

THE COUNCIL

The City of New York

Int. No. 758

November 30, 2005

Introduced by Council Members Quinn, Addabbo Jr., Brewer, Clarke, James, Jennings, Liu, Palma, Seabrook, Sears, Stewart and Weprin. -- read and referred to the Committee on Health.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the Health Care Security Act.

Be it enacted by the Council as follows:

1 Section 1. Subdivision b of section 22-506 of chapter 5 of title 22 of the
2 administrative code of the city of New York is hereby amended to read as follows:

3 §22-506 b. Definitions. For purposes of this section, the following terms shall have
4 the following meanings:

5 (1) "Active retail floor space" means the floor space in any store operated by a
6 grocery employer that is utilized for the display and sale of food; provided that such term
7 shall not include any storage space, loading dock, food preparation space or eating area
8 designated for the consumption of prepared food.

9 [(1)](2) "Administering agency" means any city agency, office, department, division,
10 bureau or institution of government, the expenses of which are paid in whole or in part
11 from the city treasury, as the mayor shall designate.

12 [(2)](3) "City" means the city of New York.

13 [(3)](4) "Covered employer" means any grocery employer operating in the city.

14 [(4)](5) "Covered industry" means the grocery industry operating in the city.

15 [(5)](6) "Employee" means any person who *is not a family member of an employer*
16 *and who* works at any location in the city on a full-time, part-time[, temporary, casual, on-
17 call, pool] or seasonal basis for any grocery employer[, including, but not limited to
18 persons who perform work for such employers as independent contractors or as
19 contingent or contracted workers, and persons made available to work through the

1 services of a temporary employment agency]; provided, [however,]that such term shall
2 not include persons who are managerial, supervisory or confidential employees; *and*
3 *provided further that such term shall not include persons who are hired to work*
4 *exclusively for the holiday period from November 1 through December 31.*

5 [(6)](7) "Entity" or "Person" means any natural person, corporation, sole
6 proprietorship, partnership, association, joint venture, limited liability company or other
7 legal entity.

8 [(7)](8) "Family of employee" means the spouse or domestic partner as defined in
9 section 3-240 of the administrative code of an employee and each dependent child of such
10 employee.

11 (9) "Family member of an employer" means the spouse or domestic partner as
12 defined in section 3-240 of the administrative code of an employer and each child,
13 parent, sister or brother of such employer.

14 [(8)](10) "Fiscal year" means the period from July 1 of each year through June 30 of
15 the following year.

16 (11) "Food" means nourishment for human consumption.

17 [(9)](12) "Grocery employer" means any entity operating one or more retail stores in
18 the city that (i) primarily sell food for off-site consumption, where such entity employs
19 [thirty-five]fifty or more employees at any one such store, provided that such entity shall
20 be deemed to employ the highest number of employees that such entity employed at any
21 time during the preceding fiscal year or (ii) contain 10,000 square feet or more of *active*
22 *retail* floor space for the sale of food for off-site consumption, such as a "big box" retail
23 store or warehouse club; provided that such term shall not include any retail store for
24 which pharmacy sales comprise fifty percent or more of store sales.

25 [(10)](13) "Health care expenditure" means any amount paid by a covered employer
26 to its employees or to another party on behalf of its employees and/or the families of its
27 employees for the purpose of providing health care services or reimbursing the cost of
28 such services for its employees and/or the families of its employees, including, but not
29 limited to, contributions by such employer to a health savings account as defined under
30 section 223 of the United States internal revenue code on behalf of any of its employees
31 and/or the families of its employees, or reimbursement by such employer to its employees
32 and/or the families of its employees for incurred health care expenses where such

1 recipients had no entitlement to have expenses reimbursed under any plan, fund or
2 program maintained by such employer; provided, however, that such term shall not
3 include any payment made directly or indirectly for workers' compensation, Medicare
4 benefits or any other health care costs, taxes or assessments that such employer is
5 required to pay pursuant to any federal, state or local law other than this section, or any
6 amount deducted from an employee's wages and not reimbursed by such employer.

7 ~~[(11)]~~(14) "Health care services" means primary or secondary medical care or
8 services, including, but not limited to, (i) inpatient and outpatient hospital services, (ii)
9 physicians' surgical and medical services, (iii) laboratory, diagnostic and x-ray services,
10 (iv) prescription drug coverage, (v) annual physical examinations, (vi) preventative
11 services, (vii) mental health services or (viii) substance abuse treatment services;
12 provided, however, that such term shall not include any medical procedure or treatment
13 which is solely cosmetic.

14 ~~[(12)]~~(15) "Prevailing health care expenditure rate" means the amount of health care
15 expenditure customarily made on behalf of a full-time employee and/or the family of such
16 employee in the same trade or occupation in the covered industry, prorated on an hourly
17 basis and calculated pursuant to paragraph 2 of subdivision c of this section.

18 ~~[(13)]~~(16) "Required health care expenditure" means the total health care expenditure
19 that a covered employer is required to make each year for its employees and/or the
20 families of its employees pursuant to subdivision c of this section.

21 ~~[(14)]~~(17) "Retaliatory action" means the discharge, suspension, demotion or
22 penalization of, or discrimination or taking other adverse action against, an employee with
23 respect to the terms and conditions of such employee's employment.

24 § 2. Paragraph (1) of subdivision c of section 22-506 of chapter 5 of title 22 of the
25 administrative code of the city of New York is hereby amended to read as follows:

26 c. Required health care expenditures. (1) Covered employers shall make required
27 health care expenditures on behalf of their employees and/or the families of their
28 employees each fiscal year, *beginning on July 1, 2006*.

29 § 3. If any section, subsection, sentence, clause, phrase, or other portion of this local
30 law, including any requirement imposed pursuant to it, is for any reason declared
31 unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction,
32 such portion shall be deemed severable, and such unconstitutionality or invalidity shall

1 not affect the validity of the remaining portions of this local law, which remaining
2 portions shall continue in full force and effect.

3 § 4. This local law shall take effect on the date that local law 89 of 2005 takes effect.

Note: Matter in *italics* is new; matter in brackets [] to be omitted.