time of the inspection for two consecutive inspections. In the event that a retail food store was found to have critical deficiencies that were not or could not be corrected creating a need for immediate corrective action or fails for three consecutive inspections, the department [~~may, in its discretion,~~] shall order such establishment to cease all retail operation until it

passes inspection or suspend or revoke any license issued to such establishment pursuant to article twenty-C of this chapter. **However, the department may, in its discretion allow such establishments to maintain operation even if they would otherwise need to cease operation if they are able to establish that they qualified for the sanitary retail food store grant program, described in section five hundred one of this article, and would otherwise be able to remedy their critical deficiencies but were not awarded a grant in that calendar year due to exhaustion of funds for the grant program.**

(b) For the purposes of this subdivision, "critical deficiencies" means the same as such term is defined in section five hundred one of this article.

§ 3. This act shall take effect on the one hundred twentieth day after it shall have become a law.