

STATE OF NEW YORK

2532--B

2021-2022 Regular Sessions

IN SENATE

January 21, 2021

Introduced by Sens. RIVERA, BIAGGI, LIU -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to requiring chain restaurants to label menu items that have a high content of sodium

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 1356 to read as follows:

3 § 1356. Chain restaurants; sodium content of menu items. 1. Definitions. For purposes of this section the following terms shall have the
4 following meanings:

5 a. "Chain restaurant" means a food service establishment that is part
6 of a chain with fifteen or more locations within the state doing busi-
7 ness under the same name, regardless of the type of ownership of the
8 locations, and offering for sale substantially similar menu items.

9 b. "Daily value" means the daily reference value used by the United
10 States Food and Drug Administration in calculating the percent daily
11 value for nutrition information provided on food labels.

12 c. "Food service establishment" means a place where food is
13 prepared and intended for individual portion service and includes the
14 site at which the individual portions are provided, whether consumption
15 occurs on or off the premises. The term excludes food processing
16 establishments, retail food stores, private homes where food is prepared
17 or served for family consumption, and food service operations where a
18 distinct group mutually provides, prepares, serves and consumes the
19

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

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1 food such as "covered-dish supper" limited to a congregation,
2 club or fraternal organization.

3 d. "Menu or menu board" means the primary writing of a food service
4 establishment from which a customer makes an order selection, including,
5 but not limited to, breakfast, lunch, and dinner menus; dessert menus;
6 beverage menus; children's menus; other specialty menus; electronic
7 menus; and menus on the internet.

8 e. "Standard menu item" means a food or beverage item that is listed
9 on a menu or menu board, excluding temporary menu items appearing on the
10 menu for less than sixty days per calendar year.

11 2. Industry guidance. Within one year of the effective date of this
12 section, the department shall publish guidance explaining the require-
13 ments of this section and how businesses can comply.

14 3. Sodium warning icon. No later than one year after the effective
15 date of this section, the department shall develop an icon with accompa-
16 nying text that shall be displayed adjacent to the name of any standard
17 menu item that exceeds the daily value for sodium. Beginning two years
18 after the effective date of this section any chain restaurant operating
19 within the state and not otherwise exempted under subdivision six of
20 this section shall display on menus or menu boards:

21 a. The sodium warning icon and accompanying text promulgated by the
22 department pursuant to this subdivision, at a height no smaller than the
23 largest letter in the name of the item; and

24 b. The following factual statement explaining the sodium warning icon:
25 "Warning (insert icon image here) indicates that the sodium (salt)
26 content of this item is higher than the total daily recommended limit
27 (2300 mg). High sodium intake can increase blood pressure and the risk
28 of heart disease and stroke."

29 4. Report required. No later than six years after the effective date
30 of this section, the department shall issue a report reviewing evidence
31 of the impact of this section on menu item reformulation and consumer
32 behavior, and recommend additional nutrients that should be considered
33 for menu warning icons.

34 5. Violations. Any chain restaurant that violates the provisions of
35 this section shall be subject to a civil penalty of not more than two
36 hundred fifty dollars per day for each location not in compliance.

37 6. Exemptions. The sodium warning icon required pursuant to subdivi-
38 sion three of this section shall not be required to be displayed next to
39 a menu item that is already labeled with a sodium icon equal or greater
40 in size and similar in general appearance, when such icon is required
41 pursuant to a rule, regulation, ordinance, local law, order or policy
42 issued by another jurisdiction having the same or substantially similar
43 effect as determined by the commissioner. Food service establishments
44 exempted from the sodium warning labeling requirement by this subdivi-
45 sion shall be used in determining if a particular food service estab-
46 lishment is a chain restaurant.

47 § 2. Severability. If any provision of this act, or any application of
48 any provision of this act, is held to be invalid, or to violate or be
49 inconsistent with any federal law or regulation, that shall not affect
50 the validity or effectiveness of any other provision of this act, or of
51 any other application of any provision of this act, which can be given
52 effect without that provision or application; and to that end, the
53 provisions and applications of this act are severable.

54 § 3. This act shall take effect immediately.