S T A T E O F N E W Y O R K

4943

2011-2012 Regular Sessions

I N A S S E M B L Y

February 9, 2011

Introduced by M. of A. MAYERSOHN -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to food allergy awareness in food establishments

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. ALLERGY AWARENESS IN FOOD ESTABLISHMENTS. 1. EVERY OWNER, OPERATOR, LESSOR, LESSEE, PERSON OR CORPORATION IN CHARGE OF ANY RESTAURANT, DINING ROOM OR COMMERCIAL EATING ESTABLISHMENT OR IN ANY OTHER PLACE WHERE FOOD IS PREPARED, SOLD OR SERVED FOR AND TO THE GENERAL PUBLIC IN THIS STATE, WHEN SERVING FOOD, SHALL:

(A) PROMINENTLY DISPLAY A POSTER RELATIVE TO FOOD ALLERGY AWARENESS IN THE STAFF AREA; SUCH POSTER SHALL PROVIDE, BUT NOT BE LIMITED TO, INFORMATION REGARDING THE RISK OF AN ALLERGIC REACTION AND SHALL BE DEVELOPED AND APPROVED BY THE DEPARTMENT PRIOR TO DISPLAY;

(B) INCLUDE ON ALL MENUS A NOTICE TO CUSTOMERS OF THE CUSTOMER'S OBLIGATION TO INFORM THE SERVER ABOUT ANY FOOD ALLERGIES; THE DEPARTMENT SHALL DEVELOP AND APPROVE THE LANGUAGE OF THE NOTICE; AND

(C) IF A RESTAURANT, DINING ROOM OR COMMERCIAL EATING ESTABLISHMENT WITH A SEATING CAPACITY OF FIFTY OR MORE, HAVE AND MAINTAIN ON THE PREMISES A MASTER LIST OF ALL THE INGREDIENTS USED IN THE PREPARATION OF EACH FOOD ITEM AVAILABLE FOR CONSUMPTION; SUCH MASTER LIST, WHICH SHALL BE IN A FORMAT APPROVED BY THE DEPARTMENT, SHALL BE PROVIDED TO ANY CONSUMER UPON REQUEST.

2. FOR PURPOSES OF COMPLYING WITH THIS SECTION, WITH RESPECT TO FOOD ITEMS THAT ARE NOT INITIALLY PREPARED AT THE RESTAURANT, DINING ROOM OR COMMERCIAL EATING ESTABLISHMENT, IT SHALL BE ACCEPTABLE TO RELY ON INGREDIENTS INFORMATION OBTAINED FROM THE MANUFACTURERS, VENDORS OR DISTRIBUTORS OF FOOD TO BE CONSUMED IN SUCH ESTABLISHMENT, PROVIDED THE

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

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INFORMATION FROM A MANUFACTURER, VENDOR OR DISTRIBUTOR IS INCLUDED IN THE MASTER LIST OF INGREDIENTS.

3. THE OWNER, OPERATOR, LESSOR, LESSEE OR PERSON IN CHARGE OF SUCH RESTAURANT, DINING ROOM OR COMMERCIAL EATING ESTABLISHMENT SHALL, IN ORDER TO OBTAIN HIS OR HER CERTIFICATION, RECEIVE TRAINING CONCERNING FOOD ALLERGIES. FOR PURPOSES OF THIS SECTION, THE TRAINING REQUIREMENT SHALL BE FULFILLED BY VIEWING A VIDEO CONCERNING FOOD ALLERGIES AND UPON THE REVIEW AND RECEIPT OF WRITTEN MATERIALS PREPARED FOR THE PURPOSES OF PROVIDING INFORMATION ON FOOD ALLERGIES. THE COMMISSIONER, OR HIS OR HER DESIGNEE, SHALL APPROVE THE TRAINING PROGRAM, INCLUDING THE VIDEO AND WRITTEN MATERIALS. ANY PERSON DESIGNATED AS AN ALTERNATE PERSON IN CHARGE SHALL, IN ADDITION TO EXISTING REQUIREMENTS, ALSO BE KNOWLEDGEABLE WITH REGARD TO THE RELEVANT ISSUES CONCERNING FOOD ALLERGIES AS THEY RELATE TO FOOD PREPARATION.

4. NO EARLIER THAN TWELVE MONTHS AND NO LATER THAN TWENTY-FOUR MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION, THE DEPARTMENT SHALL SUBMIT A REPORT TO THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY PRESIDENT OF THE SENATE WHICH SHALL INCLUDE ANALYSIS OF THE IMPACT OF THIS SECTION. THE REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO, ANY PROPOSED CHANGES TO THE SECTION CONSISTENT WITH THE PUBLIC HEALTH AND WELFARE.

5. A VIOLATION OF THIS SECTION SHALL BE SUBJECT TO THE PENALTY UNDER SECTION THIRTEEN HUNDRED FIFTY-THREE OF THIS TITLE.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.