

STATE OF NEW YORK

5511

2017-2018 Regular Sessions

IN ASSEMBLY

February 9, 2017

Introduced by M. of A. DINOWITZ -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the public health law, in relation to enacting the New York healthy vending act

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 article 17
2 to read as follows:

ARTICLE 17

NEW YORK HEALTHY VENDING ACT

Section 1700. Definitions.

1701. Applicability.

1702. Vending machine requirements.

1703. Enforcement and reports.

1704. Violations and penalties.

10 § 1700. Definitions. For the purposes of this article, the following
11 terms shall have the following meanings:

12 1. "Food and beverage vending machine" means a self-service machine
13 offered for public use that, on insertion of a coin, paper currency,
14 token, card, or key, or by optional manual operation, dispenses servings
15 of food or beverages in bulk or in packages, or prepared by the machine,
16 without the necessity of replenishing the device between each vended
17 operation.

18 2. "Packaged" means bottled, canned, securely bagged, or securely
19 wrapped, whether packaged in a food establishment or a food processing
20 plant.

21 3. "Healthy food or beverage option" means a packaged food or beverage
22 that meets the requirements to be a healthy food option or a healthy
23 beverage option established in section seventeen hundred two of this
24 article.

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

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1 § 1701. Applicability. 1. All food and beverages sold by state agen-
2 cies, including through vending machines located on property owned or
3 leased by the state, shall meet minimum nutrition and procurement stand-
4 ards as set forth in section seventeen hundred two of this article.

5 2. If a food and beverage vending machine is located on state property
6 that has been leased to a private entity, the department shall encourage
7 the tenant to meet the requirements of this article.

8 § 1702. Vending machine requirements. 1. Any packaged food and bever-
9 age option offered in a food and beverage vending machine shall contain:

10 (a) less than one-half of a gram of trans fat per serving; and

11 (b) no more than two hundred milligrams of sodium per package.

12 2. At least seventy-five percent of the packaged food and beverage
13 options offered in a food and beverage vending machine shall be healthy
14 food or beverage options.

15 3. The following beverages are considered a healthy beverage option:

16 (a) fat free milk;

17 (b) one percent low fat dairy milk;

18 (c) calcium or vitamin D fortified soy milk with fewer than two
19 hundred calories per container; and

20 (d) packages containing twelve ounces or less of one hundred percent
21 fruit juice, vegetable juice, or fruit juice combined with water, with
22 no added caloric sweeteners and no more than two hundred milligrams of
23 sodium per container.

24 4. Except as provided in subdivision three of this section, a healthy
25 beverage option may not contain more than forty calories per package.

26 5. A healthy food option shall contain:

27 (a) no more than two hundred calories per package;

28 (b) less than thirty-five percent of calories from fat, except for
29 foods containing one hundred percent nuts or seeds;

30 (c) less than ten percent of calories from saturated fat; and

31 (d) no more than thirty-five percent of calories from total sugars,
32 except for one percent or two percent fat or nonfat dairy products,
33 nondairy milk products, fruits, and vegetables.

34 6. Sugarless chewing gum and mints are considered a healthy food
35 option.

36 7. A healthy food or beverage option offered for sale in a food and
37 beverage vending machine shall be displayed in a way that is easily
38 visible and distinguishable from foods and beverages that are not
39 considered healthy food or beverage options.

40 8. A healthy food or beverage option shall be stocked in a position
41 with the highest selling potential.

42 9. An operator of a food and beverage vending machine shall post a
43 sign in close proximity to each food or beverage option or the selection
44 button for the food or beverage option that includes a clear and
45 conspicuous statement disclosing the number of calories contained in the
46 food or beverage option if a food or beverage option sold from the vend-
47 ing machine:

48 (a) is packaged in a way that does not allow the prospective purchaser
49 to examine the nutrition facts panel before purchasing the food or
50 beverage; or

51 (b) does not otherwise provide visible nutrition information at the
52 point of purchase.

53 10. This article may not be construed to require a unit of state
54 government to place a food and beverage vending machine on state proper-
55 ty.

1 § 1703. Enforcement and reports. 1. On or before the first of January,
2 two thousand twenty-two, and every five years thereafter, the department
3 shall review and, if necessary, revise and update the requirements for
4 healthy food options and healthy beverage options established in section
5 seventeen hundred two of this article to reflect advancements in nutri-
6 tion science, dietary data, and product availability.

7 2. To enforce this article, the department may:

8 (a) inspect food and beverage vending machines that are subject to
9 this article; and

10 (b) receive reports from persons regarding potential noncompliance
11 with this article.

12 3. The department shall disseminate information and conduct trainings
13 on the requirements of this article.

14 4. On or before the first of January, two thousand nineteen, and every
15 two years thereafter, the department shall report to the governor on:

16 (a) the implementation of this article, including successes, chal-
17 lenges, and barriers;

18 (b) an assessment of the compliance of food and beverage vending
19 machine operators with this article; and

20 (c) recommendations for improving the healthy food or beverage option
21 standards and food and beverage vending machine operator compliance, if
22 necessary.

23 § 1704. Violations and penalties. 1. A person who violates this arti-
24 cle is subject to:

25 (a) for a first violation, a civil fine of no less than one hundred
26 dollars paid by the food and beverage vending machine operator; and

27 (b) for each subsequent violation, a civil fine of not less than five
28 hundred dollars paid by the food and beverage vending machine operator.

29 2. A person who commits five or more violations within a six month
30 period:

31 (a) may not operate a food and beverage vending machine on state prop-
32 erty; and

33 (b) is subject to a civil fine of not less than one thousand dollars.

34 § 2. This act shall take effect on the one hundred eightieth day after
35 it shall have become a law.