STATE OF NEW YORK

7494--B

Cal. No. 349

2023-2024 Regular Sessions

IN ASSEMBLY

May 25, 2023

Introduced by M. of A. LUNSFORD, STIRPE, SHIMSKY, ARDILA, McMAHON, BRONSON, LAVINE, GONZALEZ-ROJAS, DICKENS, SIMON, BURDICK, SAYEGH, LEVENBERG -- read once and referred to the Committee on Health -- recommitted to the Committee on Health in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the public health law and the agriculture and markets law, in relation to requiring allergen labeling for prepackaged foods

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. Allergen labeling for prepackaged foods. 1. As used in this section, the following terms shall have the following meanings:

(a) "Prepackaged food" means food that is prepared, prepacked and offered or sold to customers on the same premises. Prepackaged food does not include food that is not in packaging or is packaged after a customer has ordered.

(b) "Food establishment" means any place food is prepared and intended for off-premises consumption, including all delis, bakeries, sandwich shops, ice cream parlors, cafeterias and food trucks operating within the state.

(c) (i) "Major food allergen" means:

(A) milk, eggs, fish, crustacean shellfish, tree nuts, wheat, peanuts, sesame, and soybeans; and

(B) a food ingredient that contains protein derived from a food named in clause (A) of this subparagraph.

(ii) "Major food allergen" does not include:

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

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(A) any highly refined oil derived from a food specified in clause (A) of subparagraph (i) of this paragraph or any ingredient derived from such highly refined oil; or

(B) any ingredient that is exempt under the petition or notification process specified in the Food Allergen Labeling and Consumer Protection Act of 2004, as amended.

2. Every food establishment shall label all prepackaged food with a written notification on the package or on a label attached to the package identifying all ingredients and labeling for major food allergens in such form and manner as required pursuant to the federal Food Allergen Labeling and Consumer Protection Act of 2004, as amended.

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

§ 199-g. Allergen labeling for prepackaged foods. 1. As used in this section, the following terms shall have the following meanings:

(a) "Prepackaged food" means food that is prepared, prepacked, and offered or sold to customers on the same premises. Prepackaged food does not include food that is not in packaging or is packaged after a customer has ordered.

(b) "Food establishment" means any place where food is prepared and intended for consumption, including retail food stores, as defined in section five hundred of this chapter.

(c)(i) "Major food allergen" means:

(A) milk, eggs, fish, crustacean shellfish, tree nuts, wheat, peanuts, sesame, and soybeans; and

(B) a food ingredient that contains protein derived from a food named in clause (A) of this subparagraph.

(ii) "Major food allergen" does not include:

(A) any highly refined oil derived from a food specified in clause (A) of subparagraph (i) of this paragraph or any ingredient derived from such highly refined oil; or

(B) any ingredient that is exempt under the petition or notification process specified in the federal Food Allergen Labeling and Consumer Protection Act of 2004, as amended.

2. Every food establishment shall label all prepackaged food with a written notification on the package or on a label attached to the package identifying all ingredients and labeling for major food allergens in such form and manner as required pursuant to the federal Food Allergen Labeling and Consumer Protection Act of 2004, as amended.

§ 3. This act shall take effect one year after it shall have become a law.