

STATE OF NEW YORK

4890--A

Cal. No. 384

2023-2024 Regular Sessions

IN SENATE

February 16, 2023

Introduced by Sens. RIVERA, KAVANAGH, LIU, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the public health law, in relation to requiring chain restaurants to label menu items that have a high content of sodium

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. Chain restaurants; sodium content of menu items. 1. Defi-
4 nitions. For purposes of this section the following terms shall have the
5 following meanings:

6 a. "Chain menu developer" means the person that owns and licenses the
7 brand name under which a chain restaurant does business, or any other
8 person responsible for determining the formula or recipe for items
9 displayed on the menu of a chain restaurant.

10 b. "Chain restaurant" means a food service establishment, as defined
11 in part fourteen of the New York sanitary code 10 NYCRR 14-1.20, that is
12 part of a chain with fifteen or more locations within the state doing
13 business under the same name, regardless of the type of ownership of the
14 locations, and offering for sale substantially similar menu items.

15 c. "Daily value" means the daily reference value used by the United
16 States Food and Drug Administration in calculating the percent daily
17 value for nutrition information provided on food labels.

18 d. "Menu or menu board" means the primary writing of a food service
19 establishment from which a customer makes an order selection, including,
20 but not limited to, breakfast, lunch, and dinner menus; dessert menus;

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

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1 beverage menus; children's menus; other specialty menus; electronic
2 menus; and menus on the internet.

3 e. "Standard menu item" means a food or beverage item that is listed
4 on a menu or menu board, excluding temporary menu items appearing on the
5 menu for less than sixty days per calendar year.

6 2. Industry guidance. No later than one year after the effective date
7 of this section, the department shall publish guidance explaining the
8 requirements of this section and how businesses can comply.

9 3. Sodium warning icon. No later than one year after the effective
10 date of this section, the department shall develop an icon with accompa-
11 nying text that shall be displayed adjacent to the name of any standard
12 menu item that exceeds the daily value for sodium. Beginning two years
13 after the effective date of this section any chain restaurant operating
14 within the state and not otherwise exempted under subdivision seven of
15 this section shall display on menus or menu boards:

16 a. The sodium warning icon and accompanying text promulgated by the
17 department pursuant to this subdivision, at a height no smaller than the
18 largest letter in the name of the item; and

19 b. The following factual statement explaining the sodium warning icon:
20 "Warning (insert icon image and accompanying text here) indicates that
21 the sodium (salt) content of this item is higher than the total daily
22 recommended limit (2300 mg). High sodium intake can increase blood pres-
23 sure and the risk of heart disease and stroke."

24 4. Chain menu developer reporting requirement. Once every ninety
25 days, each chain menu developer shall report to the department the
26 amount of sodium in each standard menu item offered for sale in their
27 chain restaurant, or that no changes to the menu information have been
28 made since the last report.

29 5. Report required. No later than six years after the effective date
30 of this section, the department shall issue a report reviewing evidence
31 of the impact of this section on menu item reformulation and consumer
32 behavior, and recommend additional nutrients that should be considered
33 for menu warning icons.

34 6. Violations. Any chain restaurant that violates the provisions of
35 this section shall be subject to a civil penalty of not more than two
36 hundred fifty dollars per day for each location not in compliance.

37 7. Exemptions. The sodium warning icon required pursuant to subdivi-
38 sion three of this section shall not be required to be displayed next to
39 a menu item that is already labeled with a sodium icon equal or greater
40 in size and similar in general appearance, when such icon is required
41 pursuant to a rule, regulation, ordinance, local law, order or policy
42 issued by another jurisdiction having the same or substantially similar
43 effect as determined by the commissioner. Food service establishments
44 exempted from the sodium warning labeling requirement by this subdivi-
45 sion shall be used in determining if a particular food service estab-
46 lishment is a chain restaurant.

47 § 2. Severability. If any provision of this act, or any application of
48 any provision of this act, is held to be invalid, or to violate or be
49 inconsistent with any federal law or regulation, that shall not affect
50 the validity or effectiveness of any other provision of this act, or of
51 any other application of any provision of this act, which can be given
52 effect without that provision or application; and to that end, the
53 provisions and applications of this act are severable.

54 § 3. This act shall take effect immediately.