

# STATE OF NEW YORK

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477--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 in cities having a population of one million or more of a letter grading system to classify inspection results for entertainment venue food service establishments

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. Entertainment venue food service grading system. 1. The  
4 commissioner shall establish, for cities having a population of one  
5 million or more, a system for grading inspection results for food  
6 service establishments, temporary food service establishments, mobile  
7 food service establishments and pushcarts as defined in the state sani-  
8 tary code, that are located within or otherwise owned, operated or  
9 controlled by a place of entertainment, including any privately or  
10 publicly owned and operated facility such as a theatre, stadium, arena,  
11 racetrack, museum, amusement park or other place where performances,  
12 concerts, exhibits, athletic games or contests are held for which a  
13 donation is recommended or required, or an entry fee is charged.

14 2. The commissioner shall establish, for cities having a population of  
15 one million or more, a system for grading inspection results for place  
16 of entertainment food service establishments. Such system shall use and  
17 post letters A, B or C to identify and represent such grading and clas-  
18 sification with all other lower grades being deemed to be failing  
19 grades. In establishing such system of grading, the commissioner shall  
20 take into account the provisions of this title and the provisions of the

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

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1 sanitary code to establish a grading system that reflects the safety and  
2 sanitation of the premises and food handling practices to ensure compli-  
3 ance with state and local health laws.

4 3. Such place of entertainment food service establishment shall  
5 conspicuously post near the entrance to such establishment, or at the  
6 point of sale, the letter grade identifying and representing the result  
7 of such establishment's most recently graded inspection by the local  
8 health officer or the entity responsible for such inspection. Such post-  
9 ing shall be done in accordance with rules and regulations promulgated  
10 by the commissioner. For any place of entertainment food service estab-  
11 lishment receiving a grade lower than "A", the local health officer or  
12 the entity performing the inspection shall advise the establishment of  
13 its grade and the findings upon which such grade is based. The local  
14 health officer or the entity which performed the initial inspection  
15 shall conduct a subsequent inspection of such place of entertainment  
16 food service establishment no sooner than seven days, nor later than  
17 twenty-one days after the inspection at which the grade was given. In  
18 the interim, the previous letter grade shall remain posted. Upon the  
19 conclusion of the subsequent inspection, the local health officer or the  
20 entity performing the inspection shall deliver for posting a letter  
21 grade to the place of entertainment food service establishment which  
22 indicates the grade for such inspection. In addition to a letter grade,  
23 such establishment shall receive the findings upon which such grade is  
24 based. The place of entertainment food service establishment may appeal  
25 such subsequent assignment of a letter grade designation to the commis-  
26 sioner for review within thirty days of such assignment. While any such  
27 appeal is pending, a place of entertainment food service establishment  
28 shall post the letter grade that is being appealed.

29 4. The suggested interval between regularly scheduled inspections of  
30 place of entertainment food service establishments may be as follows:

31 (a) for establishments with a grade of "A", at least once every year;  
32 (b) for establishments with a grade of "B", at least once every nine  
33 months; and

34 (c) for establishments with a grade of "C", at least once every three  
35 months.

36 A place of entertainment food service establishment that requests a  
37 reinspection from the local health officer or the entity responsible for  
38 such inspections, shall pay the department a fee of up to two hundred  
39 fifty dollars. Provided, however, that the provisions of this subdivi-  
40 sion shall not negate the ability of any local health officer or the  
41 entity responsible for such inspections to inspect any place of enter-  
42 tainment food service establishment on the basis of a complaint from a  
43 member of the public.

44 5. The provisions of this section shall not apply to place of enter-  
45 tainment food service establishments which:

46 (a) are premises licensed for on-premises consumption of alcoholic  
47 beverages pursuant to the alcoholic beverage control law when less than  
48 ten percent of the gross sales of such establishment is derived from the  
49 retail sale of food for on-premises consumption;

50 (b) do not engage in the retail sale of food for on-premises or off-  
51 premises consumption from such establishment; or

52 (c) is not located in a city having a population of one million or  
53 more.

54 6. No provision of this section shall be deemed to diminish or other-  
55 wise change any power or duty of any state agency or authority.

1     § 2. This act shall take effect one year after it shall have become a  
2 law. Provided, however, that effective immediately, any rules and regu-  
3 lations necessary to implement the provisions of this act on its effec-  
4 tive date are authorized and directed to be completed on or before such  
5 date.