

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2023**

No. 150

Introduced by Council Members Powers, Schulman, Narcisse, Ung, Brooks-Powers, Ayala, Hudson, Brewer, Abreu, De La Rosa, Velázquez, Bottcher, Menin, Holden, Restler, Gutiérrez, Brannan, Riley Lee, Gennaro, Louis, Nurse, Joseph, Sanchez, Williams, Marte, Cabán, Krishnan, Hanks, Barron, Farías, Avilés, Richardson Jordan, Dinowitz, Feliz, Salamanca, Won and Rivera (in conjunction with the Bronx, Brooklyn and Queens Borough Presidents) (by request of the Manhattan Borough President).

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to requiring added sugar notifications for menu items in chain restaurants

Be it enacted by the Council as follows:

Section 1. Section 17-199.18 of the administrative code of the city of New York, as added by local law number 33 for the year 2022, is amended to read as follows:

17-199.18 Added sugar notifications. a. Definitions. For the purposes of this section, the following terms have the following meanings:

Added sugars. The term "added sugars" has the same meaning as used in title 21, section 101.9 (c)(6)(iii) of the code of federal regulations, or any successor regulations.

Covered establishment. The term "covered establishment" means any food service establishment inspected pursuant to the restaurant grading program established pursuant to subdivision a of section 81.51 of the New York city health code that is part of a chain with 15 or more locations doing business under the same name and offering for sale substantially the same food items.

Daily value. The term "daily value" means the daily reference value established in title 21, section 101.9 (c)(9) of the code of federal regulations, or any successor regulations.

Food item on display. The term "food item on display" means a prepackaged food item or non-packaged food item that is visible to the customer before the customer makes a selection.

Food service establishment. The term "food service establishment" has the same meaning as in section 81.03 of the New York city health code.

Icon. The term "icon" means a graphic or illustrated image, with or without accompanying text.

Identical to prepackaged food item. The term "identical to prepackaged food item" means a non-packaged food item offered by a food service establishment that has the same product name as a prepackaged food item and is promoted, advertised, or presented as substantially the same as that prepackaged food item as determined by the department, such as a fountain soda, coffee beverage, salad dressing, or dessert product that is sold under the same brand name in other retail locations.

Menu or menu board. The term "menu or menu board" has the same meaning as in section 81.49 of the New York city health code.

Menu item. The term "menu item" means any food item listed on a menu or menu board, as well as any seasonal, temporary, or variable menu item as defined by the department.

Non-packaged food item. The term "non-packaged food item" means a food item on display that does not have a nutrition facts label attached to it by the manufacturer pursuant to title 21, part 101 of the code of federal regulations, or any successor regulations.

Prepackaged food item. The term "prepackaged food item" means a food item that is packaged by the manufacturer and required to have a nutrition facts label pursuant to title 21, part 101 of the code of federal regulations, or any successor regulations.

[Prepackaged item on display. The term "prepackaged item on display" means a prepackaged food item that is visible to the customer before the customer makes a selection.]

b. [Warning] *Icon and warning statement rule.* 1. The department shall issue a rule designating an icon to be displayed in a clear and conspicuous manner [on] (i) *on* menus or menu boards adjacent to the [listed prepackaged food items] *menu items* and (ii) [prepackaged] *on or near* food items on display, that exceed a specified level of added sugars, including[, but not limited to,] 100 percent or more of the daily value for added sugars, as determined by the federal food and drug administration, or [exceed] another amount *as* specified in rules of the department.

2. *For the purposes of this subdivision, a food item that is identical to a prepackaged food item will be presumed to have the same density of added sugars as is displayed on the nutrition facts panel of the corresponding prepackaged food item, as set forth in department rules, unless the food service establishment demonstrates otherwise to the satisfaction of the department.*

3. Such rule shall also provide a factual warning statement about high added sugars intake.

c. *Icon and warning statement required.* No later than [one] 1 year after the department issues the rule required pursuant to subdivision b of this section, a covered establishment that offers [one] 1 or more [prepackaged food] *menu items* or [prepackaged] *food items* on display *that qualify for an icon pursuant to subdivision b of this section* shall, in accordance with rules promulgated by the department:

1. Post a clearly visible icon on or near [the] *any prepackaged food item or food item identical to a prepackaged food item on display that qualifies for such icon pursuant to subdivision b of this section;*

2. Post a clearly visible icon on the menu or menu board next to [the] *any prepackaged food item [wherever such item appears] or food item identical to a prepackaged food item that qualifies for such icon pursuant to subdivision b of this section;* [and]

3. Post the factual warning statement required pursuant to subdivision b of this section prominently and conspicuously at the point of purchase, *on the menu or menu board, and at any location where a food item requiring an icon pursuant to this subdivision is sold as a self-service item dispensed directly to the consumer; and*

4. *No later than 1 year after the effective date of federal regulations that require a covered establishment to include added sugars in the nutritional information of non-packaged food items available to customers, post a clearly visible icon on or near any non-packaged food item on display or on a menu or menu board that qualifies for such icon pursuant to subdivision b of this section.*

d. Any covered establishment that violates any of the provisions of this section shall be liable for a civil penalty of [not less than] \$200 [nor more than \$500] for a violation thereof.

e. No later than [three] 3 months after the department issues the rule required by subdivision b of this section, the department shall conduct public outreach to educate covered establishments about the requirements of this local law.

f. The department shall promulgate rules for the facilitation and enforcement of this section.

Nothing in this local law prohibits the department from requiring an icon or warning statement regarding additional foods, ingredients, or nutrients of concern.

§ 2. Section 2 of local law number 33 for the year 2022 is amended to read as follows:

§ 2. This local law takes effect [no later than one year after the expiration of the declaration of the local state of emergency for COVID-19 declared in emergency executive order number 98 of Mayor Bill de Blasio, dated March 12, 2020, including any subsequent extensions] *on June 19, 2024.*

§ 3. This local law takes effect on December 1, 2024. Nothing herein shall be construed to affect the effective date of local law number 33 for the year 2022.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on November 2, 2023 and approved by the Mayor on November 17, 2023.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 150 of 2023, Council Int. No. 687-A of 2022) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

SPENCER FISHER, Acting Corporation Counsel.