

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 -- recommit-
ted 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 Assem-
bly, 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. Allergen labeling for prepackaged foods. 1. As used in this
4 section, the following terms shall have the following meanings:

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

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

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

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

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

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

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

LBD11261-08-4

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

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

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

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

14 § 199-g. Allergen labeling for prepackaged foods. 1. As used in this
15 section, the following terms shall have the following meanings:

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

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

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

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

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

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

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

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

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

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