



to convenience stores within a neighborhood is associated with higher rates of obesity and diabetes.

- (4) Research indicates that small food stores sell little fresh produce, whole grains, and low-fat dairy products but sell larger quantities of foods that are high in fat and low in nutrients. Small food stores regularly charge higher prices for food as compared to grocery stores and supermarkets.
- (5) Providing assistance to existing small food retailers to stock fresh produce and other healthy foods and promote good nutrition can provide residents with access to healthier foods. Community programs that work with these small food retailers have shown promise in increasing healthy food sales, improving store offerings, and promoting good nutrition.
- (6) Efforts are currently underway among the Department of Commerce, the Department of Agriculture, and the Department of Health and Human Services to utilize existing retail outlet infrastructure to facilitate access to and increase consumption of nutrient-dense foods in order to improve overall health and reduce public medical care costs.

(b) Purpose. – The program established pursuant to this section is intended to provide a source of funding and assistance for small food retailers operating in the State, in both urban and rural areas with the goal of increasing availability and sales of fresh fruits, vegetables, and other nutrient-dense foods at affordable prices to local residents and improving the diet and health of local residents, especially in food desert zones.

(c) Fund. – The Healthy Food Small Retailer Fund is created as a restricted reserve in the Department of Commerce. Funds in the Fund do not revert but remain available to the Department for food desert relief purposes.

(d) Definitions. – The following definitions apply in this section:

- (1) Business. – A corporation, sole proprietorship, cooperative association, partnership, S corporation, limited liability company, nonprofit corporation, or other form of business organization, located either within or outside this State.
- (2) Department. – The Department of Commerce.
- (3) Food desert relief. – Moneys allocated to a county or regional public health department to provide funds, equipment, or other assistance to a small food retailer located in a food desert zone to enable the small food retailer to carry and sell nutrient-dense foods.
- (4) Food desert zone. – A census tract that has been identified by the Economic Research Service of the United States Department of Agriculture as meeting each of the following criteria:
  - a. The tract has a poverty rate of twenty percent (20%) or greater or has a median family income at or below eighty percent (80%) of the median family income for the State.
  - b. The tract has at least 500 persons or at least thirty-three percent (33%) of the population who, for a metropolitan area, live more than one mile

from a grocery store or healthy, affordable food retail outlet store or, for a nonmetropolitan area, more than 10 miles from a grocery store or healthy, affordable food retail outlet store

- (5) Nutrient dense food. – A food that has high levels of nutrients in relationship to the number of calories the food contains. The term includes fresh vegetables and fruits, whole grains, nuts, seeds, beans and legumes, low-fat dairy products, lean-meats, and seafood.
- (6) Small food retailer. – A business that is a small retail outlet, including corner stores, convenience stores, cooperatives, and bodegas, of no more than 3,000 heated square feet that sells a limited selection of foods and other products.

(e) Designation. – Upon application of a county, the Secretary of Commerce shall make a written determination whether an area is a food desert zone, as defined in this section. A determination under this section is effective until December 31 of the year 10 years following the year in which the determination is made. The Department of Commerce shall publish annually a list of all food desert zones with a description of their boundaries. The application required by this subsection shall include all of the following:

- (1) A map showing the census tracts and block groups that would comprise the zone.
- (2) A detailed description of the boundaries of the area that would comprise the zone.
- (3) Detailed census information on the county and the proposed zone.
- (4) A resolution of the board of county commissioners requesting the designation of the area as a food desert zone.
- (5) Any other material required by the Secretary of Commerce.

(f) Administration. – The Department shall develop guidelines providing for the administration of the program and selection of recipients of food desert relief. The Department may use up to twelve percent (12%) of funds appropriated to the Fund to administer the Fund. The guidelines developed shall include the following provisions, which shall apply to food desert relief awards from the Fund:

- (1) The funds shall be used only for the following:
  - a. Amounts to a county or regional public health department to purchase and install at a small food retailer refrigeration equipment, display shelving, and other equipment necessary for stocking nutrient-dense foods. Total funding under this sub-subdivision may not exceed five thousand dollars (\$5,000) per small food retailer.
  - b. Amounts to a county or regional public health department to be given to a small food retailer to offset initial expenses related to participating in food desert relief efforts. Total funding under this sub-subdivision may not exceed one hundred dollars (\$100.00) per small food retailer.
  - c. Amounts to a county or regional public health department to cover salaries and associated costs of either employees or contractors providing technical assistance to small food retailers on nutrient-dense food safety and handling, nutrition education, and business operations and promotion related to nutrient-dense food inventory. Total funding

under this sub-subdivision may not exceed one thousand five hundred dollars (\$1,500) per small food retailer.

- (2) In determining disbursements of moneys from the Fund, the Department shall consider the level of need in the area to be served.
- (3) The Department shall establish monitoring and accountability mechanisms for recipients.
- (4) Funds may be used only for assistance of small food retailers in food desert zones.
- (5) Small food retailers receiving moneys from the Fund must accept or agree to accept Supplemental Nutrition Assistance Program benefits and must accept or agree to apply to accept Special Supplemental Nutrition Program for Women, Infants and Children benefits.
- (6) Recipients must provide defined goals, standards, and accountability mechanisms to ensure that expenditure of moneys from the Fund are consistent with this section, including (i) providing a plan describing specific goals for increasing the sales of nutrient-dense foods by small food retailers, engaging the community to support participating small food retailers, and establishing standards to assess whether goals are being met and (ii) recruiting county, municipal, and other agencies to provide expertise, support, and coordination of efforts to support small food retailers.

(g) Agreements. – Funds may be disbursed from the Healthy Food Small Retailer Fund only in accordance with agreements entered into between the State and one or more county or regional public health departments and between the county or regional public health department and a small food retailer.

(h) Retailer Performance Agreements. – An agreement between a county or regional public health department and a small retailer must contain the following provisions:

- (1) A commitment to promote and sell nutrient-dense foods at a specific location and the minimum time period for which the promotion and sales must be maintained.
- (2) A commitment to provide proof satisfactory to the county or regional public health department and the State of nutrient-dense food promotion and sales.
- (3) A provision that funds received under the agreement may be used only for a purpose specified in this section.
- (4) A provision allowing the State or the county or regional public health department to inspect all records of the small food retailer that may be used to confirm compliance with the agreement or with the requirements of this section.
- (5) A provision establishing the method for determining compliance with the agreement.

- (6) A provision establishing a schedule for disbursement of funds for purchasing and installing equipment under the agreement that allows disbursement of funds only after a small food retailer has submitted a plan of implementation for the stocking, promotion, and sale of nutrient-dense foods.
- (7) A provision requiring recapture of equipment provided to a small food retailer if the small food retailer subsequently fails to comply with the terms of the agreement for a period of not less than five years following receipt of the equipment.
- (8) A provision allowing a small food retailer receiving equipment pursuant to this section to purchase the equipment for a nominal amount five years following receipt of the equipment.
- (9) A provision encouraging the small food retailer to contract with local producers of available nutrient-dense foods.
- (10) Any other provision the State or the county or regional public health department finds necessary to ensure the proper use of State or local funds.

(i) Local Food Desert Relief Agreement. – An agreement between the State and one or more county or regional public health departments shall contain the following provisions:

- (1) A provision requiring the county or regional public health department to recapture any funds to which the county or regional public health department is entitled under the retailer performance agreement.
- (2) A provision requiring the county or regional public health department to reimburse the State for any funds improperly disbursed or funds recaptured by the county or regional public health department.
- (3) A provision allowing the State access to all records possessed by county or regional public health department necessary to ensure compliance with the retailer performance agreement and with the requirements of this section.
- (4) A provision establishing a schedule for the disbursement of funds from the Healthy Food Small Retailer Fund to the county or regional public health department that reflects the disbursement schedule established in the retailer performance agreement.
- (5) Any other provision the State finds necessary to ensure the proper use of State funds.

(j) Disbursement of Funds. – Funds may be disbursed from the Healthy Food Small Retailer Fund to the county or regional public health department only after the county or regional public health department has demonstrated that the retailer has complied with the terms of the retailer performance agreement. The State shall disburse funds allocated under the Healthy Food Small Retailer Fund to a county or regional public health department in accordance with the disbursement schedule established in the local food desert relief agreement.

(k) Reports. – The Department shall publish a report on the use of funds in the Healthy Food Small Retailer Fund on or before April 30 of each year. The Department shall submit the report electronically to the Joint Legislative Oversight Committee on Health and Human Services, the Joint Legislative Economic Development and Global Engagement Oversight Committee, and the Fiscal Research Division. The report shall include the amount of funds disbursed, the geographic distribution of disbursements, and an evaluation of the outcome of the disbursements, including the health impact associated with the funding.

(l) Guidelines. – The Department of Commerce shall develop guidelines related to the administration of the Healthy Food Small Retailer Fund and to the selection of projects to receive allocations from the Fund. At least 20 days before the effective date of any guidelines or nontechnical amendments to guidelines, the Department of Commerce must publish the proposed guidelines on the Department's Web site and provide notice to persons who have requested notice of proposed guidelines. In addition, the Department must accept oral and written comments on the proposed guidelines during the 15 business days beginning on the first day that the Department has completed these notifications. For the purpose of this section, a technical amendment is either of the following:

- (1) An amendment that corrects a spelling or grammatical error.
- (2) An amendment that makes a clarification based on public comment and could have been anticipated by the public notice that immediately preceded the public comment."

**SECTION 2.** There is appropriated from the General Fund to the Department of Commerce the sum of one million dollars (\$1,000,000) for the 2015-2016 fiscal year to be allocated to the Heath Food Small Retailer Fund to be used for purposes consistent with this act.

**SECTION 3.** This act is effective when it becomes law.