



September 2015

NYC Board of Health Amends Health Code to Require High Sodium Warning

On Sept. 9, 2015, the New York City Board of Health voted unanimously to amend the Health Code to require restaurants located in New York City that are part of a chain of 15 or more restaurants to display a warning for food items with high sodium contents. The effective date for compliance is Dec. 1, 2015.

Procedural History

The New York City Board of Health (the Board) is authorized to amend the Health Code pursuant to Section 558 of the New York City Charter. The Board published a notice of intention to amend Article 81 of the New York City Health Code, titled “Food Preparation and Food Establishment,” in the City Record June 23, 2015, and a public hearing was held July 29, 2015. After consideration, the Board announced the resolution to amend the Health Code by adding a new section

Article 81.49 “Sodium warning”

Article 81 of the New York City Health Code is being amended to add a new section 81.49 titled “Sodium warning” requiring food service establishments with 15 or more locations nationally to warn consumers in New York City locations about menu items containing 2,300mg of sodium or more. The new section mandates the following:


(b) *Required warning.* A covered establishment that offers for sale any food item with a high sodium content must provide the following warning:

(1) An icon must appear on a menu or menu board next to any food item with a high sodium content, or on a tag next to any food on display that is a food item with a high sodium content:



...

(2) The following statement must be posted conspicuously at the point of purchase:

“Warning:  indicates that the sodium (salt) content of the item is higher than the total daily recommended limit (2300 mg). High sodium intake can increase blood pressure and the risk of heart disease and stroke.”

Key Definitions

Several key definitions in the new Article 81.49 include the following:

- “*Covered establishment*” means a food service establishment that is part of a chain with 15 or more locations doing business under the same name and offering for sale substantially the same menu items;
- “*Food item with a high sodium content*” means any standard menu item offered by a covered establishment that contains per discrete serving unit more than or equal to 2300 mg of sodium or a combination meal offered by a covered establishment if any combination of food items contains more than or equal to 2300mg of sodium;
- “*Menu or menu board*” means a printed list of the name or images of a food item or items and the primary writing of a covered establishment from which a customer makes a selection. Menus include breakfast, lunch, and dinner menus; beverage menus; children’s menus; other specialty menus, electronic menus; and menus on the Internet.

Enforcement

The penalty for non-compliance is \$200 per violation. Violations can be adjudicated at any tribunal operated by the Office of Administrative Trials and Hearings. The effective date of Dec. 1, 2015, set forth in Section 81.49(e), was established, in large part, to coincide with federal labeling requirements for calories disclosures on menus. However, the effective date of the federal regulation was postponed recently by a year to Dec. 1, 2016. Notwithstanding this development, the effective date for Section 81.49 remains Dec. 1, 2015, until and if any change is made.

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