

STATE OF NEW YORK

8860--A

IN ASSEMBLY

January 19, 2022

Introduced by M. of A. REYES -- read once and referred 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 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 food such as "covered-dish supper" limited to a congregation,
20 club or fraternal organization.

21 d. "Menu or menu board" means the primary writing of a food service
22 establishment from which a customer makes an order selection, including,
23 but not limited to, breakfast, lunch, and dinner menus; dessert menus;
24 beverage menus; children's menus; other specialty menus; electronic
25 menus; and menus on the internet.
26

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

LBD06805-05-2

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

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

7 3. Sodium warning icon. No later than one year after the effective
8 date of this section, the department shall develop an icon with accompa-
9 nying text that shall be displayed adjacent to the name of any standard
10 menu item that exceeds the daily value for sodium. Beginning two years
11 after the effective date of this section any chain restaurant operating
12 within the state and not otherwise exempted under subdivision seven of
13 this section shall display on menus or menu boards:

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

17 b. The following factual statement explaining the sodium warning icon:
18 "Warning (insert icon image here) indicates that the sodium (salt)
19 content of this item may exceed half the total daily recommended limit.
20 Regularly eating more than the daily recommended limit can increase
21 blood pressure and risk of heart disease and stroke."

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

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

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

40 § 2. Severability. If any provision of this act, or any application of
41 any provision of this act, is held to be invalid, or to violate or be
42 inconsistent with any federal law or regulation, that shall not affect
43 the validity or effectiveness of any other provision of this act, or of
44 any other application of any provision of this act, which can be given
45 effect without that provision or application; and to that end, the
46 provisions and applications of this act are severable.

47 § 3. This act shall take effect immediately.