STATE OF NEW YORK

10116

IN SENATE

April 30, 2026

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

AN ACT to amend the public health law, in relation to requiring allergen labeling for food service establishment menu items

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 1358 to read as follows:

§ 1358. Allergen labeling for menu items. 1. Definitions. As used in this section, the following terms shall have the following meanings:

(a) "Food service establishment" means any building, vehicle, place or structure, or any room or division in a building, vehicle, place or structure where food is prepared, served or sold for immediate consumption on or in the vicinity of the premises, called for or taken out by customers, or prepared prior to being delivered to another location for consumption.

(b) "Menu" means a list or pictorial display of a prepared food item or items available for sale from a food service establishment for the purpose of permitting a customer to order such food item or items, including such list or pictorial display posted online for a customer to place food orders for delivery or take-out.

(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 Food Allergen Labeling and Consumer Protection Act of 2004, as amended.

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

LBD15412-02-6

2. Menu labeling requirement. Every food service establishment doing business in the state of New York shall provide clear and conspicuous written notice of major food allergens that the food service establishment knows, or reasonably should know, are contained as an ingredient in each menu item, including temporary menu items.

3. Method of disclosure. A food service establishment shall provide major food allergen identification for each menu item:

(a) conspicuously and directly on any physical or digital menu, immediately above, beneath, or adjacent to each menu item; and

(b) each major food allergen shall be identified either with a clear written statement in the same language as the rest of the menu, or by using easily recognizable pictograms that are accompanied by a conspicuous key located on the same menu.

4. Menu items without allergens. Menu items that do not contain any major food allergen shall require no additional ingredient identification.

5. Penalties. Any food service establishment that violates the provisions of this section, or any rules or regulations promulgated hereunder, shall be liable for a civil penalty not to exceed one hundred twenty-five dollars for each violation.

6. Rules and regulations. The department shall promulgate rules and regulations as necessary to implement the provisions of this section.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.