

# STATE OF NEW YORK

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592--A

2017-2018 Regular Sessions

## IN SENATE

(Prefiled)

January 4, 2017

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Introduced by Sen. PERALTA -- 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 the establishment of a letter grading system to classify inspection results for mobile food service establishments and pushcarts in cities having a population of one million or more

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-f to read as follows:

3 § 1352-f. Mobile food service establishment and pushcart grading  
4 system; cities of one million or more. 1. For purposes of this section,  
5 the term "commissioner" shall mean the commissioner of health and mental  
6 hygiene of a city having a population of one million or more, and the  
7 term "department" shall mean the department of health and mental hygiene  
8 of a city having a population of one million or more.

9 2. The commissioner shall establish a system for grading inspection  
10 results for mobile food service establishments and pushcarts as defined  
11 in the state sanitary code.

12 3. Such system shall use and post letters A, B or C to identify and  
13 represent such grading and classification with all other lower grades  
14 being deemed to be failing grades. The department shall issue a letter  
15 grade for a mobile food services establishment or pushcart for that  
16 cycle after any hearing or dispute regarding such scoring is resolved.  
17 In establishing a system of grading, the commissioner shall take into  
18 account the provisions of this title and the provisions of the state  
19 sanitary code to establish a grading system that reflects the safety and

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

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1 sanitation of the premises and food handling practices to ensure compli-  
2 ance with state and local health laws.

3 4. Each such mobile food service establishment or pushcart shall  
4 conspicuously post at the point of sale the letter grade identifying and  
5 representing the result of such recently graded inspection of the estab-  
6 lishment or pushcart by the department. Such posting shall be done in  
7 accordance with rules and regulations promulgated by the commissioner.  
8 The department shall advise each establishment and pushcart of its grade  
9 and provide the findings upon which such grade is based. The mobile food  
10 service establishment or pushcart must post the letter grade unless the  
11 establishment or pushcart has filed an appeal with the commissioner  
12 within seven days of receiving the letter grade.

13 5. The department shall conduct a subsequent inspection of such mobile  
14 food service establishment or pushcart no sooner than fourteen days, nor  
15 later than thirty days after the inspection at which the grade was given  
16 if the mobile food service establishment or pushcart received a failing  
17 grade. In the interim, the previous letter grade shall remain posted  
18 unless an appeal is pending by the mobile food service establishment or  
19 pushcart. Upon the conclusion of the subsequent inspection, the depart-  
20 ment shall deliver for posting a letter grade to the mobile food service  
21 establishment or pushcart which indicates the grade for such inspection,  
22 and the department shall provide the findings upon which the grade is  
23 based.

24 6. The mobile food service establishment or pushcart may appeal the  
25 subsequent assignment of a letter grade designation to the commissioner  
26 for review within seven days of such assignment. During the time at  
27 which the appeal is pending, the mobile food service establishment or  
28 pushcart shall not be required to post the letter grade that is being  
29 appealed.

30 7. The suggested interval between regularly schedules inspections of  
31 mobile food service establishments and pushcarts may be as follows:

32 (a) For establishments and pushcarts with a grade of "A", at least  
33 once every year;

34 (b) For establishments and pushcarts with a grade of "B", at least  
35 once every nine months; and

36 (c) For establishments and pushcarts with a grade of "C", at least  
37 once every three months.

38 8. A mobile food service establishment or pushcart that requests a  
39 reinspection from the department shall pay the department a fee of up to  
40 two hundred fifty dollars, provided, however, that the provisions of  
41 this subdivision shall not negate the ability of the department to  
42 inspect any mobile food service establishment or pushcart on the basis  
43 of a complaint from a member of the public.

44 9. The provisions of this section shall not apply to a mobile food  
45 service establishment or pushcart which is sponsored by a charitable  
46 organization to operate a soup kitchen or other food distribution  
47 program for the elderly, veterans, low income individuals and families,  
48 or the disabled.

49 § 2. This act shall take effect on the ninetieth day after it shall  
50 have become a law; provided, however, that effective immediately any  
51 rules and regulations necessary to implement the provisions of this act  
52 on its effective date are authorized to be promulgated and completed on  
53 or before such date.