

STATE OF NEW YORK

8112

IN SENATE

January 25, 2022

Introduced by Sen. CLEARE -- 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 initions. (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.

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

26 (e) "Food safety manager" shall mean a managerial employee designated
27 by his or her employer to complete allergen awareness training and to

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

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1 obtain a certificate of allergen awareness training pursuant to the
2 requirements of this section.

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

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

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

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

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

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

31 (b) An approved training provider shall:

32 (i) demonstrate knowledge of major food allergens by posting the food
33 allergen awareness training certificate issued by an approved training
34 provider;

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

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

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

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

44 5. Food allergy aware designation. (a) The commissioner shall develop
45 a program for restaurants to be designated as "food allergy aware" and
46 shall maintain a listing of restaurants receiving such designation on
47 its website. Participation in the program shall be voluntary and the
48 department shall, in consultation with the New York state restaurant
49 association, issue guidelines and requirements for restaurants to
50 receive such designation, provided that such requirements shall include,
51 but not be limited to, maintaining on the premises, and making available
52 to the public, a master list of all the ingredients used in the prepara-
53 tion of each food item available for consumption.

54 (b) No earlier than twelve months and no later than twenty-four months
55 after the effective date of this section, the commissioner, in consulta-
56 tion with the New York state restaurant association, shall submit a

1 report to the clerks of the assembly and the senate, which shall include
2 analysis of the impact of this section. The report shall include, but
3 not be limited to, compliance of restaurants with this section, and
4 proposed changes to this section consistent with the public health and
5 welfare.

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

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