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:

Section 1. The public health law is amended by adding a new section 1357 to read as follows:

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

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

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

(d) "Food safety manager" shall mean a managerial employee designated by their employer to complete allergen awareness training and to obtain a certificate of allergen awareness training pursuant to the requirements of this section.

(e) "Food service establishment" shall have the same meaning as in 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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2. General requirements. (a) All food service establishments shall designate at least one food safety manager per location. At least one food safety manager shall be on site during all hours of operation.

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

(c) A designated food safety manager shall:

(i) demonstrate knowledge of major food allergens; and

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

3. Certificate renewal. (a) Certificates of allergen awareness training shall be renewed every five years by completing an allergen awareness training course, as approved by the department.

(b) The commissioner shall promulgate any rules and regulations necessary to designate approved training providers.

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

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

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