

STATE OF NEW YORK

1002

2023-2024 Regular Sessions

IN ASSEMBLY

January 12, 2023

Introduced by M. of A. L. ROSENTHAL -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the public health law and the agriculture and markets law, in relation to food allergy awareness in food service establishments and online food ordering services

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 1356 of the public health law, as added by a chap-
2 ter of the laws of 2022 amending the public health law relating to food
3 allergy awareness in food service establishments and online food order-
4 ing services, as proposed in legislative bills numbers S. 8102-A and A.
5 2344-A, is amended to read as follows:

6 § 1356. Food allergies notice in food service establishments and
7 online food ordering services. 1. Definitions. For the purposes of this
8 section:

9 (a) "Food service establishment" shall mean a restaurant[~~7~~] or cater-
10 ing hall[~~7, or grocery store~~] where food is prepared and served either on
11 or off site.

12 (b) "Menu" shall mean a list or pictorial display of a prepared food
13 item or items available for sale from a food establishment for the
14 purpose of permitting a customer to order such food item or items,
15 including such list or pictorial display posted [~~on the internet~~] online
16 for a customer to place food orders for delivery or take out.

17 2. The commissioner shall make available on the department's website,
18 in English and in the [~~top six languages other than English spoken in~~
19 ~~the state according to the latest available data from~~] twelve most
20 common non-English languages spoken by limited-English proficient indi-
21 viduals in the state, based on the data in the most recent American
22 Community Survey published by the United States Census Bureau, a notice
23 containing information for staff of food service establishments regard-
24 ing food allergies. Such notice shall include:

25 (a) the procedures to be followed if a customer informs staff of such
26 food service establishment that such customer has a food allergy;

27 (b) any procedures to be followed to prevent cross contact; and

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

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1 (c) the procedure to be followed if a customer has an allergic
2 reaction, including a recommendation regarding the circumstances in
3 which to call 911.

4 3. Every food service establishment shall post the notice containing
5 information on food allergies established pursuant to subdivision two of
6 this section in a conspicuous location accessible to all employees
7 involved in the preparation or service of food, in at least one of the
8 languages spoken by each employee to the extent such languages are among
9 those in which the department makes the notice available pursuant to
10 subdivision two of this section.

11 4. The commissioner shall make available on the department's website,
12 in the [~~top six languages other than English spoken in the state accord-~~
13 ~~ing to the latest available data from~~] twelve most common non-English
14 languages spoken by limited-English proficient individuals in the state,
15 based on the data in the most recent American Community Survey published
16 by the United States Census Bureau, (a) a translation of the following:
17 "If you have a food allergy, please notify us."; and (b) a food allergy
18 message that food service establishments may use to inform customers
19 about allergy information for prepared food items.

20 5. Every food service establishment operating in New York state that
21 makes available a menu shall include in a conspicuous manner on each
22 menu or the assembly upon which the menu or menus are included, either,
23 (a) the following notice: "If you have a food allergy, please notify
24 us."; or (b) a food allergy message that informs the customer about the
25 allergy information for each prepared food item or items on such menu.
26 If such menu is available in a language other than English for which the
27 department makes a translation available pursuant to subdivision four of
28 this section, such food service establishment shall also include such
29 translation in a conspicuous manner. Every food service establishment
30 that makes available a menu [~~on the internet~~] online for a customer to
31 place food orders for delivery or take out, including under a third-par-
32 ty food delivery agreement pursuant to section three hundred
33 ninety-one-v of the general business law, shall also include on such
34 menu a food allergy notification to customers and either, (1) provide a
35 method by which a customer may indicate any food allergy such customer
36 has; or (2) provide a food allergy message that informs the customer
37 about the allergy information for each prepared food item or items on
38 such menu.

39 6. Any food service establishment that violates the provisions of this
40 section or any of the rules or regulations promulgated hereunder shall
41 be liable for a civil penalty not to exceed one hundred twenty-five
42 dollars for each violation.

43 § 2. The agriculture and markets law is amended by adding a new
44 section 199-f to read as follows:

45 § 199-f. Food allergies notice in food service establishments. 1.
46 Definitions. For the purposes of this section:

47 (a) "Menu" shall mean a list or pictorial display of a prepared food
48 item or items available for sale for the purpose of permitting a
49 customer to order such food item or items, including such list or
50 pictorial display posted online for a customer to place food orders
51 for delivery or take out.

52 (b) "Food service establishment" shall mean any place where food is
53 prepared and intended for individual portion service, and includes the
54 site at which individual portions are provided, whether consumption
55 occurs on or off the premises, or whether or not there is a charge for

1 the food, including retail food stores, as defined in section five
2 hundred of this chapter.

3 2. The commissioner shall make available on the department's website,
4 in English and in the twelve most common non-English languages spoken by
5 limited-English proficient individuals in the state, based on the data
6 in the most recent American Community Survey published by the United
7 States Census Bureau, a notice containing information for staff of food
8 service establishments regarding food allergies. Such notice shall
9 include:

10 (a) the procedures to be followed if a customer informs staff of such
11 food service establishment that such customer has a food allergy;

12 (b) any procedures to be followed to prevent cross contact; and

13 (c) the procedure to be followed if a customer has an allergic
14 reaction, including a recommendation regarding the circumstances in
15 which to call 911.

16 3. Every food service establishment shall post the notice containing
17 information on food allergies established pursuant to subdivision two of
18 this section in a conspicuous location accessible to all employees
19 involved in the preparation or service of food, in at least one of the
20 languages spoken by each employee to the extent such languages are
21 among those in which the department makes the notice available pursuant
22 to subdivision two of this section.

23 4. The commissioner shall make available on the department's website,
24 in the twelve most common non-English languages spoken by limited-Engl-
25 ish proficient individuals in the state, based on the data in the most
26 recent American Community Survey published by the United States Census
27 Bureau, (a) a translation of the following: "If you have a food allergy,
28 please notify us."; and (b) a food allergy message that food service
29 establishments may use to inform customers about allergy information for
30 prepared food items.

31 5. Every food service establishment that makes available a menu shall
32 include in a conspicuous manner on each menu or the assembly upon which
33 the menu or menus are included, either, (a) the following notice: "If
34 you have a food allergy, please notify us."; or (b) a food allergy
35 message that informs the customer about the allergy information for each
36 prepared food item or items on such menu. If such menu is available in a
37 language other than English for which the department makes a trans-
38 lation available pursuant to subdivision four of this section, such food
39 service establishment shall also include such translation in a
40 conspicuous manner. Every food service establishment that makes avail-
41 able a menu online for a customer to place orders for delivery or take
42 out, including under a third-party food delivery agreement pursuant to
43 section three hundred ninety-one-v of the general business law, shall
44 also include on such menu a food allergy notification to customers and
45 either, (1) provide a method by which a customer may indicate any food
46 allergy such customer has; or (2) provide a food allergy message that
47 informs the customer about the allergy information for each prepared
48 food item or items on such menu.

49 6. Any food service establishment that violates the provisions of this
50 section or any of the rules or regulations promulgated hereunder shall
51 be liable for a civil penalty not to exceed one hundred twenty-five
52 dollars for each violation.

53 § 3. This act shall take effect on the same date and in the same
54 manner as a chapter of the laws of 2022 amending the public health law
55 relating to food allergy awareness in food service establishments and

1 online food ordering services, as proposed in legislative bills numbers
2 S. 8102-A and A. 2344-A, takes effect.