

A BILL

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To establish a program to attract grocery stores to and renovate grocery stores in low-income areas in the District; to require participating grocery stores to employ District residents and provide them with quality jobs, accept SNAP benefits, and accept WIC benefits; to designate a grocery ambassador to assist grocery retailers; to clarify the Supermarket Tax Exemption, to establish a program to expand access to healthy foods in low-income areas in the District by providing assistance to corner stores, farmers markets and other small food retailers; to develop a plan for establishing a commercial distribution system for fresh produce and healthy foods to corner stores; to assist corner stores in becoming more energy efficient; and to improve the accessibility of public nutrition benefits programs.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Food, Environmental, and Economic Development in the District of Columbia Act of 2010".

**TITLE I. DEFINITIONS.**

Sec. 101. Definitions.

For the purposes of this act:

(1) "Corner store" means a retail establishment that:

- (A) Sells grocery products;
- (B) Has less than 5,000 square feet of selling area;

(C) Does not have a “Class A” license, established by D.C. Official Code § 25-112(d)(1); and

(D) Meets the eligibility requirements for the Supplemental Nutrition Assistance Program, established by 7 C.F.R. § 278.1(b)(1)(B).

(2) “Eligible area” means a census tract with 60% or lower average median gross income, as defined by the U.S. Department of Housing and Urban Development.

(3) “Farmers market” means a public market, as defined by section 2(2) of the Vending Regulation Act of 2009, approved Oct. 22, 2009 (D.C. Law 18-71; D.C. Official Code § 37-131.01(2)), at which farmers and other producers sell fresh produce and healthy foods.

(4) “First source agreement” means the agreement required by section 4 of the First Source Employment Agreement Act of 1984, approved June 29, 1984 (D.C. Law 5-93; D.C. Official Code § 2-219.03).

(5) “Grocery store” means a retail establishment that:

(A) Has a primary business of selling grocery products;

(B) Has at least 5,000 square feet of selling area that is used for a general line of food and nonfood grocery products; and

(C) Meets the eligibility requirements for the Supplemental Nutrition Assistance Program, established by 7 U.S.C. § 2011 *et seq.*

(6) “Healthy food” means fresh fruit and vegetables and other foods qualifying as “healthy” pursuant to 21 C.F.R. § 101.65(d)(2).

(7) “Small food retailer” means small businesses that are not grocery stores or corner stores and whose primary business is the retail sale of grocery items. This term does not

include businesses that have a “Class A” license, established by D.C. Official Code § 25-112(d)(1).

(8) “SNAP benefits” means benefits provided by the Supplemental Nutrition Assistance Program, established by 7 U.S.C. § 2011 *et seq.*

(9) “WIC benefits” means benefits provided by the Special Supplemental Nutrition Program for Women, Infants, and Children, established by 42 U.S.C. § 1786.

## **TITLE II. GROCERY STORE DEVELOPMENT PROGRAM.**

Sec. 201. Establishment of a grocery store development program.

(a) The Mayor shall establish a Grocery Store Development Program within the Office of the Deputy Mayor for Planning and Economic Development to attract grocery stores to and renovate grocery stores in eligible areas in the District and to create quality jobs.

(b) The District of Columbia Housing Authority, Office of Planning, and the Washington, D.C. Economic Partnership shall assist this program.

(c) This program may:

(1) Establish a working group of Community Development Financial Institutions, District agencies, nonprofit organizations, and other community stakeholders to seek federal funding through the Healthy Food Financing Initiative, New Market Tax Credits Program, and other programs;

(2) (A) Provide a combination of any or all of the following to grocery stores in eligible areas:

- (i) Grants;
- (ii) Loans;
- (iii) Federal tax credits;

(iv) Other financial assistance; and

(v) Technical assistance.

(B) The benefits provided by this paragraph shall be awarded to grocery stores in eligible areas on a competitive basis, with priority given to grocery stores in eligible areas that are underserved by grocery retail.

Sec. 202. Requirements.

(a) As a condition of participating in the program established by section 201, a grocery store shall:

- (1) Accept SNAP benefits;
- (2) Apply to accept WIC benefits and accept WIC benefits if eligible;
- (3) Enter into a first source agreement; and
- (4) Sell fresh produce and healthy foods.

(b) A grocery store shall commit in writing to the conditions set forth in subsection (a) of this section for a period of at least 5 years after participating in the program established by section 201; provided, that this requirement shall not be enforceable if the business or its successor ceases to operate.

Sec. 203. Grocery ambassador program.

The Deputy Mayor for Planning and Economic Development shall designate a District employee as a grocery ambassador to assist retailers in building or renovating grocery stores in eligible areas by:

- (1) Providing research and data on eligible areas with insufficient grocery access;
- (2) Coordinating with all relevant District agencies and public utilities;
- (3) Expediting regulatory procedures and approvals; and

(4) Providing other assistance as needed.

Sec. 204. Other incentives.

(a) The Zoning Commission should adopt regulations that permit bonus density or other appropriate zoning flexibility for projects in eligible areas with grocery stores, consistent with the Comprehensive Plan.

(b) When considering applications for special exceptions or planned unit developments, the Zoning Commission and Board of Zoning Adjustment should give favorable weight to projects with grocery stores in eligible areas.

(c) Grocery stores in eligible areas shall be eligible for the Green Building Expedited Construction Documents Review Program, established by section 7 of the Green Building Act of 2006, approved March 8, 2007 (D.C. Law 16-234; D.C. Official Code § 6-1451.01 et seq.).

Sec. 205. Supermarket tax exemption clarification.

(a) Section 3801 of Title 47 of the District of Columbia Official Code is amended as follows:

(1) Paragraph (1B) is amended by striking the phrase “priority development area” and inserting the phrase “eligible area” in its place;

(2) Paragraph (2) is amended by striking the phrase “priority development area” and inserting the phrase “eligible area” in its place; and

(3) A new paragraph (1C) and (1D) are added to read as follows:

“(1C) “Building materials” means all materials necessary for the construction and build-out of real property, including furniture, fixtures, and other equipment installed in the property.

“(1D) ‘Eligible area’ means a census tract with 60% or lower average median gross income, as defined by the U.S. Department of Housing and Urban Development.”.

(b) Section 3802 of Title 47 of the District of Columbia Official Code is amended by adding a new subsection (c) to read as follows:

“(c) (1) Effective for applications filed on or after January 1, 2011, to be eligible for any exemption provided under subsection (a) of this section, an applicant shall file with the Mayor, in such manner and form as the Mayor may prescribe, an application requesting certification of eligibility for the exemption.

“(2) The Mayor shall, as nearly as practicable, complete review of requests for certification within 45 days after receipt.

“(3) The Mayor shall certify to the Office of Tax and Revenue each taxpayer and property eligible for an exemption. The certification shall identify the tax to which the certification applies, the specific taxpayer (including taxpayer identification number) and property (by square and lot or parcel or reservation number) eligible, the type or portion of such property that is eligible, the effective date of eligibility, the date on which eligibility is to terminate, as well as such other information as the Office of Tax and Revenue shall require in order to administer the exemption.

“(4) The Office of Tax and Revenue shall, as nearly as practicable, review and process certifications by the Mayor, for real property tax exemption under D.C. Official Code § 47-3802, within 10 days after receipt.

“(5) The Mayor shall notify the Office of Tax and Revenue if any taxpayer or property certified as eligible under paragraph (3) becomes ineligible for an exemption. The notification shall identify the type of tax to which the notice applies, the taxpayer (including

taxpayer identification number) and property (by square and lot or parcel or reservation number), the type or portion of the property ineligible, the date on which the taxpayer or property became ineligible, as well as such other information as the Office of Tax and Revenue shall require in order to administer the exemption.

“(6) This subsection supersedes the application requirements otherwise applicable to requests for exemption from the taxes listed in subsection (a) but does not affect any other provision governing administration of these taxes.”.

### **TITLE III. HEALTHY FOOD RETAIL PROGRAM.**

Sec. 301. Establishment of a healthy food retailer program.

(a) The Mayor shall establish a Healthy Food Retail Program within the Department of Small and Local Business Development to expand access to healthy foods in eligible areas in the District by providing assistance to corner stores, farmers markets, and other small food retailers.

(b) The Department of Health, District Department of the Environment, Office of the Deputy Mayor for Planning and Economic Development, Office of Planning, and the University System of the District of Columbia shall assist this program.

(c) (1) This program may provide a combination of any or all of the following to corner stores, farmers markets, and other small food retailers in eligible areas:

- (A) Grants;
- (B) Loans;
- (C) Tax credits;
- (D) Equipment;
- (E) Other financial assistance; and
- (F) Technical assistance.

(2) The benefits provided by this subsection shall be awarded to corner stores, farmers markets, and other small food retailers in eligible areas on a competitive basis, with priority given to projects with the greatest potential impact on expanding access to healthy foods in eligible areas that are underserved by grocery retail.

(d) Corner stores, farmers markets, and other small food retailers are encouraged to work cooperatively to expand access to healthy foods in eligible areas.

(e) The benefits provided by subsection (c) of this section may be used by corner stores to improve the display areas, exteriors, and interiors of corner stores to expand capacity to sell healthy food.

(f) The Department of Small and Local Business Development may engage nonprofit organizations in promoting and implementing this program.

(g) The University System of the District of Columbia may provide nutrition education resources to eligible corner stores, farmers markets, and consumers in eligible areas.

#### Sec. 302. Requirements.

(a) Corner stores, farmers markets, and other small food retailers participating in the program established by section 301 shall be strongly encouraged to:

- (1) Apply to accept SNAP benefits;
- (2) Apply to accept WIC benefits; and
- (3) Employ District residents.

(b) Resources may be provided under section 301 to assist corner stores, farmers markets, and other small food retailers in acquiring the technology necessary to accept SNAP and WIC benefits.

(c) As a condition of participating in the program established by section 301, corner stores, farmers markets, and other small food retailers shall commit in writing to sell produce or other healthy foods for at least 3 years; provided, that this requirement shall not be enforceable if the business or its successor ceases to operate.

Sec. 303. Healthy food distribution.

(a) The Department of Small and Local Business Development shall convene a working group to develop a plan for establishing a commercial distribution system for fresh produce and healthy foods to corner stores. Corner stores shall be encouraged to work cooperatively in order to maximize their buying power.

(b) The working group shall include representatives from:

- (1) District agencies;
- (2) The grocery ambassador, established by section 203;
- (3) Nonprofit organizations;
- (4) Urban farmers and community gardeners;
- (5) Corner stores and their trade associations; and
- (6) Produce wholesalers.

(c) The working group shall issue a report and recommendations to the Mayor and the Council.

(d) The Department of Small and Local Business Development may issue grants, on a competitive basis, for the establishment of a commercial distribution system for fresh produce and healthy foods.

Sec. 304. Energy efficiency.

The District Department of the Environment shall:

(1) Develop tools and resources for corner stores to reduce their operating costs by becoming more energy efficient; and

(2) Promote energy efficiency programs to corner stores.

#### **TITLE IV.**

Sec. 401. Rulemaking.

The Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 et seq.), may issue rules to implement the provisions of this act.

Sec. 402. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02 (c)(3)).

Sec. 403. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.