



SPONSOR: Sen. Brown & Sen. Hoffner & Sen. Townsend &
Rep. Chukwuocha & Rep. Baumbach & Rep. Neal
Sens. Gay, Lockman, Mantzavinos, Pinkney, Wilson;
Reps. Griffith, K. Johnson, S. Moore, K. Williams

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 254

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO FOOD DESERTS.

1 WHEREAS, the United States Department of Agriculture (“USDA”) began to map food access in 2009 to identify
2 communities where there was low availability to affordable, nutritious foods and identified that food deserts exist in every
3 American state, including Delaware; and

4 WHEREAS, food insecurity and lack of available healthy food disproportionately affects those in lower income
5 communities, leading to poorer health outcomes; and

6 WHEREAS, the USDA estimated in 2022 that 12.8% of U.S. households experience food insecurity; and

7 WHEREAS, the USDA estimated in 2022 that 17.3% of U.S. households with children experience food insecurity.

8 NOW, THEREFORE:

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

10 Section 1: Amend Chapter 36, Title 16 of the Delaware Code by making deletions as shown by strike through and
11 insertions as shown by underline as follows:

12 § 3601. Title.

13 This chapter shall be known as the “Delaware Grocery Initiative”.

14 § 3602. Definitions.

15 As used in this chapter:

16 (1) “Cooperative” means an organization that is organized according to the Delaware Workers
17 Cooperative Act in Chapter 14, Title 6.

18 (2) “Food desert” means a census tract that meets one of the following poverty standards and one of the
19 following population density and food accessibility standards:

20 a. a poverty standard is any of the following:

21 1. a census tract has a poverty rate of at least 20%.

22 2. a census tract is not located within a metropolitan statistical area and has a median
23 family income that is less than or equal to 80% of the statewide median household income.

24 3. a census tract is located within a metropolitan statistical area and has a median family
25 income that is less than or equal to 80% of the greater of any of the following:

26 A. the statewide median household income.

27 B. the metropolitan area median family income.

28 b. a population density and food accessibility standard is any of the following:

29 1. a census tract that is a rural tract, and at least 33% of the population of the tract or at
30 least 500 residents in the tract reside more than 10 miles from the nearest grocery store.

31 2. a census tract that is an urban tract, and at least 33% of the population or at least 500
32 residents in the tract reside more than one-half mile from the nearest grocery store.

33 The Office of State Planning Coordination may also designate an area that does not meet the standards set
34 forth in this definition as a food desert if the designation is made in accordance with criteria established by the
35 Office of State Planning Coordination by rule using data that includes poverty metrics and access to existing
36 grocery stores.

37 (3) "Grocery Store" means an existing or planned retail establishment that is all of the following:

38 a. has or will have a primary business of selling a variety of grocery products, including fresh
39 produce.

40 b. derives or will derive no more than 30% of its revenue from sales of tobacco and alcohol in
41 any given year.

42 c. is or will be classified as a supermarket or other grocery retailer in the 2022 North American
43 Industry Classification System under code 445110.

44 d. accepts or will accept Supplemental Nutrition Assistance Program benefits and Special
45 Supplemental Nutrition Program for Women, Infants, and Children benefits.

46 e. provides or will provide for the retail sale of a substantial variety of perishable foods,
47 including fresh or frozen dairy products, fresh produce, and fresh meats, poultry, and fish.

48 (4) "Local governmental unit" means any county, municipality, township, special district, or unit that is
49 designated as a unit of local government by law and exercises limited governmental powers or powers in respect to
50 limited governmental subjects. "Local governmental unit" also includes any school district or community college
51 district.

52 (5) "Nonprofit nonstock corporation" means an organization or institution that is organized on a not-for-
53 profit basis according to the General Corporation Law of Title 8.

54 (6) "Office" means the Office of State Planning Coordination created by § 9101(g) of Title 29.

55 (7) "Rural tract" means a census tract that is not an urban tract.

56 (8) "Urban tract" means a census tract having its geographic centroid in an urban area, as defined by the
57 Bureau of the Census for the most recent year in which all relevant data to identify food deserts is available.

58 § 3603. Grocery and food desert study.

59 The Office shall, subject to appropriation, study food insecurity in urban and rural food deserts. The study may
60 include an exploration of the reasons for current market failures, potential policy solutions, geographic trends, and the need
61 for independent grocers, and it shall identify communities at risk of becoming food deserts. The study may also include a
62 disparity study to assess the need for aspirational goals for ownership among minorities, women, veterans, service-disabled
63 veterans, and persons with a disability as determined by the Delaware Office of Supplier Diversity. The Office may enter
64 into contracts, grants, or other agreements to complete this study. This report shall be submitted to the General Assembly
65 by December 31, 2024.

66 § 3604. Grants and financial support.

67 (a) The Office shall, subject to appropriation, establish the Grocery Initiative to expand access to healthy foods in
68 food deserts in Delaware and areas at risk of becoming food deserts in Delaware by providing grants and other forms of
69 financial assistance to grocery stores, independently owned for-profit grocery stores, cooperative grocery stores, or
70 nonprofit nonstock grocery stores, as well as grocery stores owned and operated by local governmental units. The Office
71 may enter into contracts, grants, or other agreements to administer these grants and other forms of financial assistance. The
72 Office may, by rule, place limits on the size of the grocery stores that are eligible for grants and other financial assistance
73 under this Act, including limits on the annual revenue or projected revenue of the applicant, number of full-time employees,
74 or square footage of the facilities. The Office may prioritize grant awards and loan funding to applicants based on poverty
75 rates, income, geographic diversity, local ownership, access to grocery stores in the area surrounding proposed project
76 locations, and other factors as determined by the Office. The Office may award grants or provide loans for any one or more
77 of the following:

78 (1) market and site feasibility studies, promotional materials, and marketing.

79 (2) salaries and benefits for workers.

80 (3) rent or a down payment to acquire a facility.

81 (4) purchase of ownership of a grocery store as part of establishing a new grocery store.

82 (5) capital improvements, planning, renovations, land acquisition, demolition, durable and non-durable
83 equipment purchases.

84 (6) other costs as determined eligible by the Office.

85 (b) The Office may, subject to appropriation, provide grants for equipment upgrades for existing independently
86 owned for-profit grocery stores, cooperative grocery stores, or nonprofit nonstock corporation grocery stores. The Office
87 shall use no more than 20% of total program funding for this purpose. Equipment upgrades must be focused on providing
88 access to equipment that is energy efficient.

89 § 3605. Technical assistance.

90 (a) The Office shall, subject to appropriation, provide technical assistance to grantees awarded grants under the
91 Act, and other small, independently owned grocery stores to ensure their long-term viability and business success.
92 Technical assistance, online resources, and materials provided may include business planning, marketing, financing, supply
93 chain management, and workforce development assistance.

94 (b) The Office may, subject to appropriation, enter into grants, contracts, or other agreements to provide
95 assistance. At least one technical assistance provider must be available to grantees statewide.

96 § 3606. Regulatory authority.

97 The Office shall adopt regulations under Chapter 101 of Title 29 to implement and administer the Delaware
98 Grocery Initiative in accordance with this chapter.

99 Section 2. This Act expires 3 years after its implementation into law unless otherwise provided by a subsequent act
100 of the General Assembly.

101 Section 3. This Act is effective immediately and is to be implemented the earlier of the following:

102 (1) One year from the date of the of the Act’s enactment.

103 (2) Notice by the Office published in the Register of Regulations that final regulations to implement this
104 Act have been promulgated.

SYNOPSIS

This Act creates the Delaware Grocery Initiative. It directs the Office of State Planning Coordination (“Office”) to study food insecurity in urban and rural food deserts. The Act defines a food desert and directs the Office to expand access to healthy foods in food deserts by providing financial assistance to grocery stores, independently owned for-profit grocery stores, cooperative grocery stores, non-profit grocery stores as well as grocery stores owned and operated by local governmental units.

The Act provides the Office with authority to enter into contracts, grants, or other agreements to administer grants and other financial support, including technical assistance. It further authorizes the Office to adopt and promulgate rules and regulations to implement and administer this initiative.

Author: Senator Brown