

# 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:

1 Section 1. The public health law is amended by adding a new section  
2 1358 to read as follows:

3 § 1358. Allergen labeling for menu items. 1. Definitions. As used in  
4 this section, the following terms shall have the following meanings:

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

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

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

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

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

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

22 (A) any highly refined oil derived from a food specified in clause (A)  
23 of subparagraph (i) of this paragraph or any ingredient derived from  
24 such highly refined oil; or

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

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

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

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

8 (a) conspicuously and directly on any physical or digital menu, imme-  
9 diately above, beneath, or adjacent to each menu item; and

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

14 4. Menu items without allergens. Menu items that do not contain any  
15 major food allergen shall require no additional ingredient identifica-  
16 tion.

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

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

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