

# STATE OF NEW YORK

3105

2023-2024 Regular Sessions

## IN ASSEMBLY

February 2, 2023

Introduced by M. of A. L. ROSENTHAL, STERN, MAGNARELLI, STECK, LAVINE, REYES, TAYLOR, SAYEGH, SIMON, BRABENEC, DeSTEFANO -- read once and referred 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 1357 to read as follows:

3 § 1357. Allergy awareness and training in restaurants. 1. Defi-  
4 nitions. (a) "Major food allergen" shall mean (i) milk, eggs, fish,  
5 crustacean shellfish, tree nuts, wheat, peanuts, sesame, and soybeans;  
6 and (ii) a food ingredient that contains protein derived from a food  
7 named in subparagraph (i) of this paragraph. This does not include: (1)  
8 any highly refined oil derived from a food specified in subparagraph (i)  
9 of this paragraph or any ingredient derived from such highly refined  
10 oil; or (2) any ingredient that is exempt under the petition or notifi-  
11 cation process specified in the federal food allergen labeling and  
12 consumer protection act of 2004.

13 (b) "Menu" shall have the same meaning as in section thirteen hundred  
14 fifty-six of this title.

15 (c) "Approved training provider" shall mean a training provider that  
16 has been approved by the commissioner to provide allergen awareness  
17 training for employees of food service establishments.

18 (d) "Food safety manager" shall mean a managerial employee designated  
19 by their employer to complete allergen awareness training and to obtain  
20 a certificate of allergen awareness training pursuant to the require-  
21 ments of this section.

22 (e) "Food service establishment" shall have the same meaning as in  
23 section thirteen hundred fifty-six of this title.

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

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1 2. General requirements. (a) All food service establishments shall  
2 designate at least one food safety manager per location. At least one  
3 food safety manager shall be on site during all hours of operation.

4 (b) A designated food safety manager shall complete allergen awareness  
5 training from an approved training provider to obtain a certificate of  
6 allergen awareness training prior to or within thirty days after their  
7 hire date or by the effective date of this section. Such certification  
8 shall be valid for five years.

9 (c) A designated food safety manager shall:

10 (i) demonstrate knowledge of major food allergens; and

11 (ii) oversee the preparation and/or cooking of any food to be served  
12 to a customer who has notified restaurant staff of a food allergy to  
13 ensure it is prepared safely.

14 3. Certificate renewal. (a) Certificates of allergen awareness train-  
15 ing shall be renewed every five years by completing an allergen aware-  
16 ness training course, as approved by the department.

17 (b) The commissioner shall promulgate any rules and regulations neces-  
18 sary to designate approved training providers.

19 4. Food allergy aware designation. (a) The commissioner shall develop  
20 a program for restaurants to be designated as "food allergy aware" and  
21 shall maintain a listing of restaurants receiving such designation on  
22 its website. Participation in the program shall be voluntary and the  
23 department shall, in consultation with the New York state restaurant  
24 association, issue guidelines and requirements for restaurants to  
25 receive such designation, provided that such requirements shall include,  
26 but not be limited to, maintaining on the premises, and making available  
27 to the public, a master list of all the ingredients used in the prepara-  
28 tion of each food item available for consumption.

29 (b) No earlier than twelve months and no later than twenty-four months  
30 after the effective date of this section, the commissioner, in consulta-  
31 tion with the New York state restaurant association, shall submit a  
32 report to the governor, the temporary president of the senate and the  
33 speaker of the assembly, which shall include analysis of the impact of  
34 this section. The report shall include, but not be limited to, compli-  
35 ance of restaurants with this section, and proposed changes to this  
36 section consistent with the public health and welfare.

37 § 2. This act shall take effect on the same date and in the same  
38 manner as chapter 623 of the laws of 2022 takes effect; provided that  
39 the commissioner of health is authorized to promulgate any and all rules  
40 and regulations and take any other measures necessary to implement this  
41 act on its effective date, on or before such date.