



House of Representatives

General Assembly

File No. 303

January Session, 2023

Substitute House Bill No. 5902

House of Representatives, March 29, 2023

The Committee on Public Health reported through REP. MCCARTHY VAHEY of the 133rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT REQUIRING FOOD ALLERGY AWARENESS IN RESTAURANTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-36i of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2023*):

3 (a) No person, firm or corporation shall operate or maintain any food
4 establishment where food or beverages are served or sold to the public
5 in any town, city or borough without obtaining a valid permit to operate
6 from the director of health of such town, city or borough, in a form and
7 manner prescribed by the director of health. The director of health shall
8 issue a permit to operate a food establishment upon receipt of an
9 application if the food establishment meets the requirements of this
10 section. All food establishments shall comply with the food code.

11 (b) All food establishments shall be inspected by a certified food
12 inspector in a form and manner prescribed by the commissioner. The

13 Commissioner of Public Health may, in consultation with the
14 Commissioner of Consumer Protection, grant a variance for the
15 requirements of the food code if the Commissioner of Public Health
16 determines that such variance would not result in a health hazard or
17 nuisance.

18 (c) No permit to operate a food establishment shall be issued by a
19 director of health unless the applicant has provided the director of
20 health with proof of registration with the department and a written
21 application for a permit in a form and manner prescribed by the
22 department. Temporary food establishments and certified farmers'
23 markets, as defined in section 22-6r, shall be exempt from registering
24 with the Department of Public Health.

25 (d) Each class 2 food establishment, class 3 food establishment and
26 class 4 food establishment shall employ a certified food protection
27 manager. No person shall serve as a certified food protection manager
28 unless such person has (1) satisfactorily passed a test as part of a food
29 protection manager certification program that is evaluated and
30 approved by an accrediting agency recognized by the Conference for
31 Food Protection as conforming to its standards for accreditation of food
32 protection manager certification programs, and (2) on and after July 1,
33 2024, successfully completed a food allergen awareness training
34 program required pursuant to the state's food code adopted pursuant to
35 section 19a-36h, including, but not limited to, an online, video or in-
36 person training program, approved by the Commissioner of Public
37 Health. A certified food inspector shall verify that the food protection
38 manager is certified upon inspection of the food establishment. The
39 owner or manager of the food service establishment shall designate an
40 alternate person or persons to be in charge at all times when the certified
41 food protection manager cannot be present. The alternate person or
42 persons in charge shall be responsible for ensuring the following: [(1)]
43 (A) All employees are in compliance with the requirements of this
44 section; [(2)] (B) foods are safely prepared in accordance with the
45 requirements of the food code; [(3)] (C) emergencies are managed
46 properly; [(4)] (D) a food inspector is admitted into the food

47 establishment upon request; and [(5)] (E) he or she receives and signs
48 inspection reports.

49 (e) The commissioner shall collaborate with the directors of health to
50 develop a process that allows for the reciprocal licensing of an itinerant
51 food vending establishment that has obtained a valid permit or license
52 under subsection (a) of this section and seeks to operate as an itinerant
53 food vending establishment in another town, city or borough. Not later
54 than December 1, 2021, the commissioner shall submit a report, in
55 accordance with the provisions of section 11-4a, to the joint standing
56 committee of the General Assembly having cognizance of matters
57 relating to public health, of the process developed pursuant to this
58 subsection. Not later than January 1, 2022, the commissioner and each
59 director of health shall implement such process.

60 Sec. 2. (NEW) (*Effective July 1, 2023*) (a) Not later than January 1, 2025,
61 each certified food protection manager, as defined in section 19a-36g of
62 the general statutes, of a class 2, class 3 or class 4 food establishment, as
63 defined in said section, shall (1) include food allergen awareness as part
64 of such manager's staff training, and (2) establish guidelines for the
65 interaction of staff with customers who have food allergies. Such
66 guidelines shall be incorporated into the food establishment's standard
67 operating procedures.

68 (b) Each class 2, class 3 or class 4 food establishment shall retain
69 records documenting its certified food protection manager's completion
70 of a food allergen awareness training program, as required under
71 section 19a-36i of the general statutes, as amended by this act, and make
72 such records available for inspection by the food establishment's
73 municipal health department or district department of health or by the
74 Department of Public Health. Each municipal health department and
75 district department of health shall post on its Internet web site the status
76 of completion of a food allergen awareness training program by the
77 certified food protection manager of each such food establishment
78 under its jurisdiction along with the food establishment's inspection
79 scores.

80 (c) Not later than January 1, 2025, each class 2, class 3 and class 4 food
81 establishment shall develop procedures for informing customers, upon
82 request, of the presence of major food allergens in its menu items.

83 (d) Not later than January 1, 2025, each class 2, class 3 and class 4 food
84 establishment shall post in a clear and conspicuous manner on its menus
85 and menu boards a request for customers to notify their server, prior to
86 placing an order, of any food allergies.

87 Sec. 3. (*Effective from passage*) Not later than January 1, 2024, the
88 Commissioner of Public Health shall report, in accordance with the
89 provisions of section 11-4a of the general statutes, to the joint standing
90 committee of the General Assembly having cognizance of matters
91 relating to public health regarding the Department of Public Health's
92 plan for implementation of the requirements for food allergen
93 awareness training for food protection managers of certain food
94 establishments pursuant to the state's food code adopted pursuant to
95 section 19a-36h of the general statutes, including, but not limited to, the
96 details of such training, any food allergen awareness training programs
97 approved or identified by the department and any additional food
98 allergen awareness requirements of the department with respect to food
99 service establishments.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2023</i>	19a-36i
Sec. 2	<i>July 1, 2023</i>	New section
Sec. 3	<i>from passage</i>	New section

PH Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which establishes certain requirements of Class 2, 3, and 4 food establishments among other provisions, is not anticipated to result in a fiscal impact to the State or municipalities.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 5902****AN ACT REQUIRING FOOD ALLERGY AWARENESS IN RESTAURANTS.****SUMMARY**

This bill establishes statutory requirements on food allergy awareness for Class 2, 3, and 4 food establishments and the certified food protection managers they employ. Under the bill, certified food protection managers must do the following:

1. starting July 1, 2024, successfully complete a Department of Public Health (DPH)-approved allergen awareness training required under the state's food code (see BACKGROUND) and
2. by January 1, 2025, (a) include allergen awareness as part of their staff training, (b) establish guidelines for staff interaction with consumers who have food allergies, and (c) incorporate the guidelines into the food establishment's standard operating procedures.

The bill also requires Class 2, 3, and 4 food establishments to do the following:

1. retain records documenting certified food protection managers' completion of the required training and make the records available for inspection by DPH or local health departments;
2. by January 1, 2025, develop procedures for informing customers, upon request, of the presence of major food allergens (the bill does not define this term) in its menu items; and
3. also by this date, post in a clear and conspicuous manner on its

menus and menu boards, a request that customers notify their server of any food allergies they have before placing an order.

Additionally, the bill requires local health departments to post on their websites the status of certified food protection managers' completion of the training program for food establishments in their jurisdiction along with establishments' inspection scores.

Lastly, it requires DPH, by January 1, 2024, to report to the Public Health Committee on its plan to implement the food allergy training requirement for certified food protection managers. The plan must include training details, DPH-approved or -identified training programs, and any additional DPH food allergen awareness requirements.

EFFECTIVE DATE: July 1, 2023, except the DPH reporting requirement takes effect upon passage.

BACKGROUND

Classification of Food Establishments

By law, there are four classifications of food establishments based on (1) the types of food offered; (2) how it is prepared, cooked, and served; and (3) the population the establishment generally serves (i.e., those highly susceptible to food borne illness such as hospital or nursing home patients). For example, a Class 4 establishment conducts specialized food processes, such as smoking or curing, or serves a population highly susceptible to food-borne illness. A Class 3 establishment does not serve such a population and has an extensive food menu that includes many foods that are time- or temperature-controlled for safety and require complex preparation.

State Food Code Food Allergy Training Requirements

Existing law required DPH, by January 1, 2023, to adopt the federal Food and Drug Administration's (FDA) Food Code as the state's food code regulating food establishments (CGS § 19a-36h). (Previously, DPH regulated these establishments under the Public Health Code.)

The FDA Food Code requires the person in charge of a food establishment to ensure employees are properly trained in food safety and food allergy awareness as it relates to their assigned duties (2022 FDA Food Code § 2-103.11(O)).

Additionally, current DPH regulations require qualified food operators (now called certified food protection managers under the federal code) to be trained in identifying and recognizing the foods most commonly associated with food allergies (CGS § 19a-36a and Conn. Agencies Regs., § 19-13-B42).

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 25 Nay 12 (03/20/2023)