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I N  S E N A T E

September 21, 2012

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

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:

Section 1. The public health law is amended by adding a new section 1352-d to read as follows:

S 1352-D. INCENTIVE ITEMS WITH RESTAURANT FOOD. 1. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL BE DEFINED AS FOLLOWS:

A. "INCENTIVE ITEM" SHALL MEAN ANY TOY, GAME, TRADING CARD, ADMISSION TICKET OR OTHER CONSUMER PRODUCT, WHETHER PHYSICAL OR DIGITAL, WITH PARTICULAR APPEAL TO CHILDREN, WHICH IS PROVIDED DIRECTLY BY THE RESTAURANT, OR ANY COUPON, VOUCHER, TICKET, TOKEN, CODE OR PASSWORD WHICH IS PROVIDED DIRECTLY BY THE RESTAURANT AND IS REDEEMABLE FOR OR GRANTS DIGITAL OR OTHER ACCESS TO ANY TOY, GAME, TRADING CARD, ADMISSION TICKET, OR OTHER CONSUMER PRODUCT WITH PARTICULAR APPEAL TO CHILDREN.

B. "MEAL" SHALL MEAN ANY COMBINATION OF FOOD AND DRINK ITEMS OFFERED TOGETHER FOR A SINGLE PRICE.

C. "RESTAURANT" SHALL MEAN ANY COFFEE SHOP, CAFETERIA, LUNCHEONETTE, SANDWICH STAND, DINER, SHORT ORDER CAFE, FAST FOOD ESTABLISHMENT, SODA FOUNTAIN, AND ANY OTHER EATING OR BEVERAGE ESTABLISHMENT, WHICH GIVES OR OFFERS FOR SALE FOOD OR BEVERAGES TO THE PUBLIC, GUESTS, MEMBERS, OR PATRONS, WHETHER FOOD OR BEVERAGES ARE CUSTOMARILY CONSUMED ON OR OFF THE PREMISES.

2. THE COMMISSIONER SHALL MAKE REGULATIONS ESTABLISHING NUTRITIONAL STANDARDS FOR MEALS, FOOD ITEMS, AND BEVERAGES THAT MAY BE OFFERED FOR PURCHASE IN COMBINATION WITH AN INCENTIVE ITEM BY A RESTAURANT. A RESTAURANT MAY OFFER AN INCENTIVE ITEM IN COMBINATION WITH THE PURCHASE OF A MEAL, FOOD ITEM, OR BEVERAGE, ONLY IF THE MEAL, FOOD ITEM, OR BEVERAGE, MEETS NUTRITIONAL STANDARDS ESTABLISHED BY THE COMMISSIONER UNDER THIS SECTION. NUTRITIONAL STANDARDS UNDER THIS SECTION SHALL INCLUDE BUT ARE NOT LIMITED TO: CALORIES; SODIUM; PERCENTAGE OF CALO-

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

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RIES FROM FAT (WHICH MAY DIFFERENTIATE AMONG KINDS OR SOURCES OF FAT); SUGARS AND CALORIC SWEETENERS; AND FRUITS, VEGETABLES, AND GRAINS.

3. ANY PERSON WHO VIOLATES ANY OF THE PROVISIONS OF THIS SECTION SHALL BE LIABLE FOR A CIVIL PENALTY OF UP TO FIVE HUNDRED DOLLARS FOR A FIRST VIOLATION THEREOF; UP TO ONE THOUSAND DOLLARS FOR A SECOND VIOLATION THEREOF; AND UP TO TWO THOUSAND FIVE HUNDRED DOLLARS FOR A THIRD OR SUBSEQUENT VIOLATION THEREOF.

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