

LOCAL LAW INTRO NO. 48 - 2022

TO: HONORABLE BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee has reviewed “A LOCAL LAW amending the Laws of Westchester County by adding a new Chapter 541 concerning Food Allergy Restaurant Safety.”

Your Committee is informed that the Food Allergy Research and Education organization (“FARE”), the world’s leading food allergy advocacy organization and the largest private funder of food allergy research, estimates that 32 million Americans have food allergies, including 5.6 million children under the age of eighteen. About 40 percent of children with food allergies are allergic to more than one food. Every three minutes, a food allergy reaction sends someone to the emergency room. Each year in the U.S., 200,000 people require emergency medical care for allergic reactions to food.

Your Committee is further informed that according to the Mayo Clinic, a food allergy is an immune system reaction that occurs soon after eating a certain food. Even a tiny amount of the allergy-causing food can trigger signs and symptoms such as digestive problems, hives or swollen airways. In some people, a food allergy can cause severe symptoms or even a life-threatening reaction known as anaphylaxis. FARE reports that medical procedures to treat anaphylaxis resulting from food allergy increased by 380 percent between 2007 and 2016. Most fatal food allergy reactions are triggered by food consumed outside the home.

Your Committee notes that there is no cure for a food allergy. Food allergies are managed by avoiding the problem food(s) and learning to recognize and treat reaction symptoms. Food allergies in the United States are clearly a public health crisis.

Your Committee is aware that there are many restaurants in Westchester County and recognizes that food allergies can be a significant barrier to both safety and quality of life. Your Committee believes that food allergen awareness should be enhanced in food service establishments throughout the County. Preventative training is necessary to ensure that appropriate safety measures are utilized in food preparation and service. This proposed Local Law would require every food service establishment in the County to post at least 2 signs produced by the County Department of Health to be visible to both employees and customers to include the following information: that at least one(1) employee has completed a food allergen training program, a list of the major food allergens, a list of symptoms of allergic reactions, advising customers to inform a staff member if they have a food allergy, actions to take if a customer has a food allergy and actions to take when informed by a customer that they have a food allergy. The Law also provides that the Commissioner of Health shall designate one or more online food allergen training programs for food service establishment employees which shall be taken by no fewer than two (2) employees of a food service establishment that offers seating for on premises food consumption and by one (1) employee of a food service establishment that does not offer seating for on premises food consumption. Such trained food service workers shall be designated as food safety officers of the food service establishment during hours of operation. The proposed Local Law would be enforced by the Department of Health.

Your Committee is further informed that the proposed Local Law does not meet the definition of an action under New York State Environmental Quality Review Act and its

implementing regulations 6 NYCRR Part 617. Please refer to the memorandum from the Department of Planning dated January 14, 2022, which is on file with the Clerk of the Board of Legislators.

Your Committee, after careful consideration, recommends the adoption of this Local Law.

Dated: May 9, 2022
White Plains, New York

Mary Jane Almon
Debbie Miller
Nancy Barr
Colin O'Shea

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Nancy Barr
Colin O'Shea
James Zeller Schagon
LLR

Legislation

COMMITTEE ON

Health

Dated: May 9, 2022
White Plains, New York

The following members attended the meeting remotely, pursuant to Chapter 56 of the New York State Laws of 2022, and approved this item out of Committee with an affirmative vote. Their electronic signature was authorized and is below.

Committee(s) on

Legislation

Vedat Galim

Margaret A. Cunzio

Health

Vedat Galim

FISCAL IMPACT STATEMENT

SUBJECT: Food Allergy Notice NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

SECTION A - FUND

GENERAL FUND

AIRPORT FUND

SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense \$ -

Total Current Year Revenue \$ -

Source of Funds (check one): Current Appropriations Transfer of Existing Appropriations

Additional Appropriations

Other (explain)

Identify Accounts: _____

Potential Related Operating Budget Expenses: Annual Amount \$ -

Describe: _____

Potential Related Operating Budget Revenues: Annual Amount \$ -

Describe: _____

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: _____

Next Four Years: _____

Prepared by: Gideon Grande

Title: Deputy Director

Department: Budget

Date: April 15, 2022

Reviewed By: 

Budget Director

Date: 4/15/22

LOCAL LAW INTRO. NO. 48 -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, sesame 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 employee(s) as (a) food safety officer(s) who 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 nine 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 designate one or more online food allergen training programs 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 that offers seating for on premises food consumption shall designate no fewer than one employee in the front of the establishment and one employee in the back of the establishment as food safety officers during hours of operation who shall complete a food allergen training program approved by the Commissioner. An owner or operator of a food service establishment that does not offer seating for on premises food consumption shall designate no fewer than one employee in the establishment as a food safety officer during hours of operation who shall complete a food allergen training program approved by the Commissioner. Recertification shall be required at regular intervals as determined by the Commissioner.

C. Any employee that completes a food allergen training program shall provide the owner or operator of a food service establishment with a written certification that they have completed a food allergen training program, which shall be kept on file by the food service establishment.

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 more than two thousand dollars (\$2000) for each violation in compliance with the penalties provided for in the Westchester County Sanitary Code contained in Chapter 873 of the Laws of Westchester County...

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.

STATE OF NEW YORK)
) ss.
COUNTY OF WESTCHESTER)

I HEREBY CERTIFY that I have compared the foregoing Local Law, Local Law Intro No. 48 - 2022, with the original on file in my office, and that the same is a correct transcript therefrom, and of the whole, of the said original Local Law, which was duly adopted by the County Board of Legislators, of the County of Westchester on May 23, 2022, and approved by the County Executive on May 25, 2022.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of said County Board of Legislators on this 26th day of May, 2022.

Malik Vanderberg

The Clerk of the Westchester County
Board of Legislators

County of Westchester, New York

