

# **Nutrition Labeling in Chain Restaurants**

## **State and Local Bills/Regulations – 2007-2008**

### **Passed in to law**

#### **King County (Seattle), Washington**

<http://www.metrokc.gov/health/>

*Status:* On July 19, 2007, the King County Board of Health adopted regulations to require nutrition disclosure on menus and menu boards at fast-food and other chain restaurants. In the Washington State Legislature's 2008 session, House Bill 3160, a bill that would have prohibited local boards of health from adopting restaurant labeling regulations, was passed out of the House of Representatives. The chair of the Commerce and Labor Committee urged the King County Department of Health to compromise with the Washington Restaurant Association (WRA) to avoid state legislation amending or preempting the King County menu labeling regulations.

As a result, the King County Board of Health and the WRA negotiated a set of amendments to the regulations, and the WRA requested that House Bill 3160 not be moved. On April 17, 2008 the King County Board of Health voted to amend their regulations. The negotiated regulations will require nutrition disclosure at fast-food and other chain restaurants by December 31, 2008. Labeling regulations for drive through menu boards go into effect August 1, 2009.

*Summary:* The regulations require chain restaurants with fifteen or more national locations and \$1 million in annual sales (collectively for the chain) to display calorie, saturated fat, sodium, and carbohydrate information for foods and beverages on menus (or approved methods at the point of ordering including menu inserts, menu appendices, supplemental menus, or electronic kiosks at each table, as long as the menu prominently states on each page the location and means by which nutrition information is provided). If the restaurant uses a menu board, calories must be posted on the board (or other approved, easily readable sign adjacent to the menu board and visible from the line prior to the point of ordering). The remaining nutrition information (saturated fat, sodium, and carbohydrates) must be provided in a plainly visible format at the point of ordering. Exemptions are provided for items on the menu for less than 90 days; unopened, prepackaged foods; foods in salad bars, buffet lines, cafeteria service, and other self serve arrangements; and food served by weight or custom-ordered quantity. Grocery and convenience stores are also exempt.

#### **New York City**

[www.nyc.gov/health](http://www.nyc.gov/health)

*Status:* On December 5, 2006, the Board of Health adopted regulations amending the Health Code (§81.50) to require menu labeling. The regulation was to become effective on July 1, 2007. The regulations were challenged in a lawsuit brought by the New York State Restaurant Association (NYSRA). On September 11, 2007, a federal judge in the

United States District Court for the Southern District of New York held that the regulations were preempted by 21 U.S.C §343(r) because they applied only to restaurants that had voluntarily provided calorie information (voluntary claims in restaurants are regulated at the federal level), as opposed to simply requiring all chain restaurants to post calorie information, which would not be preempted.

The New York City Department of Health redrafted their menu labeling regulations and a revised §81.50 was adopted by the Board of Health on January 22, 2008. The New York State Restaurant Association brought another lawsuit challenging the new regulations. On April 16, 2008, the same federal judge for the U.S. District Court for the Southern District of New York upheld the New York City Board of Health regulations – ruling that the New York City menu labeling regulations are not preempted by federal law, nor do they infringe on restaurant’s First Amendment rights. The NYSRA requested a stay to keep the City from enforcing the regulations until an appeal was heard. The judge denied that request on April 18, 2008. The Second Circuit Court of Appeals also denied the NYSRA motion for a stay on April 29, 2008. The Court of Appeals will hear the NYSRA’s appeal the week of June 9, 2008.

The New York City menu labeling regulations went into effect March 31, 2008, although enforcement only commenced May 5, 2008 due to litigation, and fines for noncompliant fast-food and chain restaurants will be issued starting July 19, 2008.

*Summary:* The regulations require food-service establishments, which are part of a chain of 15 or more restaurants nationally, to list calories for standard menu items on menu boards, menus, or food item display tags. Font and format used for calorie information must be at least as prominent in size as is used for the name or price of the menu item.

### **San Francisco City and County**

[http://www.sfgov.org/site/bdsupvrs\\_index.asp](http://www.sfgov.org/site/bdsupvrs_index.asp)

*Status:* On March 18, 2008, the San Francisco Board of Supervisors passed a menu labeling ordinance (File No. 071661, Ordinance No. 40-08) that requires nutrition disclosure on menus, food tags, and posters by July 22, 2008 and menu boards by September 20, 2008 at fast-food and other chain restaurants.

*Summary:* This ordinance amends the city’s health code to require that calories for standard menu items be displayed on menu boards and food tags and calories, saturated fat, carbohydrates, and sodium be displayed on menus in chain restaurants with twenty or more units in California. Items placed at the counter for general use, alcoholic beverages, and items that are on the menu for less than 30 days are exempt. This ordinance also requires chain restaurants to provide calories, total fat, saturated fat, sodium, protein, fiber, cholesterol, and carbohydrates on posters that are readily visible to customers. Chain restaurants are required to report annually their nutrition information to the Department of Public Health, which will make the information available to the public.

**Santa Clara County, CA**  
<http://www.sccgov.org/portal/site/bnc/>

*Status:* On December 4, 2007, Supervisor Liz Kniss recommended that the Administration and County Counsel draft a menu labeling ordinance. The draft ordinance was presented to the Health and Hospital Committee at its April 30, 2008 meeting. On June 3, 2008, the Santa Clara County Board of Supervisors unanimously passed a menu labeling ordinance, Ordinance No. NS-300.793. The policy goes into effect September 1, 2008.

*Summary:* This ordinance adds Chapter XXII to the Santa Clara County Ordinance Code to require that calories for standard menu items be displayed on menu boards and food tags and that calories, saturated fat, trans fat, carbohydrates, and sodium be displayed on menus in chain restaurants (fourteen or more units in California) located within the unincorporated areas of the County. For restaurants that use menu boards or food tags, saturated fat, trans fat, carbohydrates, and sodium must be provided in writing at the point of ordering. Items placed at the counter for general use, alcoholic beverages, and items that are on the menu for less than 30 days are exempt.

**Pending**

**Cities and Counties**

**Chicago**

<http://www.chicityclerk.com/legislation/guides/index.html>

*Status:* On March 12, 2008, Alderman Edward M. Burke introduced menu labeling legislation. It was referred to the Committee on Health.

*Summary:* The ordinance would require food-service establishments, which are part of a chain of 15 or more restaurants nationally, to list calories for standard menu items on menu boards, menus, or food item display tags. Font and format used for calorie information must be at least as prominent in size as is used for the name or price of the menu item. Supermarkets and convenience stores (establishments with over 75 percent of their sales from packaged foods) are exempt. The ordinance would be effective 6 months after passage.

**District of Columbia**

<http://www.dccouncil.washington.dc.us>

*Status:* On March 6, 2007 by Councilmember Phil Mendelson (D) introduced the Menu Education and Labeling Act (B17-0139), co-introduced by Councilmember Marion Barry (D) and cosponsored by Councilmember Jack Evans (D). It was referred to the Health Committee.

*Summary:* The Menu Education and Labeling (MEAL) Act of 2007 would require restaurants, which are part of a chain having 10 or more locations nationally, to provide nutrition information for standard menu items as usually prepared and offered for sale. On printed menus, the information would include calories, saturated plus trans fat, carbohydrates, and sodium. Nutrition information on menu boards could be limited to calories, provided that additional information be made available to customers in writing upon request. Compliance would be determined within the course of regular health inspections of food facilities. Inspectors would not be required to verify accuracy of the nutritional information, but could request documentation of accuracy from corporate owners.

**Montgomery County, Maryland**  
<http://www.montgomerycountymd.gov>

*Status:* On July 31, 2007, Montgomery County Councilmember George L. Leventhal introduced legislation which cosponsored by Councilmember Duchy Trachtenberg (19-07). A public hearing was held on September 17, 2007. The bill was voted out of committee on October 15, 2007.

*Summary:* The bill would require chain restaurants with at least ten national locations to display calorie, saturated fat, and sodium for foods and beverages on menus next to or beneath each menu item in a size and typeface at least as large as the name of the menu item or its price. If the restaurant uses a menu board, the calories would be posted on the board and the remaining nutrition information would be provided upon customer request. Only standard menu items, those on the menu for 30 days or more, would be required to be labeled. As amended in committee, the menu labeling requirement would take effect on August 1, 2009.

**Philadelphia**  
<http://www.phila.gov/citycouncil/index.html>

*Status:* On February 14, 2008, Councilmember Blondell Reynolds Brown introduced a menu labeling ordinance (No. 080167). The bill was voted out of the Committee on Public Health and Human Services on April 10, 2008.

*Summary:* This bill would amend the city's health code to require that calories, saturated plus trans fat, sodium and carbohydrates be displayed on menus and calories on menu boards and food tags in restaurants with ten or more units nationally. If a restaurant serves food in wrappers or boxes, they must display the nutrition information on the wrapper or box in a clear and conspicuous manner. This legislation would be effective one year after passage and set a fine of \$500 for noncompliance.

**Westchester County, New York**  
<http://www.westchesterlegislators.com/index.htm>

*Status:* On January 22, 2008, the bill was introduced in the Westchester County Board of Legislators. The bill has been referred to both the Legislation and Community Services Committees.

*Summary:* Chapter 708 would require chain food-service establishments with at least ten national locations to display calorie information on menu boards and menus next to the listing of each menu item. With prior approval from the Westchester County Department of Health, chain food service establishments could use alternative means of making calorie information available to patrons, as long as the information is available at the point of purchase and follows the size requirements outlined above. The law would take effect 180 days after enactment.

## States

### Arizona

<http://www.azleg.gov>

**SB1436** Introduced January 29, 2007 by Senator Amanda Aguirre (D). Cosponsored by Representatives David Bradley, Steven M. Gallardo, Lynne Pancrazi, Phil Lopes, Theresa Ulmer and Senators Paula Aboud, Meg Burton Cahill, Ken Chevront, Albert Hale, Debbie McCune Davis, Richard Miranda, Charlene Pesquiera, Rebecca Rios, Victor Soltero.

*Status:* Referred to the Committee on Commerce and Economic Development, the Committee on Health, and the Committee on Rules.

*Summary:* This bill would require fast-food and other chain restaurants that have 10 locations nationally and 5 or more locations in Arizona, to post nutrition information for all standard menu items on menus and menu boards. For printed menus, the bill would require listing calories, saturated fat, trans fat, carbohydrates, and sodium per serving. For menu boards, it would require a minimum of calorie information.

### California

<http://www.leginfo.ca.gov/bilinfo.html>

**SB1420:** *Status:* Introduced February 21, 2008 by Senators Alex Padilla (D) and Carol Midgen (D), with Assembly Member Mark DeSaulnier (D) as principal coauthor. This bill is a reintroduction of SB120 which was vetoed by Governor Schwarzenegger in 2007. The bill was referred to the Senate Committee on Rules for assignment. Voted out of the Senate Committee on Health on March 27, 2008. Passed by the Senate by a vote of 21 to 17 on May 22, 2008. Referred to the Assembly. Voted out of the Assembly Committee on Health by a vote of 10 to 5 on June 17, 2008.

The predecessor of this bill, SB120, was referred to the Senate Committee on Health on February 1, 2007, and voted out of that committee on March 14, 2007. Voted out of Senate Appropriations Committee on April 16, 2007. Passed by the Senate by a vote of 22 to 17 on May 31, 2007. Referred to the Assembly. Voted out of the Assembly Health Committee on June 26, 2007. Passed by the Assembly September 10, 2007 by a vote of 43 to 32. Vetoed by Governor Schwarzenegger on October 14, 2007.

*Summary:* This bill would require fast-food and other chain restaurants that have 15 or more locations in California to post nutrition information for all standard menu items on menus and menu boards. For printed menus, the bill would require listing calories, saturated fat, trans fat, carbohydrates, and sodium per serving. For menu boards, the nutrition information could be limited to calorie information so long as the additional information is available in writing upon request. The bill would take effect July 1, 2009.

## Connecticut

<http://www.cga.ct.gov>

**SB 686** Introduced January 19, 2007 by Senator Donald Williams (D). Cosponsored by Senator Mary Ann Handley (D) and Senator Toni Harp (D).

*Status:* Referred to Joint Committee on Public Health. A public hearing was held on February 16, 2007. The Joint Committee on Public Health voted to draft the legislation on March 2, 2007 and voted the legislation out of committee on March 26, 2007. The Senate passed this bill May 2, 2007 by a vote of 28 to 7. On May 3, 2007 it was sent to the Connecticut House of Representatives.

*Summary:* This bill would require retail restaurants and other food establishments with 10 or more locations nationally to list the total number of calories per serving on menus and menu boards for standard menu items. Restaurants may post a disclaimer on the menu, or on the menu board, stating that there may be variations in the total number of calories across servings of menu items.

## Hawaii

<http://www.capitol.hawaii.gov>

**HB 54** Introduced January 18, 2007 by Representative John Mizuno (D).

*Status:* Referred to Committees on Health, Consumer Protection and Commerce, and Finance.

*Summary:* This bill would require a retail food establishment that is part of a franchise comprised of ten or more establishments to maintain nutrition information for all standard menu items and provide it to customers upon request. This information shall include total number of calories, grams of saturated plus trans fat, carbohydrates, sodium, protein, and sugar. For restaurants that use only menu boards or serve standard menu items as self-service (cafeteria, salad bar, or buffet line), they may limit the nutrition information to calories.

## Illinois

Website: <http://www.ilga.gov>

**HB 389** Introduced January 26, 2007 by Representative Mary Flowers (D).

*Status:* Referred to Health Care Availability and Access Committee where it had a hearing on March 20<sup>th</sup> and amended the bill. A Do-Pass motion failed on March 20<sup>th</sup>. The bill was then re-referred back to the Rules Committee.

*Summary:* The Menu Education and Labeling Act would require restaurants and similar retail food establishments with 10 or more locations nationally to list nutrition information for all standard menu items on menus and menu boards. On printed menus, this information shall include total number of calories, saturated plus trans fat, carbohydrates, and sodium. Nutrition information on menu boards may be limited to total number of calories per serving, provided additional information shall be made available to customers in writing upon request.

### **Iowa**

Website: <http://www.legis.state.ia.us/>

**SF 2158:** *Status:* Introduced February 12, 2008 by Senator Joe Bolkcom (D). Referred to the Committee on Human Resources.

*Summary:* The Menu Education and Labeling Act would require restaurants and retail food establishments with 20 or more locations statewide to list nutrition information for all standard menu items on menus and menu boards. On printed menus, this information shall include total number of calories, saturated plus trans fat, carbohydrates, and sodium. Nutrition information on menu boards may be limited to total number of calories per serving, provided additional information shall be made available to customers in writing upon request. The act would take effect on July 1, 2009. Violation of a provision of the bill would be a simple misdemeanor.

### **Kentucky**

Website: <http://www.lrc.ky.gov/>

**SB 211:** *Status:* Introduced March 3, 2008 by Senator Denise Harper Angel (D). Referred to the Senate Health and Welfare Committee.

*Summary:* The Kentucky Menu Education and Labeling (MEAL) Act would require chain restaurants with 20 or more locations in Kentucky to provide dietary information on menus and menu boards for all standard food and drink items sold. On printed menus, this information would include total number of calories, saturated plus trans fat, carbohydrates, and sodium per serving as usually prepared for sale. On menu boards nutrition information would be limited to total number of calories and saturated plus trans fat; provided additional nutrition information about carbohydrates and sodium be made available to customers in writing upon request.

## Maine

Website: <http://janus.state.me.us/legis/>

**LD 1774** Introduced March 29, 2007 by Representative Sean Faircloth (D) and cosponsored by Senator Brannigan, Representatives Connor, Finley, Miller, Perry, Pingree, Prescott, and Walcott.

*Status:* Referred to Committee on Health and Human Services. Failed to pass out of committee on May 31, 2007 and sent to legislative files for the remainder of the legislative session.

*Summary:* The Freedom of Caloric Information Act requires restaurants that are part of chains with 30 or more locations nationally to provide caloric information for food and drink items on menus or menu boards adjacent to the listing of the food item in typeface at least 2/3 as large as other menu information. The bill exempts restaurants that do not provide menus from the requirements and allows for reasonable variation of calories in food items from the provided caloric information due to the assembly of items by hand or changes or substitutions made at the request of the customer.

## Massachusetts

<http://www.mass.gov/legis/>

**SD 1290** Docket filed January 9, 2007 by Senator Richard Moore (D).

*Status:* Referred to the Committee on Community Development and Small Business.

*Summary:* This bill would require chain restaurants with 10 or more locations nationally to list nutrition information for all standard menu items. On printed menus, this information shall include total number of calories, saturated and trans fat, carbohydrates, and sodium per serving. If the restaurant uses only a menu board, it may limit the nutritional information listed on the menu board to the total number of calories per serving, provided that additional information be available to customers in writing upon request. This Act will take effect twelve months after passage.

## Michigan

<http://house.michigan.gov>

**HB 4791** Introduced May 17, 2007 by Representative Lee Gonzales (D). Cosponsored by Representatives Fred Miller (D), Gino Polidori (D), Dudley Spade (D), and Aldo Vagnozzi (D).

*Status:* Referred to the Committee on Health Policy.

*Summary:* This bill would require food service establishments to disclose the caloric value of each food and meal on their menu or on table tents in at least 11-point font size, or be visually equivalent to the font size of the menu item descriptions, in a color that contrasts clearly with the background.

### **New Jersey**

<http://www.njleg.state.nj.us>

**A1407**: *Status:* Introduced January 8, 2008 by Assemblyman Douglas H. Fisher (D). Cosponsored by Assembly Members John J. Burzichelli (D), Joan M. Quigley (D), Gordon M. Johnson (D), Reed Gusciora (D), John F. McKeon (D) and Joan M. Voss (D). Referred to Assembly Health and Senior Services Committee.

*Summary:* This bill would require retail food establishments with 20 or more locations in New Jersey to list nutrition information for all standard food and beverage items sold. On printed menus, this information would include calories, saturated and trans fat, carbohydrates, and sodium per serving, as usually offered for sale. On menu boards, calories per serving would be listed adjacent to each item, and information about saturated and trans fat, carbohydrates, and sodium would be made available to customers upon request. This Act would take effect 180 days after passage.

### **New Mexico**

<http://legis.state.nm.us>

**HB 1203** Introduced February 26, 2007 by Representative Irvin Harrison.

*Status:* Referred to the House Business & Industry Committee and the House Health and Government Affairs Committee

*Summary:* The “Trans Fat Act,” which require restaurants with either 1.) three or more locations in New Mexico, or 2.) owned or managed by a New Mexico resident to post trans-fat content and calorie information of all standard menu items on their menus or menu boards by July 1, 2007. Restaurants also would be required to limit use of trans fat to 0.5 gram per serving by July 1, 2008.

### **New York**

<http://assembly.state.ny.us/leg/>

**A 729** Amended and reintroduced May 9, 2008 by Assembly Members Ortiz (D), with cosponsors Cook (D), Gabryszak (D), Galef (D), Gottfried (D), Koon (D), LaFayette (D), Mayersohn (D), and P. Rivera (D); and multi-sponsored by Boyland (D), Brennan (D),

Clark (D), D. Gordon (D), Greene (D), Hooper (D), Lavine (D), Lifton (D), Maisel (D), Markey (D), Pheffer (D), J. Rivera (D), Towns (D), Weisenberg (D), and Young (D).

*Status:* Introduced January 3, 2007. Read once and referred to the Committee on Health. Passed out of the Health Committee on June 5, 2007 and referred to the Committee on Codes. Amended June 12, 2007 and recommitted to the Committee on Codes. Defeated in the Codes committee on June 20, 2007.

Referred to the Committee on Health on January 9, 2008. Amended and recommitted to the Committee on Health on May 9, 2008. Passed out of the Health Committee on May 20, 2008 and referred to the Committee on Codes. Passed out of the Committee on Codes on June 17, 2008 and referred to the Committee on Rules.

*Summary:* This bill would require chain restaurants with 15 or more locations nationally and 5 or more locations in New York State to list calorie information for all standard menu items on printed menus and menu boards or signs. The total number of calories per menu item must be listed adjacent to each item in a size or typeface at least as large as the name or price of the menu item. This Act will take effect six months after passage.

**S 3787** Introduced March 16, 2007 by Senator Kemp Hannon (R).

*Status:* Read twice and referred to the Committee on Health.

*Summary:* This bill would require chain restaurants with 10 or more locations nationally and 5 or more locations in New York State to list nutrition information for all standard menu items. On printed menus, this information shall include total number of calories, grams of saturated and trans fat, grams of carbohydrates, and milligrams of sodium per serving as usually prepared and offered for sale. On menu boards, the total number of calories per serving must be listed adjacent to each item, and information about grams of saturated fat and trans fat, grams of carbohydrates, and milligrams of sodium shall be made available to customers upon request. This Act will take effect six months after passage.

## **Pennsylvania**

Website: <http://www.legis.state.pa.us/>

**HB 1108** Introduced April 18, 2007 by Representatives Bishop (D), Cohen (D), Creighton (R), Curry (D), D. Evans (D), Freeman (D), Haluska (D), Hornaman (D), James (D), Kirkland (D), Leach (D), Mann, (D), Myers (D), Parker (D), Youngblood (D), and Siptroth (D).

*Status:* Referred to the Committee on Agriculture and Rural Affairs.

*Summary:* The Restaurant Display of Dietary Information Act would require food establishments that are part of a chain of 20 or more locations nationally under the same

name to provide nutrition information on menus. In restaurants that use menu boards, only caloric information must be provided and it must be similar to and as easy to read as other menu board information and displayed adjacent to the food item listing. In restaurants that use menus, the nutrition information must be similar to the categories of nutrition information provided on packaged foods sold in grocery stores and must be similar in size and typeface to other information about each menu item and must be displayed adjacent to the listing of the food item. In restaurants that deliver food, nutrition information must be provided on wrappers and boxes used to deliver food and drink items to customers and the nutrition information must be displayed in a size, arrangement and typeface similar to that of nutrition information on packaged foods sold in grocery stores.

### **Tennessee**

<http://www.legislature.state.tn.us>

**SB 1696** – Introduced February 8, 2007 by Senator Roy Herron (D).

*Status:* Referred to the General Subcommittee of the Commerce, Labor and Agriculture Committee on March 28, 2007.

*Summary:* This bill would require any food-service establishment to post on menu boards and menus, in a size and typeface at least as large as the name of the menu item or price, the calorie content values for menu items that are served in standardized portions and for which calorie content information is made publicly available on or after July 1, 2007, by or on behalf of the food service establishment serving the items. This bill authorizes the department of health to approve alternative means for making calorie information available to patrons, provided that calorie information is made available at the point of purchase and is at least as prominent as the disclosure methods required for menus and menu boards.

### **Vermont**

Website: <http://www.leg.state.vt.us/>

**H 477** Introduced March 1, 2007 by Representative Koch (R).

*Status:* Referred to the Committee on Human Services.

*Summary:* This bill would require chain restaurants with 20 or more locations nationally to list nutrition information for all standard menu items. On printed menus, this information shall include total number of calories, saturated fat, carbohydrates, and sodium per serving. On menu boards, the total number of calories per serving must be listed adjacent to each item, and information about saturated fat, carbohydrates, and sodium shall be made available to customers in writing upon request.

## Washington State

<http://apps.leg.wa.gov/billinfo/summary.aspx?bill=6505>

*Status:* On January 17, 2008 Senator Rodney Tom introduced legislation that would require nutrition disclosure on menus and menu boards at fast-food and other chain restaurants. Referred to Committee on Health and Long-Term Care.

*Summary:* The law would require chain restaurants with more than ten national locations and \$1 Million in annual sales to display calorie, saturated fat, trans fat, sodium, and carbohydrate information for foods and beverages on menus. If the restaurant uses a menu board, the calories would be posted on the board and the remaining nutrition information would be provided in a plainly visible format at the point of ordering. Only standard menu items, those on the menu for 60 days or more, would be required to be labeled – occasional “specials” are exempt.

6/25/2008