

LOCAL LAW INTRO. NO. ___-2022

A LOCAL LAW amending the Laws of Westchester County by adding a new Chapter 541 in relation to Food Allergy Restaurant Safety.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. The Laws of Westchester County are hereby amended to include a new Chapter 541 to read as follows:

**CHAPTER 541
FOOD ALLERGY RESTARANT SAFETY**

Sec. 541.01 Definitions.

Sec. 541.11 Posting of Signs.

Sec. 541.21 Food Allergen Awareness Training.

Sec. 541.31 Promulgation of Rules and Regulations.

Sec. 541.41 No Private Right of Action.

Sec. 541.51 Violations, Penalties; Liability.

Sec. 541.61 Severability.

Sec. 541.01. Definitions.

- A. “Commissioner” shall mean the Commissioner of the Westchester County Department of Health.
- B. “Department” shall mean the Westchester County Department of Health.
- C. “Food Service Establishment” shall have the definition set forth in Title 10, subpart 14-1.20 (a) of the New York Codes, Rules and Regulations and shall exclude mobile food trucks.
- D. “Major food allergens” shall mean any of the following:
 - 1. Milk, egg, fish, Crustacean shellfish, tree nuts, wheat, peanuts, and soybeans.
 - 2. A food ingredient that contains protein derived from a food specified in paragraph (1), except any highly refined oil derived from a food specified in paragraph (1) and any ingredient derived from such highly refined oil.

Sec 541.11. Posting of Signs.

A. Every food service establishment in Westchester County shall post a minimum of two signs meeting the requirements prescribed in this section.

1. A minimum of one sign shall be posted in a conspicuous area on the premises in a manner that is clearly visible to employees in all food preparation areas.

2. A minimum of one sign shall be posted in a conspicuous area on the premises in a manner that is clearly visible to customers approaching a point of service.

3. Such signs shall be posted in English and Spanish, and such other language deemed necessary by the Department.

B. Signs required by this ordinance shall meet the following criteria:

1. Include the following statement: “This entity has designated ___ employees as food safety officers who have completed a food allergen training program approved by the Commissioner of the Westchester County Department of Health. If you have a food allergy or a special dietary requirement, please advise a member of staff?”;

2. List the eight major food allergens;

3. List symptoms of an allergic reaction including loss of consciousness, shortness of breath, itching or tingling in or around the mouth, face, scalp, hands, and feet, hives, swelling of the face, eyelids, tongue, lips, hands, or feet, tightening of the throat and sudden onset of vomiting, cramps, or diarrhea;

4. Actions to be taken if a customer informs a food service establishment employee that he or she has a food allergy;

5. Action to be taken if a customer has an allergic reaction; and

6. Text on the sign shall be no smaller than 21-point font size and shall be in a contrasting color to the background.

C. The Department shall produce and deliver to all Food Service Establishments signs conforming to the requirements of this section.

D. Signs shall be available for inspection at all times by the Department.

Sec. 541.21. Food Allergen Awareness Training.

A. The Commissioner shall establish an online food allergen training program or identify and approve an appropriate online third-party food allergen training program for food service establishment employees. Such program shall be in English, Spanish, and such other language deemed necessary by the Department.

B. An owner or operator of a food service establishment shall designate a minimum of two employees as food safety officers who shall complete a food allergen training program approved by the Commissioner. Recertification shall be required every five years.

C. The Department shall make an online food allergen training program available to food service establishments free of charge.

D. The Department shall notify every Food Service Establishment of this local law and shall maintain records regarding proof of such notice.

Sec 541.31. Promulgation of Rules and Regulations.

The Commissioner is authorized to promulgate rules and regulations to effectuate the provisions of this local law.

Sec. 541.41. No Private Right of Action.

This local law does not create a private right of action against Food Service Establishments in Westchester County.

Sec 541.51. Violations; Penalties; Liability

A. Non-compliance with sections 541.11 and 541.21(B) of this law shall be deemed a violation. The Department shall establish procedures for the administrative adjudication of any violation.

B. Any violation under this law shall be subject to a civil penalty of not less than fifty dollars but not more than five hundred dollars for each violation.

Sec. 541.61. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this local law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this local law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

§2. This local law shall take effect 180 days after final adoption.