

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2586**

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**Introduced by Assembly Member Hueso**

February 24, 2012

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*An act to add Division 24 (commencing with Section 81000) to the Food Agricultural Code, relating to food access.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2586, as amended, Hueso. The California Healthy Choices Program.

Existing law requires the Department of Food and Agriculture, headed by the Secretary of Food and Agriculture, to promote and protect the agricultural industry of the state. Existing law also establishes the California Healthy Food Financing Initiative for the purpose of promoting healthy food access in the state, and requires the department to implement the initiative.

~~This bill would express the intent of the Legislature to establish the California Healthy Choices Program, a voluntary grocery store certification program, to be implemented by the department. The bill would state findings and declarations relating to stocking and promoting of healthy foods in stores.~~

*This bill would require the department to establish the California Healthy Choices Program to certify grocery stores, as defined, that promote healthy food choices.*

*The bill would require the department to charge grocery stores that apply for certification a fee which would be deposited into the California Healthy Choices Program Fund, which would be established by this*

*bill. Moneys in the fund would be made available, upon appropriation by the Legislature, to the department to promote the program.*

*The bill would be implemented only after the Director of Finance makes a specified determination.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the  
2 following:
- 3 (a) Despite various local and state policies to encourage healthy  
4 living, the percentage of overweight and obese people in California  
5 continues to be a major concern.
- 6 (b) A recent study by the University of California at Los Angeles  
7 found that between 2005 and 2010, more than half of the counties  
8 in the state experienced an increase in rates of overweight and  
9 obese youth.
- 10 (c) According to an annual report by the Trust for America's  
11 Health, nearly 25 percent of adults in California are obese and an  
12 additional 37 percent are overweight.
- 13 (d) Being overweight or obese is associated with serious health  
14 risks, including cardiovascular disease and diabetes.
- 15 (e) Being overweight and obese have significant economic  
16 impacts, both directly and indirectly. Direct costs may include  
17 diagnostic and treatment services related to being overweight and  
18 obese. Indirect costs may include decreased productivity, restricted  
19 activity, and future value lost by premature death. It has been  
20 estimated that California families, employers, the health care  
21 industry, and the government pay more than \$21 billion each year  
22 on costs related to being overweight and obese.
- 23 (f) Regional variations in overweight and obesity rates exemplify  
24 how differences in demographic, social, economic, and  
25 environmental characteristics and local policies and programs play  
26 a major role in healthy options for a community.
- 27 (g) The food environment in California varies greatly, and some  
28 counties have limited access to stores that offer fresh fruit and  
29 vegetables as compared to the availability of fast food and  
30 convenience stores in those counties.

1 (h) Studies have shown that the display and advertisement of  
2 unhealthy products in stores directly impacts consumer patterns.  
3 When stores stock and promote healthy foods, consumers buy  
4 those foods more often.

5 (i) The overall layout of a store affects what consumers buy,  
6 and consumers are influenced not only by what is available and  
7 affordable, but also by how products are organized and advertised  
8 inside the store. When nuts and granola bars, rather than candy  
9 and chips, are stocked in check-out lanes, consumers are much  
10 less likely to make an unhealthy impulse purchase. Marketing  
11 displays in a store also impact consumer choices.

12 (j) The creation of a voluntary grocery store certification  
13 program will build a partnership between health experts, grocers,  
14 and community members to encourage healthier lifestyles for all  
15 Californians.

16 ~~SEC. 2. It is the intent of the Legislature to enact legislation  
17 to create the California Healthy Choices Program, a voluntary  
18 grocery store certification program for California grocery stores,  
19 to be implemented by the Department of Food and Agriculture.~~

20 *SEC. 2. Division 24 (commencing with Section 81000) is added  
21 to the Food and Agricultural Code, to read:*

22  
23 *DIVISION 24. MISCELLANEOUS*

24  
25 *CHAPTER 1. CALIFORNIA HEALTHY CHOICES ACT*

26  
27 *81000. This chapter shall be known, and may be cited, as the  
28 California Healthy Choices Act.*

29 *81001. (a) The department shall establish and administer the  
30 California Healthy Choices Program to certify grocery stores  
31 located in California that have taken extra measures to educate  
32 consumers about, and promote, nutritious consumption options  
33 as healthy choices for consumers.*

34 *(b) The program shall be implemented only after the Director  
35 of Finance determines there are sufficient funds available to  
36 administer this chapter.*

37 *(c) Participation in the program shall be voluntary and open  
38 to all grocery stores.*

39 *(d) Grocery stores that apply to the department for certification  
40 shall be subject to a fee established by the department, which shall*

1 not exceed the department’s costs associated with issuing the  
 2 certification.

3 (e) Fees collected pursuant to subdivision (d) from participating  
 4 stores shall be deposited into the California Healthy Choices  
 5 Program Fund created pursuant to Section 81006.

6 (f) The department shall seek federal grants and solicit private  
 7 donations for implementation of the program.

8 (g) For purposes of this chapter the following definitions shall  
 9 apply:

10 (1) “Program” means the California Healthy Choices Program.

11 (2) “Grocery store” means a store primarily engaged in the  
 12 retail sale of canned food, dried goods, and beverages, and may  
 13 include the retail sale of fresh foods, including fruits and  
 14 vegetables, fresh meats, fish, poultry, and baked goods.

15 81002. (a) The department shall certify grocery stores based  
 16 upon store type and the criteria described in subdivision (b). The  
 17 three grocery store types shall be as follows:

18 (1) A small-scale grocery store selling food and beverage items  
 19 with at least one refrigeration unit and at least one cash register.

20 (2) A small-to-medium scale grocery store carrying food and  
 21 beverage items with at least one or more refrigeration units, a  
 22 produce area, and at least one cash register.

23 (3) A medium-to-large scale grocery store carrying food and  
 24 beverage items, full-scale produce areas with at least four or more  
 25 refrigeration units, and four or more cash registers.

26 (b) For each of the three types of grocery stores described in  
 27 subdivision (a), the department shall establish criteria to certify  
 28 grocery stores based on the following subject areas:

29 (1) The extent to which a grocery store dedicates a substantial  
 30 percentage of floor space to nonprepared foods and perishable  
 31 goods and the extent to which the store offers a variety of foods  
 32 in at least three of the following categories:

33 (A) Fruits and Vegetables.

34 (B) Whole grains.

35 (C) Dairy, which includes, but is not limited to, fat-free or  
 36 low-fat milk and milk products, such as yogurt, cheese, or fortified  
 37 soy beverages.

38 (D) Seafood.

39 (E) Lean meats and poultry.

40 (F) Eggs.

- 1 (G) Beans.
- 2 (H) Nuts.
- 3 (I) Seeds.
- 4 (2) The extent to which the grocery store does any or all of the
- 5 following product placement activities:
- 6 (A) Offers at least one checkout aisle free from foods high in
- 7 sugar and saturated fats.
- 8 (B) Has at least 50 percent of its end-of-aisle displays promoting
- 9 products that are low in saturated fats, sodium, or sugar.
- 10 (C) Displays fresh produce at the entrance of the store.
- 11 (D) Places nutritious foods at eye-level.
- 12 (E) Limits candy to one aisle.
- 13 (F) Pairs promotional or seasonal displays of candy, potato
- 14 chips, or soda with a separate promotional display offering
- 15 healthier alternatives.
- 16 (3) The extent to which a grocery store does any or all of the
- 17 following activities related to price:
- 18 (A) Offers store coupons for products that are low in saturated
- 19 fats, sodium, and sugar content.
- 20 (B) Participates in at least one of the following programs:
- 21 (i) The California Special Supplemental Food Program for
- 22 Women, Infants, and Children.
- 23 (ii) Electronic Benefits Transfer.
- 24 (iii) CalFresh.
- 25 (4) The extent to which a grocery store does any or all of the
- 26 following promotional activities:
- 27 (A) Provides educational materials free-of-charge to consumers
- 28 regarding nutritious foods and meal ideas.
- 29 (B) Offers in-store product sampling of foods low in saturated
- 30 fats.
- 31 (C) Provides special labeling to simplify nutrition information
- 32 for consumers.
- 33 (D) Displays outdoor signage promoting healthy messages,
- 34 food, or beverages.
- 35 (E) Displays wall signage promoting healthy messages, food,
- 36 or beverages.
- 37 (F) Displays cash register signage promoting healthy messages,
- 38 food, or beverages.

1 81003. (a) *The department shall work with stakeholders,*  
2 *including, but not limited to, grocery retailers, consumers, and*  
3 *public health advocacy groups, to do all of the following:*

4 (1) *Establish a point system for certification based upon the*  
5 *criteria established in Section 81002.*

6 (2) *Develop and adopt regulations for the implementation of*  
7 *the program. These regulations shall establish all of the following:*

8 (A) *Participation fees that do not exceed the costs of*  
9 *administering this division.*

10 (B) *An application process.*

11 (C) *On-site visits to grocery stores for certification and random*  
12 *compliance inspections.*

13 (3) *Promulgate policies to better promote certified stores.*

14 (b) *If the department chooses to revise criteria after*  
15 *implementation of the program, the department shall provide*  
16 *notification to the public and certified grocery stores.*

17 81004. (a) *Certification shall be valid for two-year periods*  
18 *and shall be subject to revocation if, after random inspection by*  
19 *the department, it is determined that the inspected store is failing*  
20 *to meet its eligibility requirements.*

21 (b) *The department shall consider grocery stores for certification*  
22 *on an individual basis.*

23 (c) *The department shall produce, and provide to each certified*  
24 *grocery store, documentation verifying certification.*

25 81005. *In support of the program, the department shall do all*  
26 *of the following:*

27 (a) *Produce and provide to each certified grocery store signage*  
28 *for store display that identifies the grocery store as a certified*  
29 *healthy choice to the public.*

30 (b) *Produce publicly written brochures promoting the program.*  
31 *Brochures shall be made available to the public.*

32 (c) *Send appropriate press releases and information to the media*  
33 *promoting the program.*

34 (d) *List the name and location of all certified grocery stores on*  
35 *the department's Internet Web site. If a grocery store is part of a*  
36 *chain, it shall be identified by location.*

37 (e) *Promote the program to local and state health advocacy*  
38 *organizations.*

39 (f) *Make other efforts to include certified grocery stores in other*  
40 *efforts by the state to promote healthy living.*

1 81006. (a) *There is hereby established in the State Treasury,*  
2 *the California Healthy Choices Program Fund, which shall consist*  
3 *of moneys deposited pursuant to subdivision (e) of Section 81001,*  
4 *along with private funds and, upon appropriation by the*  
5 *Legislature, shall be made available to the department for the*  
6 *purposes of identifying grocery stores certified by the state as*  
7 *healthy choices for consumers and promoting the program.*

8 (b) *The department may use moneys from the fund, when made*  
9 *available, to leverage other funding, including, but not limited to,*  
10 *moneys from federal or foundation grant programs.*

11 81007. *The department shall annually report to the appropriate*  
12 *legislative budget committees of the Legislature on the balance*  
13 *and expenditures of the California Healthy Choices Program Fund*  
14 *created pursuant to Section 81006 and other program details,*  
15 *including, but not limited to, program participation, department*  
16 *efforts to promote participation in the program, and department*  
17 *efforts to solicit private and federal funds for program*  
18 *implementation and continuity.*