



Legislation Text

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Int. No. 665-A

By Council Member Comrie, Rivera, The Speaker (Council Member Quinn), Brewer, Fidler, Gerson, James, Koppell, Palma, Recchia Jr., Seabrook, Stewart, Weprin, Arroyo, Vann, Mendez, Barron, Jackson, Mark-Viverito and White Jr. (by request of the Mayor)

A Local Law to amend the administrative code of the city of New York, in relation to green carts.

Be it enacted by the Council as follows:

Section 1. Legislative findings. The Council finds that many New Yorkers suffer from health conditions related to poor nutrition, such as diabetes, heart disease, cancer and high blood pressure. Obesity rates in NYC have increased more than 70% since 1994. More than 1.1 million New Yorkers are obese, and another 2 million are overweight. Similarly, diabetes has more than doubled in NYC over the past 10 years. More than 500,000 adult New Yorkers have diagnosed diabetes and an additional 200,000 have diabetes and do not yet know it.

Poor nutrition, obesity, and diabetes are interconnected. According to one national study, eating fruits and vegetables three or more times a day as opposed to less than once a day is associated with a 42% lower risk of dying from stroke and 24% lower risk of dying from heart disease. Neighborhoods where fruit and vegetable consumption is the lowest have high rates of obesity and diabetes. In neighborhoods with the lowest fruit and vegetable consumption, such as East New York, Bushwick and Bedford-Stuyvesant, as many as one in four adults report that they did not eat a single fruit or vegetable the previous day. The availability of healthy food in the immediate neighborhood has a strong impact on the diet of its residents. In East Harlem, only 4% of small grocery stores sell leafy green vegetables and only 25% sell apples, oranges and bananas. With small grocery stores outnumbering supermarkets by almost three to one in such neighborhoods, residents of low-income neighborhoods have few healthy food options close to home. These findings demonstrate an urgent

need to take measures that increase the accessibility of fruits and vegetables in neighborhoods where studies show that consumption of these items is low.

§2. Section 17-306 of the administrative code of the City of New York is amended by amending subdivision f, as added by local law 97 for the year 1985, and by adding new subdivisions q, r and s to read as follows:

f. "Pushcart". Any wheeled vehicle or device used by a food vendor, other than a motor vehicle or trailer, which may be moved with or without the assistance of a motor and which does not require registration by the department of motor vehicles. The term "pushcart" shall include any green cart, as that term is defined by subdivision s of this section.

q. "Fresh fruits and vegetables". Unprocessed unfrozen raw fruits and vegetables that have not been combined with other ingredients.

r. "Fresh fruits and vegetables permit". A full-term permit for the vending at retail solely of fresh fruits or vegetables, or both, from a pushcart or vehicle in a public place. Unless otherwise specified, a fresh fruits and vegetables permit shall be a permit in accordance with the provisions of this subchapter.

s. "Green cart". A pushcart used exclusively by those issued fresh fruits and vegetables full-term permits pursuant to section 17-307 of this subchapter and which, in addition to being in compliance with all other legal requirements applicable to non-processing pushcarts, must also have a distinctive and easily recognizable appearance in accordance with rules to be established by the commissioner.

§3. Paragraph 1 of subdivision b of section 17-307 of the administrative code of the city of New York, as amended by local law 15 for the year 1995, is amended to read as follows:

1. It shall be unlawful to vend food from any vehicle or pushcart in a public space without having first obtained a permit for such vehicle or pushcart from the commissioner in accordance with the provisions of this subchapter. The commissioner shall establish standards relating to the size and design of such vehicles and

pushcarts. No vendors shall vend from any vehicle or pushcart which does not comply with the standards established by the commissioner. No vendor shall vend from other than a vehicle or pushcart. No food vendor issued a fresh fruits and vegetables permit shall vend from other than a vehicle or a green cart. No food vendor issued a fresh fruits and vegetables permit shall vend any food other than fresh fruits and vegetables from the green cart or vehicle for which the permit was issued.

§4. Paragraph 2 of subdivision b of section 17-307 of the administrative code of the city of New York is amended by adding a new subparagraph g to read as follows:

(g) Other than subparagraphs (c), (d) and (f), this paragraph shall not apply to the issuance of fresh fruits and vegetable permits.

§5. Paragraph 3 of subdivision b of section 17-307 of the administrative code of the city of New York is amended by adding a new subparagraph d to read as follows:

(d) This paragraph shall not apply to fresh fruits and vegetables permits.

§6. Subdivision b of section 17-307 of the administrative code of the city of New York is amended by adding a new paragraph 4 to read as follows:

4. (a) Notwithstanding the provisions of paragraph two of this subdivision limiting the total number of full-term permits that are authorized to be issued, the commissioner may issue up to a maximum of one thousand fresh fruits and vegetable permits, as that term is defined in subdivision r of section 17-306 of this chapter. The initial issuance of these one thousand fresh fruits and vegetables permits shall be phased in over a two-year period. No more than five hundred permits shall be issued during the first year of permit availability, nor shall more than one-half of the number of fresh fruits and vegetables permits designated for use in a borough be issued during the first year of permit availability. During the second year of permit availability the commissioner may issue the remaining five hundred permits along with any permits from the initial five hundred not issued during the first year of permit availability. Thereafter, the maximum number of such permits which may be in effect shall be one thousand and no new permits shall be issued in excess of such number.

Each of the one thousand fruits and vegetables permits to be issued pursuant to this paragraph shall be designated for use exclusively in a specified borough as follows:

(i) three hundred fifty of such fruits and vegetables permits shall authorize the holders thereof to vend fresh fruits and vegetables from any vehicle or any green cart in the borough of the Bronx in the areas designated in clause (i) of subparagraph b of this paragraph.

(ii) three hundred fifty of such fruits and vegetables permits shall authorize the holders thereof to vend fresh fruits and vegetables from any vehicle or any green cart in the borough of Brooklyn in the areas designated in clause (ii) of subparagraph b of this paragraph.

(iii) one hundred fifty of such fresh fruits and vegetables permits shall authorize the holders thereof to vend fresh fruits and vegetables from any vehicle or any green cart in the borough of Manhattan in the areas designated in clause (iii) of subparagraph b of this paragraph.

(iv) one hundred of such fresh fruits and vegetables permits shall authorize the holders thereof to vend fresh fruits and vegetables from any vehicle or any green cart in the borough of Queens in the areas designated in clause (iv) of subparagraph b of this paragraph.

(v) fifty of such fresh fruits and vegetables permits shall authorize the holders thereof to vend fresh fruits and vegetables from any vehicle or any green cart in the borough of Staten Island in the areas designated in clause (v) of subparagraph b of this paragraph.

(b) The issuance or renewal of a full-term permit issued pursuant to this paragraph shall be subject to the permittee within three months after the certification of a complete application therefore presenting a green cart or vehicle for inspection by the department and, within six months after such certification, passing such inspection. No person shall be issued more than one permit. Fresh fruits and vegetables permits, in addition to being designated for use exclusively in a borough as specified in subparagraph (a) of this paragraph, shall be designated for use exclusively within the police precincts specified below and shall be subject to the same time and place restrictions for vending in such areas as other food vendors:

(i) Bronx: Police Precincts 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 52;

(ii) Brooklyn: Police Precincts 67, 70, 71, 72, 73, 75, 77, 79, 81, 83 ;

(iii) Manhattan: Police Precincts 23, 25, 26, 28, 30, 32, 33, 34;

(iv) Queens: Police Precincts 100, 101, 103, 113; and

(v) Staten Island: Police Precinct 120.

(c) Notwithstanding any provision of this section to the contrary, within eight months of the effective date of the local law adding this paragraph, the commissioner may exempt by rule any police precinct specified in subparagraph b of paragraph four of this section upon determining that the rate of consumption of fresh fruits and vegetables in the precinct is not substantially lower than the citywide average and that the precinct does not have an elevated rate of nutrition-related health problems compared to the rest of the city.

(d) Fresh fruits and vegetables permits shall be issued in accordance with the preferences specified in subparagraph (e) of this paragraph and the procedures established by the commissioner. The commissioner shall establish a separate waiting list for each borough, to be administered in accordance with procedures to be established by rules of the commissioner. The commissioner may by rule limit the number of places on each such waiting list.

(e) Preferences shall be given in the issuance of fresh fruits and vegetables permits pursuant to this paragraph and in the placement on any waiting list for such permits to the following categories of persons in the following order:

(i) Persons who, on the effective date of the local law which added this provision, are on any of the existing waiting lists established by the commissioner for the issuance of mobile food unit permits for pushcarts and vehicles. From among those persons within this preference category, additional preference in both the issuance of fresh fruits and vegetables permits and placement on any waiting list for such permits shall be given to those persons who fall within the following groups of persons in the following order: disabled veterans; disabled persons; veterans.

(ii) Disabled veterans.

(iii) Disabled persons.

(iv) Veterans.

(f) A person who has been issued a permit pursuant to this paragraph shall not be eligible to obtain a full-term permit authorized by paragraphs two or three of this subdivision if at the time of application for a full-term permit authorized by such paragraphs such person is a holder of a full-term permit issued pursuant to this paragraph or such person has had a full-term permit issued pursuant to this paragraph revoked or suspended.

§7. Subdivision d of section 17-307 of the administrative code of the city of New York is amended to read as follows:

d. A food vendor's license shall entitle the holder thereof to vend any food which the commissioner or board may authorize or otherwise approve, except that a food vendor vending from a green cart or vehicle with a fresh fruits and vegetables permit shall only be authorized to vend fresh fruits and vegetables. No food vendor while acting as such shall vend any item which the commissioner or board has not authorized or otherwise approved.

§8. Paragraph 1 of subdivision c of section 17-308 of the administrative code of the city of New York is amended to read as follows:

1. For a pushcart or vehicle selling prepackaged food or for a fresh fruits and vegetables permit: fifty dollars for the first year and twenty-five dollars for each year thereafter.

§9. Paragraph 2 of subdivision b of section 17-309 of the administrative code of the city of New York, is amended to read as follows:

2. A description of the food to be offered for sale and a description of the vehicle or pushcart to be used and a statement whether or not the application is for a fresh fruits and vegetables permit.

§10. Subdivision d of section 17-309 of the administrative code of the city of New York is amended to read as follows:

d. Upon approval of an application the commissioner shall issue a license to the applicant for a license and a permit and plate to the applicant for a vehicle or pushcart permit. Such license shall contain the name and address of the licensee, his or her license number and a non-removable photograph of such licensee. The plate shall indicate whether or not the permit is a fresh fruits and vegetable permit.

§11. Section 17-311 of the administrative code of the city of New York is amended by adding a new subdivision d to read as follows:

d. Vendors issued fresh fruits and vegetables permits pursuant to paragraph four of subdivision b of section 17-307 of the administrative code of the city of New York shall carry upon their person a laminated or similarly durable and easily readable map, prepared and issued to them by the commissioner, designating those areas of the city in which they are authorized to vend. Those persons issued a fresh fruits and vegetables permit found to be vending from green carts and vehicles in precincts other than those designated on their borough-specific permits shall be deemed to be operating such vehicle or pushcart without a permit.

§12. Subdivision a of section 17-317 of the administrative code of the city of New York is amended by adding a new paragraph 5 to read as follows:

5. A licensee issued a “fresh fruits and vegetables” permit, pursuant to paragraph 4 of subdivision b of section 17-307 of this subchapter, is found to be vending food other than fresh fruits and vegetables or is found to be vending in a police precinct other than one in which the licensee is authorized to vend in accordance with his (her) borough- specific permit.

§13. Subdivision c of section 17-321 of the administrative code of the city of New York, as amended by chapter 11 of the laws of 2004, is amended to read as follows:

c. An officer or employee designated in subdivision a of this section may seize any vehicle or pushcart which (i) does not have a permit or (ii) is being used to vend on property owned by the city and under the jurisdiction of a city agency including, but not limited to, the department of parks and recreation or the department of small business services, without the written authorization of the commissioner of such

department, or (iii) is being used by an unlicensed vendor, or (iv) is being used to vend in the area including and bounded on the east by the easterly side of Broadway, on the south by the southerly side of Liberty Street, on the west by the westerly side of West Street and on the north by the northerly side of Vesey Street, or (v) is selling food not authorized by the permit, and may seize any food sold or offered for sale from such vehicle or pushcart. Such vehicle, pushcart or food shall be subject to forfeiture as provided in section 17-322 of this subchapter. If a forfeiture proceeding is not commenced, the vendor may be charged with the reasonable costs for removal and storage payable prior to the release of such food, vehicle or pushcart unless the charge of vending without a permit or vending without a license or vending without the authorization of such commissioner is dismissed.

§14. Subchapter 2 of chapter 3 of title 17 of the administrative code of the city of New York is amended by adding a new section 17-325.2 to read as follows:

§17-325.2 Report on green carts. Not later than fifteen months after the effective date of this local law, and each year thereafter for three years, the department shall submit a report to the council which shall set forth information concerning fresh fruits and vegetables permits and green carts including, but not limited to:

- a. the number of applications for permits, disaggregated by borough;
- b. the number of permits issued, disaggregated by borough;
- c. the number of people on the waiting list, disaggregated by borough;
- d. the number of violations issued to green carts by anyone authorized to issue such violations, disaggregated by borough, and the location of such carts at the time such violations were issued; and
- e. the consumption of fruits and vegetables, disaggregated by neighborhood.

§15. This local law shall take effect on the ninetieth day after it shall have become a law, provided that the commissioner of health and mental hygiene shall be authorized to take any steps necessary to prepare for implementation of the law, including the promulgation of rules, prior to such date.

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