

STATE OF NEW YORK

4644--A

Cal. No. 1126

2021-2022 Regular Sessions

IN SENATE

February 8, 2021

Introduced by Sens. BIAGGI, HINCHEY, JACKSON, MYRIE, RAMOS, RIVERA, SALAZAR -- read twice and ordered printed, and when printed to be committed to the Committee on Procurement and Contracts -- reported favorably from said committee, ordered to first and second report, amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in the order of third reading

AN ACT to amend the public health law, in relation to standards for food and beverages purchased, sold and marketed by state agencies

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Article 2 of the public health law is amended by adding a
2 new title 8 to read as follows:

TITLE 8

STATE FOOD STANDARDS

3
4
5 Section 269. Development of state food standards.

6 269-a. Applicability of state food standards.

7 269-b. Implementation of state food standards.

8 § 269. Development of state food standards. 1. Within three months
9 following the effective date of this section, the department, in consul-
10 tation with the office of general services, shall begin an assessment of
11 the food and beverage purchasing, service, sales, and marketing policies
12 and activities of each state agency. The department shall develop and
13 finalize state food standards considering the findings of such assess-
14 ment no later than twelve months following the effective date of this
15 section, for foods purchased, served, sold, and promoted by state agen-
16 cies, programs, and institutions and on state property. The department
17 shall report such standards to the state legislature, and disseminate
18 them to the heads of all state agencies that purchase, prepare, serve,
19 or promote food and beverages.

20 2. The state food standards developed under this section shall:

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

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1 (a) be consistent with or exceed the recommendations in the most
2 recent edition of the federal Dietary Guidelines for Americans, includ-
3 ing as to sodium, whole grains, added sugars, saturated fat, cholester-
4 ol, and fiber;

5 (b) support and encourage breastfeeding, ensuring that employees are
6 provided with appropriate space and adequate time for breastfeeding or
7 expressing milk for their infants;

8 (c) include recommendations for the use of sustainably and locally
9 grown New York state food products to the greatest extent possible;

10 (d) ensure the availability of safe, clean tap water when feasible
11 whenever foods and beverages are sold or served;

12 (e) encourage state agencies to offer foods and beverages that reflect
13 the health risks, allergens, traditions, and preferences of the demo-
14 graphics served; and

15 (f) encourage the consumption of plant-based whole foods, including
16 fruits, vegetables, legumes, nuts, and whole grains.

17 3. The state food standards shall be reviewed and updated by the
18 department as necessary, but no less often than every five years, to
19 ensure that the standards remain current and science-based.

20 4. In developing the state food standards, the department shall
21 consider the following:

22 (a) recommendations for nutrition standards for foods, beverages, or
23 meals made by authoritative scientific organizations, including the
24 guidelines for purchased food recommended by the New York State Food
25 Policy Council, the American Heart Association Workplace Food and Bever-
26 age Toolkit, the Food Service Guidelines for Federal Facilities, the
27 USDA National School Lunch Program and School Breakfast Program stand-
28 ards, the USDA Child and Adult Care Food Program guidelines, the Ameri-
29 can Cancer Society Guideline for Diet and Physical Activity, and the
30 American Diabetes Association Diabetes Plate Method;

31 (b) both positive and negative contributions of nutrients, ingredi-
32 ents, and foods to the diets of adults and children, including calories
33 or portion size, saturated fat, sodium, added sugars, and the presence
34 of fruits, vegetables, and whole grains; and

35 (c) adaptations of the standards for different venues, such as child-
36 care, correctional facilities, government meetings, or other settings
37 and programs with unique populations or circumstances.

38 § 269-a. Applicability of state food standards. 1. The state food
39 standards developed under section two hundred sixty-nine of this title
40 shall apply to all foods and beverages purchased, prepared, served,
41 sold, and promoted by all state agencies, programs, and institutions and
42 sold, served, or promoted on state property, including but not limited
43 to:

44 (a) All state government office buildings.

45 (b) Meetings and conferences hosted or funded by state agencies.

46 (c) Road-side rest areas and welcome centers managed or owned by the
47 state.

48 (d) State parks and historic sites.

49 (e) Emergency food relief organizations receiving hunger prevention
50 and nutrition assistance program funds.

51 (f) State child and adult care food programs.

52 (g) State-supported hospitals.

53 (h) City University of New York and State University of New York, and
54 each of the institutions in these university systems.

55 (i) Office for the aging congregate and home-delivered meal services.

56 (j) Department of corrections and community supervision facilities.

1 (k) Office of mental health inpatient and residential services.

2 (l) Bureau of adult care homes.

3 (m) Division of juvenile justice and opportunities for youth facili-
4 ties.

5 (n) Office for people with developmental disabilities services.

6 (o) Office of addiction services and supports treatment centers.

7 (p) Public schools, charter schools, and participating nonpublic
8 schools.

9 (q) Education department's summer food service program.

10 2. All purchases made by any department, division, or agency listed in
11 subdivision one of this section, or by any officer on behalf of a
12 department, division, or agency listed in subdivision one of this
13 section, shall be made in accordance with the state food standards.

14 3. All contracts made by any department, division, or agency listed in
15 subdivision one of this section, or by any officer on behalf of a
16 department, division, or agency listed in subdivision one of this
17 section, for the purchase, service, catering, vending, or promotion of
18 food or beverage will ensure the food or beverage supplied, served,
19 sold, and promoted shall be in accordance with the state food standards.
20 All existing contracts that do not meet such standards shall be revised
21 or terminated at the next renewal stage of such contracts. All grantees
22 of the state shall comply with the state food standards when purchasing
23 food with grant funds.

24 4. No contract shall include payments to a state department, division,
25 agency, or institution that are contingent on a minimum volume of sales
26 of sugar-sweetened beverages. No state department, division, agency, or
27 institution may permit, enter into a contract providing for, or other-
28 wise allow:

29 (a) marks or logos associated with a state department, division, agen-
30 cy, or institution to be used to promote any sugar-sweetened beverage;

31 (b) any company or state department, division, agency, or institution
32 to refer to a sugar-sweetened beverage as an official beverage of a
33 state department, division, agency, or institution; or

34 (c) an employee of any state department, division, agency, or institu-
35 tion to promote a sugar-sweetened beverage.

36 § 269-b. Implementation of state food standards. Within twelve months
37 of the effective date of this section, the department shall adopt a plan
38 for providing technical and supervisory assistance to state agencies
39 implementing the state food standards made under section two hundred
40 sixty-nine of this title. At minimum, such plan shall establish:

41 1. A timeline for state agencies to receive initial training and
42 implement the state food standards.

43 2. A process by which the department shall monitor compliance with the
44 state food standards on a routine basis and follow up with additional
45 technical assistance as needed to improve compliance.

46 § 2. This act shall take effect immediately.