

STATE OF NEW YORK

537

2017-2018 Regular Sessions

IN ASSEMBLY

January 9, 2017

Introduced by M. of A. ROSENTHAL -- read once and referred to the
Committee on Consumer Affairs and Protection

AN ACT to amend the public health law, in relation to food allergy
awareness in food service establishments and internet-based food
delivery services

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

1 Section 1. The public health law is amended by adding a new section
2 1356 to read as follows:

3 § 1356. Food allergen notice requirements. 1. Definitions. a. "Covered
4 languages" shall mean English, Spanish, Chinese, Korean, Russian and
5 French (Creole), and any other language determined by the department to
6 be the six most common languages spoken by limited English proficient
7 individuals.

8 b. "Food service establishment" shall apply to restaurants, catering
9 halls and grocery stores where food is prepared and served either on or
10 off site but shall not include bodegas.

11 c. "Internet-based food delivery service" shall mean any food service
12 establishment or any third-party website that accepts food orders for
13 delivery from customers via the internet.

14 d. "Menu" shall mean a printed or pictorial display of a food item or
15 items and their price or prices that are available for sale from a food
16 establishment. This includes menus distributed or provided outside the
17 establishment and promotional items that include menu information from
18 which a customer can place an order.

19 2. The department shall create a poster containing information on food
20 allergy to be posted in food service establishments, including, but not
21 limited to, the eight most common allergy-causing foods, what the server
22 should do if a customer informs them of a food allergy, how kitchen
23 staff and servers can prevent cross-contamination, and to call 911 if a
24 customer has an allergic reaction. Such poster shall be printed in the

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

LBD01940-01-7

1 covered languages and shall be made available by the department to food
2 service establishments.

3 3. Every food service establishment shall post in accordance with the
4 rules and regulations of the department, the poster containing informa-
5 tion on food allergy pursuant to subdivision two of this section in a
6 conspicuous location accessible to all employees involved in the prepa-
7 ration of food and the service of food and shall also post in a conspic-
8 uous location accessible to all patrons of such establishment. In lieu
9 of placing the notice directly on the indoor or outdoor menu board
10 itself, the food service establishment may post the notice adjacent to
11 the menu or at each point of service where food is ordered. Such notice
12 must be securely posted in a manner so that it may be easily seen and
13 read from a distance of five feet by a person standing at or approaching
14 the point of service, shall directly face the purchaser, and shall not
15 be obstructed from view.

16 4. Every food service establishment shall include information on food
17 allergy pursuant to subdivision two of this section either on their menu
18 or on a separate allergy menu, the existence of which is made known to
19 customers and provided upon request.

20 5. Every food service establishment operating in New York state that
21 provides menus on their website or on an internet-based food delivery
22 service website shall include information on food allergy pursuant to
23 subdivision two of this section on every menu posted.

24 6. Any food service establishment that violates the provisions of this
25 section or any of the rules or regulations promulgated hereunder shall
26 be liable for a civil penalty not to exceed one hundred dollars for each
27 violation; provided, however, food service establishments shall not be
28 liable for internet postings by third parties.

29 § 2. This act shall take effect on the ninetieth day after it shall
30 have become a law.