

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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HOUSE BILL 387

Short Title: Corner Store Initiative. (Public)

Sponsors: Representatives Holley, Lambeth, McElraft, and Quick (Primary Sponsors).  
*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Agriculture, if favorable, Appropriations

March 20, 2017

1 A BILL TO BE ENTITLED  
2 AN ACT TO ENACT THE CORNER STORE INITIATIVE ACT TO ASSIST HEALTHY  
3 FOOD SMALL RETAILERS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 106 of the General Statutes is amended by adding a new Article  
6 to read:

7 "Article 62B.

8 "Healthy Food Small Retailer Act.

9 "**§ 106-755.5. Healthy Food Small Retailer Fund.**

10 (a) Findings. – The General Assembly finds the following:

- 11 (1) Overweight children and adults are at greater risk for numerous adverse health  
12 consequences, including type 2 diabetes, heart disease, stroke, high blood  
13 pressure, high cholesterol, certain cancers, asthma, low self-esteem, depression,  
14 and other debilitating diseases. In North Carolina, over sixty-five percent (65%)  
15 of adult residents were considered overweight or obese and over thirty-one  
16 percent (31%) of children were considered overweight or obese. Obese children  
17 are at least twice as likely as non-obese children to become obese adults.
- 18 (2) The medical costs of obesity are rising rapidly in the United States and are  
19 estimated to be one hundred forty-seven billion dollars (\$147,000,000,000) per  
20 year. Roughly half of these obesity-related costs are paid by Medicare and  
21 Medicaid, indicating taxpayers bear the majority of the cost for obesity-related  
22 medical care. Obesity-related health care spending accounts for eight and  
23 one-half percent (8.5%) of Medicare spending, eleven and eight-tenths percent  
24 (11.8%) of Medicaid spending, and twelve and nine-tenths percent (12.9%) of  
25 private payer spending.
- 26 (3) Many Americans, particularly those in low-income neighborhoods, rural areas,  
27 and communities of color, live in communities that lack adequate access to  
28 full-service grocery stores. Low-income areas have more than twice as many  
29 convenience stores and four times as many small grocery stores as high-income  
30 areas. Proximity to convenience stores within a neighborhood is associated with  
31 higher rates of obesity and diabetes.
- 32 (4) Research indicates that small food stores sell little fresh produce, whole grains,  
33 and low-fat dairy products but sell larger quantities of foods that are high in fat  
34 and low in nutrients. Small food stores regularly charge higher prices for food  
35 as compared to grocery stores and supermarkets.



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1           (5)    Providing assistance to existing small food retailers to stock fresh produce and  
2           other healthy foods and promote good nutrition can provide residents with  
3           access to healthier foods. Community programs that work with these small food  
4           retailers have shown promise in increasing healthy food sales, improving store  
5           offerings, and promoting good nutrition.

6           (6)    Efforts are currently underway among the Department of Commerce, the  
7           Department of Agriculture, and the Department of Health and Human Services  
8           to utilize existing retail outlet infrastructure to facilitate access to and increase  
9           consumption of nutrient-dense foods in order to improve overall health and  
10          reduce public medical care costs.

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

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

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

20           (1)    Business. – A corporation, sole proprietorship, cooperative association,  
21           partnership, S corporation, limited liability company, nonprofit corporation, or  
22           other form of business organization, located either within or outside this State.

23           (2)    Department. – The Department of Agriculture and Consumer Services.

24           (3)    Food desert relief. – Moneys allocated to a county or regional public health  
25           department to provide funds, equipment, or other assistance to a small food  
26           retailer located in a food desert zone to enable the small food retailer to carry  
27           and sell nutrient-dense foods.

28           (4)    Food desert zone. – A census tract that has been identified by the Economic  
29           Research Service of the United States Department of Agriculture as meeting  
30           each of the following criteria:

31           a.     The tract has a poverty rate of twenty percent (20%) or greater or has a  
32           median family income at or below eighty percent (80%) of the median  
33           family income for the State.

34           b.     The tract has at least 500 persons or at least thirty-three percent (33%)  
35           of the population who, for a metropolitan area, live more than one mile  
36           from a grocery store or healthy, affordable food retail outlet store or, for  
37           a nonmetropolitan area, more than 10 miles from a grocery store or  
38           healthy, affordable food retail outlet store.

39           (5)    Nutrient dense food. – A food that has high levels of nutrients in relationship to  
40           the number of calories the food contains. The term includes fresh vegetables  
41           and fruits, whole grains, nuts, seeds, beans and legumes, low-fat dairy products,  
42           lean meats, and seafood.

43           (6)    Small food retailer. – A business that is a small retail outlet, including corner  
44           stores, convenience stores, cooperatives, and bodegas, of no more than 5,000  
45           heated square feet that sells a limited selection of foods and other products.

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

- 1           (1)   A map showing the census tracts and block groups that would comprise the  
2           zone.
- 3           (2)   A detailed description of the boundaries of the area that would comprise the  
4           zone.
- 5           (3)   Detailed census information on the county and the proposed zone.
- 6           (4)   A resolution of the board of county commissioners requesting the designation  
7           of the area as a food desert zone.
- 8           (5)   Any other material required by the Commissioner of Agriculture.
- 9       (f)   Administration. – The Department shall develop guidelines providing for the  
10       administration of the program and selection of recipients of food desert relief. The Department  
11       may use up to five percent (5%) of funds appropriated to the Fund to administer the Fund. The  
12       guidelines developed shall include the following provisions, which shall apply to food desert relief  
13       awards from the Fund:
  - 14           (1)   The funds shall be used only for the following:
    - 15               a.   Amounts to a county or regional public health department to purchase  
16               and install at a small food retailer refrigeration equipment, display  
17               shelving, and other equipment necessary for stocking nutrient-dense  
18               foods. Total funding under this sub-subdivision may not exceed five  
19               thousand dollars (\$5,000) per small food retailer.
    - 20               b.   Amounts to a county or regional public health department to be given to  
21               a small food retailer to offset initial expenses related to participating in  
22               food desert relief efforts. Total funding under this sub-subdivision may  
23               not exceed one hundred dollars (\$100.00) per small food retailer.
    - 24               c.   Amounts to a county or regional public health department to cover  
25               salaries and associated costs of either employees or contractors  
26               providing technical assistance to small food retailers on nutrient-dense  
27               food safety and handling, nutrition education, and business operations  
28               and promotion related to nutrient-dense food inventory. Total funding  
29               under this sub-subdivision may not exceed one thousand five hundred  
30               dollars (\$1,500) per small food retailer.
  - 31           (2)   In determining disbursements of moneys from the Fund, the Department shall  
32           consider the level of need in the area to be served.
  - 33           (3)   The Department shall establish monitoring and accountability mechanisms for  
34           recipients.
  - 35           (4)   Funds may be used only for assistance of small food retailers in food desert  
36           zones.
  - 37           (5)   Small food retailers receiving moneys from the Fund must accept or agree to  
38           accept Supplemental Nutrition Assistance Program benefits and must accept or  
39           agree to apply to accept Special Supplemental Nutrition Program for Women,  
40           Infants, and Children benefits.
  - 41           (6)   Recipients must provide defined objectives, standards, and accountability  
42           mechanisms to ensure that expenditure of moneys from the Fund are consistent  
43           with this section, including (i) submitting a plan describing specific goals for  
44           increasing the sales of nutrient-dense foods by small food retailers, engaging  
45           the community to support participating small food retailers, and establishing  
46           standards to assess whether goals are being met and (ii) recruiting county,  
47           municipal, and other agencies to provide expertise, support, and coordination of  
48           efforts to support small food retailers.
- 49       (g)   Agreements. – Funds may be disbursed from the Healthy Food Small Retailer Fund  
50       only in accordance with agreements entered into between the State and one or more county or

1 regional public health departments and between the county or regional public health department  
2 and a small food retailer.

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

5 (1) A commitment to promote and sell nutrient-dense foods at a specific location  
6 and the minimum time period for which the promotion and sales must be  
7 maintained.

8 (2) A commitment to provide proof satisfactory to the county or regional public  
9 health department and the State of nutrient-dense food promotion and sales.

10 (3) A provision that funds received under the agreement may be used only for a  
11 purpose specified in this section.

12 (4) A provision allowing the State or the county or regional public health  
13 department to inspect all records of the small food retailer that may be used to  
14 confirm compliance with the agreement or with the requirements of this  
15 section.

16 (5) A provision establishing the method for determining compliance with the  
17 agreement.

18 (6) A provision establishing a schedule for disbursement of funds for purchasing  
19 and installing equipment under the agreement that allows disbursement of funds  
20 only after a small food retailer has submitted a plan of implementation for the  
21 stocking, promotion, and sale of nutrient-dense foods.

22 (7) A provision requiring recapture of equipment provided to a small food retailer  
23 if the small food retailer subsequently fails to comply with the terms of the  
24 agreement for a period of not less than five years following receipt of the  
25 equipment.

26 (8) A provision allowing a small food retailer receiving equipment pursuant to this  
27 section to purchase the equipment for a nominal amount five years following  
28 receipt of the equipment.

29 (9) A provision encouraging the small food retailer to contract with local producers  
30 of available nutrient-dense foods.

31 (10) Any other provision the State or the county or regional public health  
32 department finds necessary to ensure the proper use of State or local funds.

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

35 (1) A provision requiring the county or regional public health department to  
36 recapture any funds to which the county or regional public health department is  
37 entitled under the retailer performance agreement.

38 (2) A provision requiring the county or regional public health department to  
39 reimburse the State for any funds improperly disbursed or funds recaptured by  
40 the county or regional public health department.

41 (3) A provision allowing the State access to all records possessed by the county or  
42 regional public health department necessary to ensure compliance with the  
43 retailer performance agreement and with the requirements of this section.

44 (4) A provision establishing a schedule for the disbursement of funds from the  
45 Healthy Food Small Retailer Fund to the county or regional public health  
46 department that reflects the disbursement schedule established in the retailer  
47 performance agreement.

48 (5) Any other provision the State finds necessary to ensure the proper use of State  
49 funds.

50 (j) Disbursement of Funds. – Funds may be disbursed from the Healthy Food Small  
51 Retailer Fund to the county or regional public health department only after the county or regional

1 public health department has demonstrated that the retailer has complied with the terms of the  
2 retailer performance agreement. The State shall disburse funds allocated under the Healthy Food  
3 Small Retailer Fund to a county or regional public health department in accordance with the  
4 disbursement schedule established in the local food desert relief agreement.

5 (k) Reports. – The Department shall publish a report on the use of funds in the Healthy  
6 Food Small Retailer Fund on or before April 30 of each year. The Department shall submit the  
7 report electronically to the Joint Legislative Oversight Committee on Health and Human Services,  
8 the House and Senate appropriations committees with jurisdiction over agriculture and natural and  
9 economic resources, and the Fiscal Research Division. The report shall include the amount of  
10 funds disbursed, the geographic distribution of disbursements, and an evaluation of the outcome of  
11 the disbursements, including the health impact associated with the funding.

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

20 (1) An amendment that corrects a spelling or grammatical error.

21 (2) An amendment that makes a clarification based on public comment and could  
22 have been anticipated by the public notice that immediately preceded the public  
23 comment."

24 **SECTION 2.** This act is effective when it becomes law.