

# STATE OF NEW YORK

4364

2023-2024 Regular Sessions

## IN SENATE

February 7, 2023

Introduced by Sen. FERNANDEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Procurement and Contracts

AN ACT to amend the public health law, in relation to guidelines for food and beverages purchased or sold by state agencies

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

1 Section 1. Article 2 of the public health law is amended by adding a  
2 new title 4-A to read as follows:

### TITLE IV-A

#### STATE FOOD GUIDELINES

3 Section 252. Development of state food guidelines.

4 253. Applicability of state food guidelines.

5 254. Implementation of state food guidelines.

6 § 252. Development of state food guidelines. 1. Within six months  
7 following the effective date of this section, the department, in consul-  
8 tation with the office of general services, shall begin an assessment of  
9 the food and beverage purchasing, service, and sales of each state agen-  
10 cy. The department shall develop and finalize state food guidelines  
11 considering the findings of such assessment no later than eighteen  
12 months following the effective date of this section, for foods  
13 purchased, served, and sold by state agencies, programs, and insti-  
14 tutions and on state property. The department shall report such guide-  
15 lines to the governor, temporary president of the senate, and speaker of  
16 the assembly, and disseminate them to the heads of all state agencies  
17 that purchase, prepare, or serve food and beverages.

18 2. The state food guidelines developed under this section shall:

19 (a) be consistent with or exceed the recommendations in the most  
20 recent edition of the federal Dietary Guidelines for Americans, includ-  
21 ing as to sodium, whole grains, added sugars, saturated fat, cholester-  
22 ol, and fiber;  
23  
24

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

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1 (b) include recommendations for the use of sustainably and locally  
2 grown New York state food products to the greatest extent possible;

3 (c) ensure the availability of safe, clean tap water when feasible  
4 whenever foods and beverages are sold or served; and

5 (d) encourage state agencies to offer foods and beverages that reflect  
6 the health risks, allergens, traditions, and preferences of the demo-  
7 graphics served.

8 3. The state food guidelines shall be reviewed and updated by the  
9 department as necessary, but no less often than every five years, to  
10 ensure that the guidelines remain current and science-based.

11 4. In developing the state food guidelines, the department shall  
12 consider the following:

13 (a) recommendations for nutrition standards for foods, beverages, or  
14 meals made by authoritative scientific organizations, including but not  
15 limited to, the guidelines for purchased food recommended by the New  
16 York State Food Policy Council, the American Heart Association Workplace  
17 Food and Beverage Toolkit, the Food Service Guidelines for Federal  
18 Facilities, the USDA National School Lunch Program and School Breakfast  
19 Program standards, the USDA Child and Adult Care Food Program guide-  
20 lines, the American Cancer Society Guideline for Diet and Physical  
21 Activity, and the American Diabetes Association Diabetes Plate Method;

22 (b) both positive and negative contributions of nutrients, ingredi-  
23 ents, and foods to the diets of adults and children, including calories  
24 or portion size, saturated fat, sodium, added sugars, and the presence  
25 of fruits, vegetables, and whole grains; and

26 (c) adaptations of the guidelines for different venues, such as child-  
27 care, correctional facilities, government meetings, or other settings  
28 and programs with unique populations or circumstances.

29 § 253. Applicability of state food guidelines. 1. The state food  
30 guidelines developed under section two hundred fifty-two of this title  
31 shall include recommendations for all foods and beverages purchased,  
32 prepared, served, and sold by all state agencies, programs, and insti-  
33 tutions, including but not limited to:

34 (a) All state government office buildings.

35 (b) Meetings and conferences funded by state agencies.

36 (c) Road-side rest areas and welcome centers managed or owned by the  
37 state.

38 (d) State parks and historic sites.

39 (e) Emergency food relief organizations receiving hunger prevention  
40 and nutrition assistance program funds.

41 (f) State child and adult care food programs.

42 (g) State-supported hospitals.

43 (h) City University of New York and State University of New York, and  
44 each of the institutions in these university systems.

45 (i) Office for the aging congregate and home-delivered meal services.

46 (j) Department of corrections and community supervision facilities.

47 (k) Office of mental health inpatient and residential services.

48 (l) Bureau of adult care homes.

49 (m) Division of juvenile justice and opportunities for youth facili-  
50 ties.

51 (n) Office for people with developmental disabilities services.

52 (o) Office of addiction services and supports treatment centers.

53 2. All purchases made by any department, division, or agency listed in  
54 subdivision one of this section, or by any officer on behalf of a  
55 department, division, or agency listed in subdivision one of this

1 section, shall, to the greatest extent possible, be made in accordance  
2 with the state food guidelines.

3 3. All contracts made by any department, division, or agency listed in  
4 subdivision one of this section, or by any officer on behalf of a  
5 department, division, or agency listed in subdivision one of this  
6 section, for the purchase, service, catering, or vending, of food or  
7 beverage will, to the greatest extent possible, ensure the food or  
8 beverage supplied, served, and sold shall be in accordance with the  
9 state food guidelines.

10 4. The state food guidelines shall not apply to food distributed or  
11 served by agencies during an emergency or disaster.

12 5. Under any contract for the purchase, service, catering or vending  
13 of food or beverages that is subject to renewal, where such renewal  
14 occurs after the state food guidelines have become effective, the state  
15 agency shall provide such contractor notice of the state food guidelines  
16 and shall include such guidelines in the terms of the renewal contract.

17 § 254. Implementation of state food guidelines. Within twenty-one  
18 months of the effective date of this section, the department shall adopt  
19 a plan for providing technical and supervisory assistance to state agen-  
20 cies implementing the state food guidelines made under section two  
21 hundred fifty-two of this title. At minimum, such plan shall establish:

22 1. A timeline for state agencies to receive initial training and  
23 implement the state food guidelines.

24 2. A process by which the department shall monitor the extent to which  
25 state agencies follow the state food guidelines on a routine basis and  
26 follow up with additional technical assistance as needed.

27 3. Guidance for applicable state agencies to adopt internal policies  
28 on the contracting and purchasing of food in accordance with the state  
29 food guidelines.

30 § 2. This act shall take effect immediately.