

# STATE OF NEW YORK

6408--A

2023-2024 Regular Sessions

## IN SENATE

April 18, 2023

Introduced by Sen. RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to requiring chain restaurants to label menu items that have a high content of added sugars

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 1357 to read as follows:

3 § 1357. Added sugar safety warnings for chain restaurants. 1. Defi-  
4 nitions. For purposes of this section the following terms shall have the  
5 following meanings:

6 a. "Chain menu developer" means a person that owns and licenses the  
7 brand name under which the covered establishment does business, or any  
8 other person responsible for determining the formula or recipe for items  
9 displayed on the menu of a covered establishment.

10 b. "Covered establishment" means a food service establishment, as  
11 defined in part fourteen of the New York sanitary code 10 NYCRR 14-1.20,  
12 that is part of a chain with fifteen or more locations within the state  
13 doing business under the same name, regardless of the type of ownership  
14 of the locations, and offering for sale substantially similar food  
15 items.

16 c. "Food tag" means a written or printed description of food or bever-  
17 ages and their price, placed in the vicinity of a sample or self-serve  
18 item, including free-standing tags and tags attached to the shelf.

19 d. "Discrete serving" means the separated or easily separable uniform  
20 portion or portions of a food item comprising a reasonable estimate of  
21 one person's share of the food item. Food items without separated or  
22 easily separable uniform portions do not contain discrete servings.

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

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1 e. "High added sugars content" means the item contains one hundred  
2 percent or more of the daily value for added sugars, as established by  
3 the federal Food and Drug Administration.

4 f. "Menu" means the primary writing of a covered establishment from  
5 which a customer makes an order selection, including but not limited to,  
6 breakfast, lunch, and dinner menus; dessert menus; beverage menus; chil-  
7 dren's menus; other specialty menus; electronic menus; and menus on the  
8 internet.

9 g. "Menu board" means a menu posted inside a covered establishment as  
10 well as a menu posted outside a covered establishment, including a  
11 drive-through menu.

12 h. "Food item" means a food or beverage item offered for sale by a  
13 covered establishment that is listed on a menu, menu board, or food tag,  
14 including a variable food or beverage item that comes in different  
15 flavors, varieties, or combinations and is listed as a single item. Food  
16 item excludes temporary food or beverage items listed for less than  
17 sixty days per calendar year.

18 i. "Point of purchase" means a place where a customer may order food  
19 within a covered establishment.

20 j. "Self-serve dispensing point" means a location at which a customer  
21 may access food or beverages without the assistance of a staff member,  
22 including self-serve fountain beverage machines.

23 2. Added sugars warning. a. A covered establishment shall display an  
24 added sugars warning next to or directly under the name of each food  
25 item with high added sugars content wherever such food item is listed on  
26 a menu, menu board, or food tag, and by any self-serve dispensing point  
27 at which such food item is dispensed. This requirement applies to any  
28 menu item that comes in different flavors, varieties, or combinations if  
29 any flavor, variety, or combination has high added sugars content.

30 b. A food item that consists of more than one discrete serving  
31 requires an added sugars warning only if each discrete serving has a  
32 high added sugars content.

33 c. No later than one year after the department issues the rules and  
34 regulations required pursuant to paragraph d of this subdivision, a  
35 covered establishment is required to display at least one clearly visi-  
36 ble warning on a menu, menu board, food tag, or by a self-serve dispens-  
37 ing point pursuant to paragraph a of this subdivision, and shall make a  
38 factual warning statement about high added sugars intake prominently,  
39 clearly, and conspicuously visible at the point of purchase.

40 d. No later than one year after the effective date of this section,  
41 the department shall promulgate rules and regulations designating a  
42 warning and factual warning statement.

43 3. Reporting requirement. Once every ninety days, every chain menu  
44 developer shall report to the department the amount of added sugars in  
45 each food item offered for sale in a covered establishment, or report  
46 that no changes to the menu information have been made since the last  
47 report.

48 4. Report. No later than six years after the effective date of this  
49 section, the department shall issue a report reviewing evidence of the  
50 impact of this section on food item reformulation and consumer behavior  
51 and recommend additional nutrients that should be considered for menu  
52 warnings.

53 5. Violations. Any chain restaurant that violates the provisions of  
54 this section shall be subject to a civil penalty of not more than two  
55 hundred fifty dollars per day for each location not in compliance.

1 § 2. Severability. If any provision of this act, or any application of  
2 any provision of this act, is held to be invalid, or to violate or be  
3 inconsistent with any federal law or regulation, that shall not affect  
4 the validity or effectiveness of any other provision of this act, or of  
5 any other application of any provision of this act, which can be given  
6 effect without that provision or application; and to that end, the  
7 provisions and applications of this act are severable.

8 § 3. This act shall take effect one year after it shall have become a  
9 law. Effective immediately, the addition, amendment and/or repeal of any  
10 rule or regulation necessary for the implementation of this act on its  
11 effective date are authorized to be made and completed on or before such  
12 effective date.