

6386

I N S E N A T E

February 2, 2012

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.