

STATE OF NEW YORK

585

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sen. BENJAMIN -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to allergy awareness and training in restaurants

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. Allergy awareness and training in restaurants. 1. Defi-
4 nitions. (a) "Major food allergen" shall mean (i) milk, eggs, fish (such
5 as bass, flounder, or cod); crustaceans (such as crab, lobster, or
6 shrimp); tree nuts (such as almonds, cashews, pecans, pistachios, or
7 walnuts), wheat, peanuts, sesame, and soybeans; and (ii) a food ingredi-
8 ent that contains protein derived from a food named in subparagraph (i)
9 of this paragraph. This does not include: (1) any highly refined oil
10 derived from a food specified in subparagraph (i) of this paragraph or
11 any ingredient derived from such highly refined oil; or (2) any ingredi-
12 ent that is exempt under the petition or notification process specified
13 in the federal food allergen labeling and consumer protection act of
14 2004.

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

20 (c) "Menu board" shall mean any list or pictorial display of a food
21 item or items and their price or prices posted within or outside a food
22 establishment.

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

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1 (d) "Approved training provider" shall mean a training provider that
2 has been approved by the director to provide training and assessment of
3 allergen awareness for food service managers.

4 (e) "Food safety manager" shall mean a managerial employee designated
5 by his or her employer to complete allergen awareness training and to
6 obtain a certificate of allergen awareness training pursuant to the
7 requirements of this section.

8 2. General requirements. (a) All food safety managers hired by a food
9 service establishment that cooks, prepares, or serves food intended for
10 immediate consumption either on or off the premises shall complete
11 allergen awareness training and pass an assessment from an approved
12 training provider to obtain a certificate of allergen awareness training
13 prior to or within thirty days after his or her hire date.

14 (b) Such food establishments shall include on all printed menus and
15 menu boards a clear and conspicuous notice requesting a customer notify
16 the server, before placing an order, about the customer's allergy to a
17 major food allergen. The notice shall state: "Before placing your order,
18 please inform your server if a person in your party has a food allergy."

19 (c) The notice must be included on printed menus and on indoor and
20 outdoor menu boards, including drive-through menu boards.

21 (d) All notices on menu boards must be easily readable from the point
22 of service at which food is ordered. On the menu board itself, the font
23 size of the notice must be equal to or greater than the font size of the
24 smallest menu item listed on the menu board.

25 (e) In lieu of placing the notice directly on the indoor or outdoor
26 menu board itself, the food establishment may post the notice adjacent
27 to the menu or at each point of service where food is ordered. Such
28 notice must be securely posted in a manner so that it may be easily seen
29 and read from a distance of five feet by a person standing at or
30 approaching the point of service, shall directly face the purchaser, and
31 shall not be obstructed from view.

32 3. Food allergen awareness training. (a) Food service establishments
33 shall have on staff managers who have been issued a certificate of
34 allergen awareness training by an approved training provider as quali-
35 fied by the department. The certificate will be valid for five years.

36 (b) An approved training provider shall:

37 (i) demonstrate knowledge of major food allergens by posting the food
38 allergen awareness training certificate issued by an approved training
39 provider;

40 (ii) ensure that designated food safety managers are properly trained
41 in food allergy awareness as it is related to their assigned duties; and

42 (iii) ensure that at least one food safety manager with a certificate
43 of allergen awareness training is on site during all hours of operation.

44 4. Certificate renewal. (a) Certificates of allergen awareness train-
45 ing shall be renewed every five years by completing an allergen aware-
46 ness training course, as qualified by the department.

47 (b) The commissioner shall promulgate rules and regulations to estab-
48 lish a qualifying program to designate approved training providers.

49 5. Food allergy aware designation. (a) The commissioner shall develop
50 a program for restaurants to be designated as "food allergy aware" and
51 shall maintain a listing of restaurants receiving such designation on
52 its website. Participation in the program shall be voluntary and the
53 department shall, in consultation with the New York state restaurant
54 association, issue guidelines and requirements for restaurants to
55 receive such designation, provided that such requirements shall include,
56 but not be limited to, maintaining on the premises, and making available

1 to the public, a master list of all the ingredients used in the prepara-
2 tion of each food item available for consumption.

3 (b) No earlier than twelve months and no later than twenty-four months
4 after the effective date of this section, the commissioner, in consulta-
5 tion with the New York state restaurant association, shall submit a
6 report to the clerks of the assembly and the senate, which shall include
7 analysis of the impact of this section. The report shall include, but
8 not be limited to, compliance of restaurants with this section, and
9 proposed changes to this section consistent with the public health and
10 welfare.

11 6. Exemptions. Food service establishments having twenty or more
12 locations and that otherwise require staff to complete a nationally
13 recognized food safety training program with an allergen awareness
14 component which meets the standards of the allergen awareness training
15 required by this section shall be exempted from the provisions of this
16 section.

17 § 2. This act shall take effect on the ninetieth day after it shall
18 have become a law; provided that the commissioner of health is author-
19 ized to promulgate any and all rules and regulations and take any other
20 measures necessary to implement this act on its effective date, on or
21 before such date.