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I N   S E N A T E

February 2, 2012

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Introduced by Sen. RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to setting nutrition standards for restaurants distributing incentive items aimed at children

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1     Section 1. The public health law is amended by adding a new section  
2     1352-d to read as follows:  
3     S 1352-D. INCENTIVE ITEMS WITH RESTAURANT FOOD. 1. FOR THE PURPOSES OF  
4     THIS SECTION, THE FOLLOWING TERMS SHALL BE DEFINED AS FOLLOWS:  
5     A. "INCENTIVE ITEM" SHALL MEAN ANY TOY, GAME, TRADING CARD, ADMISSION  
6     TICKET OR OTHER CONSUMER PRODUCT, WHETHER PHYSICAL OR DIGITAL, WITH  
7     PARTICULAR APPEAL TO CHILDREN, WHICH IS PROVIDED DIRECTLY BY THE RESTAU-  
8     RANT, OR ANY COUPON, VOUCHER, TICKET, TOKEN, CODE OR PASSWORD WHICH IS  
9     PROVIDED DIRECTLY BY THE RESTAURANT AND IS REDEEMABLE FOR OR GRANTS  
10    DIGITAL OR OTHER ACCESS TO ANY TOY, GAME, TRADING CARD, ADMISSION TICK-  
11    ET, OR OTHER CONSUMER PRODUCT WITH PARTICULAR APPEAL TO CHILDREN.  
12    B. "MEAL" SHALL MEAN ANY COMBINATION OF FOOD AND DRINK ITEMS OFFERED  
13    TOGETHER FOR A SINGLE PRICE.  
14    C. "RESTAURANT" SHALL MEAN ANY COFFEE SHOP, CAFETERIA, LUNCHEONETTE,  
15    SANDWICH STAND, DINER, SHORT ORDER CAFE, FAST FOOD ESTABLISHMENT, SODA  
16    FOUNTAIN, AND ANY OTHER EATING OR BEVERAGE ESTABLISHMENT, WHICH GIVES OR  
17    OFFERS FOR SALE FOOD OR BEVERAGES TO THE PUBLIC, GUESTS, MEMBERS, OR  
18    PATRONS, WHETHER FOOD OR BEVERAGES ARE CUSTOMARILY CONSUMED ON OR OFF  
19    THE PREMISES.  
20    2. A RESTAURANT MAY OFFER AN INCENTIVE ITEM IN COMBINATION WITH THE  
21    PURCHASE OF A MEAL ONLY IF THE MEAL MEETS THE FOLLOWING NUTRITIONAL  
22    STANDARDS:  
23    A. LESS THAN FIVE HUNDRED CALORIES;  
24    B. LESS THAN SIX HUNDRED MILLIGRAMS OF SODIUM;  
25    C. LESS THAN THIRTY-FIVE PERCENT OF TOTAL CALORIES FROM FAT, EXCEPT  
26    FOR FAT CONTAINED IN NUTS, SEEDS, PEANUT BUTTER, OR OTHER NUT BUTTER;

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [ ] is old law to be omitted.

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1 D. LESS THAN TEN PERCENT OF TOTAL CALORIES FROM SATURATED FATS, EXCEPT  
2 FOR SATURATED FAT CONTAINED IN NUTS, SEEDS, PEANUT BUTTER, OR OTHER NUT  
3 BUTTER;

4 E. LESS THAN TEN PERCENT OF TOTAL CALORIES FROM ADDED SUGARS AND/OR  
5 CALORIC SWEETENERS;

6 F. CONTAINS ONE HALF CUP OF FRUITS OR VEGETABLES OR ONE SERVING OF  
7 WHOLE-GRAIN PRODUCTS; AND

8 G. A BEVERAGE, IF INCLUDED, THAT MEETS THE CRITERIA SPECIFIED IN PARA-  
9 GRAPH E OF THIS SUBDIVISION.

10 3. A RESTAURANT MAY OFFER AN INCENTIVE ITEM IN COMBINATION WITH THE  
11 PURCHASE OF A SINGLE FOOD ITEM ONLY IF THE SINGLE FOOD ITEM MEETS THE  
12 FOLLOWING NUTRITIONAL STANDARDS:

13 A. LESS THAN TWO HUNDRED CALORIES;

14 B. LESS THAN TWO HUNDRED MILLIGRAMS OF SODIUM;

15 C. LESS THAN THIRTY-FIVE PERCENT OF TOTAL CALORIES FROM FAT, EXCEPT  
16 FOR FAT CONTAINED IN NUTS, SEEDS, PEANUT BUTTER, OR OTHER NUT BUTTER;

17 D. LESS THAN TEN PERCENT OF TOTAL CALORIES FROM SATURATED FATS, EXCEPT  
18 FOR SATURATED FAT CONTAINED IN NUTS, SEEDS, PEANUT BUTTER, OR OTHER NUT  
19 BUTTER;

20 E. LESS THAN TEN PERCENT OF TOTAL CALORIES FROM ADDED SUGARS AND/OR  
21 CALORIC SWEETENERS; AND

22 F. CONTAINS ONE HALF CUP OF FRUITS OR VEGETABLES OR ONE SERVING OF  
23 WHOLE-GRAIN PRODUCTS.

24 4. A RESTAURANT MAY OFFER AN INCENTIVE ITEM IN COMBINATION WITH THE  
25 PURCHASE OF A BEVERAGE ONLY IF THE BEVERAGE MEETS THE FOLLOWING NUTRI-  
26 TIONAL STANDARDS:

27 A. LESS THAN ONE HUNDRED FIFTY CALORIES;

28 B. LESS THAN THIRTY-FIVE PERCENT OF TOTAL CALORIES FROM FAT;

29 C. LESS THAN FIFTEEN PERCENT OF TOTAL CALORIES FROM SATURATED FAT;

30 D. LESS THAN TEN PERCENT OF TOTAL CALORIES FROM ADDED SUGARS AND/OR  
31 CALORIC SWEETENERS;

32 E. NO ADDED NON-NUTRITIVE SWEETENERS;

33 F. NO CAFFEINE, WITH THE EXCEPTION OF TRACE AMOUNTS OF NATURALLY  
34 OCCURRING CAFFEINE SUBSTANCES.

35 5. ANY PERSON WHO VIOLATES ANY OF THE PROVISIONS OF THIS SECTION SHALL  
36 BE LIABLE FOR A CIVIL PENALTY OF NOT LESS THAN TWO HUNDRED DOLLARS NOR  
37 MORE THAN FIVE HUNDRED DOLLARS FOR A FIRST VIOLATION THEREOF; NOT LESS  
38 THAN FIVE HUNDRED DOLLARS NOR MORE THAN ONE THOUSAND DOLLARS FOR A  
39 SECOND VIOLATION THEREOF; AND NOT LESS THAN ONE THOUSAND DOLLARS NOR  
40 MORE THAN TWO THOUSAND FIVE HUNDRED DOLLARS FOR A THIRD OR SUBSEQUENT  
41 VIOLATION THEREOF.

42 S 2. This act shall take effect on the one hundred twentieth day after  
43 it shall have become a law.