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:

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

§ 1357. Chain restaurants; sodium content of menu items. 1. Definitions. For purposes of this section the following terms shall have the following meanings:

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

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

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

d. "Menu or menu board" means the primary writing of a food service establishment from which a customer makes an order selection, including, 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.

LBD05818-03-4

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

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

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

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

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

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

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

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

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

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

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

§ 3. This act shall take effect immediately.