

Senate, No. 2701

[Senate, May 14, 2008 - Substituted by amendment by the Senate (Ways and Means) for Senate, No. 136]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND EIGHT

AN ACT RELATIVE TO FOOD ALLERGY AWARENESS IN RESTAURANTS

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 SECTION 1. Chapter 140 of the General Laws is hereby amended by inserting after
2 section 6 the following section:-

3 Section 6B. (a) As used in this section, the term “department” shall mean the department
4 of public health.

5 (b) Every person licensed as an innholder or common victualer, when serving food,
6 shall:

7 (1) prominently display a poster approved by the department relative to food allergy
8 awareness in the staff area. The poster shall provide, but not be limited to, information
9 regarding the risk of an allergic reaction and shall be developed by the department in

10 consultation with the Massachusetts Restaurant Association and the Food Allergy and
11 Anaphylactic Network; and

12 (2) include on all menus a notice to customers of the customer's obligation to inform the
13 server about any food allergies. The department shall develop and approve the language of the
14 notice in consultation with the Massachusetts Restaurant Association and the Food Allergy and
15 Anaphylactic Network.

16 (c) A person in charge and certified food protection manager, as those terms are used in
17 the state sanitary code for food establishments, shall, in order to obtain his certification, view, as
18 part of an otherwise approved food protection manager course, a video concerning food
19 allergies. The department shall approve the video in collaboration with the Massachusetts
20 Restaurant Association and the Food Allergy and Anaphylactic Network. The department shall
21 also require that any certified food protection manager examination offered by an accredited
22 program recognized by the department shall include questions concerning food allergies as they
23 relate to food preparation. Any person designated as an alternate person-in charge, as that term
24 is used in the state sanitary code for food establishments, shall, in addition to existing
25 requirements, also be knowledgeable with regard to the relevant issues concerning food
26 allergies as they relate to food preparation.

27 (d) A violation of this section shall be subject to the remedies available under the state
28 sanitary code for food establishments.

29 (e) The department may adopt regulations to carry out this section.

30 (f) This section does not establish or change any private cause of action. This section
31 does not change any duty under any other statute or the common law, except as this section
32 expressly provides.

33 (g) The department shall develop a program for restaurants to be designated as “Food
34 Allergy Friendly” and shall maintain a listing of restaurants receiving such designation on its
35 website. Participation in the program shall be voluntary and the department shall, in
36 consultation with the Massachusetts Restaurant Association and the Food Allergy and
37 Anaphylactic Network, issue guidelines and requirements for restaurants to receive such
38 designation, provided that such requirements shall include, but not be limited to, maintaining on
39 the premises, and making available to the public, a master list of all the ingredients used in the
40 preparation of each food item available for consumption.

41 SECTION 2. No earlier than 12 months and no later than 24 months after the effective
42 date of this act, the department of public health, in consultation with the Massachusetts
43 Restaurant Association and the Food Allergy and Anaphylactic Network, shall submit a report
44 to the joint committee on community development and small business, and the clerks of the
45 senate and the house of representatives, which shall include analysis of the impact of this act.
46 The report shall include, but not be limited to, compliance of restaurants with this act, and
47 proposed changes to the act consistent with the public health and welfare.

48 SECTION 3. Clause (2) of subsection (b) of section 6B of chapter 140 of the General
49 Laws shall be effective 6 months after the effective date of this act.