

March 4, 2009

To: Hawaii House Finance Committee

From: Michelle M. Forman, Government Affairs Manager, Center for Science in the Public Interest

Re: HB 1526, HD 1 – Menu Education and Labeling Act

The Center for Science in the Public Interest is based in Washington, D.C., and has over 4,000 members and subscribers in Hawaii. Among other things, CSPI led the effort to win passage of the law requiring nutrition labeling on packaged foods, to add trans fat to those labels, and we are currently leading the national effort for menu labeling in chain restaurants.

CSPI opposes HB1526, HD1 in its current form. This legislation as written does not require that chain restaurants post nutrition information on menus and menu boards. We request that the bill be amended to include such a requirement. Without this change, the legislation is not menu labeling, as stated in its title.

True menu labeling would allow residents of Hawaii to make informed decisions about their own health by providing them with information that is sorely lacking at most restaurants. With two-thirds of Americans overweight or obese, we need to give people a fighting chance at eating better and maintaining a healthy weight. Requiring nutrition information disclosure on menus is one effective, low-cost way to support healthy eating and help address obesity.

Although restaurants provide a range of menu choices, without nutrition information, it can be difficult to compare options and make informed decisions. For example, at Starbucks your coffee might have anywhere from 10 to almost 800 calories. Few people would guess that a plain bagel (370 calories) without cream cheese at Dunkin' Donuts has 120 more calories than a jelly filled donut (250 calories). And few would guess that a medium chocolate milk shake (770 calories) at McDonald's has more calories than three hamburgers (250 calories each, 750 total).

People know that a small serving has fewer calories than a large, but it is difficult to accurately estimate the calorie content of restaurant meals. A study conducted by the Center for Science in the Public Interest and New York University found that even well-trained nutrition professionals cannot accurately estimate the calorie content of typical restaurant meals. They consistently underestimated the number of calories, and the underestimates were substantial – by 200 to 600 calories. For example, when shown a typical dinner-house hamburger and onion rings, the dietitians estimated that it had 865 calories, when it actually contained about 1,500 calories.

Statewide surveys in California and Connecticut show that identifying healthier choices at restaurants is difficult for consumers. The California poll found that two-thirds (68%) of respondents were unable to answer even one question (of four questions) correctly, and scores were equally poor regardless of education or income levels. Importantly, other research indicates that the provision of nutrition information for restaurant foods helps people to make healthier choices (see attached list of studies).

The current system of voluntary labeling at restaurants is not working. Half of the largest chain restaurants do not provide any nutrition information to their customers. The restaurants that do

provide information generally provide it on websites, which have to be accessed outside of the restaurant, on hard-to-find, difficult-to-read posters or brochures, or on tray liners or fast-food packages, which people do not see until after they order. A large study of 7,000 people found that fewer than 5% of customers saw the nutrition information at chain restaurants that provided it.

Yet restaurants know that providing information on menus is the most effective way of sharing information with its customers. The Burger King Corporation wrote that “the menu board is the single most valued piece of real estate in a Burger King restaurant. It is the most important way we communicate with our customers in the store about the products we offer and their price; it is what our customers look at, and it is what stimulates their decision to buy.”¹ Menu boards are what customers read while they are standing in line to place their orders and where they get their information about what to order, including a listing of menu options, product descriptions, and price.

To be effective, nutrition information in restaurants must be simple, easy to use, and in a relatively consistent format at different restaurants. Only by posting information on menus and menu boards is the information seen at the point of decision-making in a format that is easy to understand, easy to find and allows comparisons to be simply made, when the customer is actually choosing what to order. Furthermore, providing this information on menus and menu boards creates a standard that consumers can begin to rely on, familiarize themselves with, and easily use. If some restaurants have posters, others brochures, others kiosks, stanchions, and trayliners, customers will have trouble tracking down nutrition information even if the restaurant provides it.

Although the provision of nutrition information at restaurants is spotty, the fact that approximately half of chain restaurants do have it shows that providing nutrition information for restaurant foods is feasible, practical, and affordable – despite some restaurants’ claims to the contrary. If a restaurant can provide nutrition information on a website, it should be able to put those calorie numbers on their menu boards and menus, where people can find them and use them when ordering.

Menu labeling is particularly important in our current economic situation. The *Journal of the American Medical Association* recently published an article that explains that in “times of economic weakness and/or rising costs, consumers tend to trade down to lower price points than prepare food at home.”² Additionally, experts see decreases in gym memberships and athletic leagues as people cut spending. Our current economic crisis puts people’s health more at risk. *Reuters* quoted the Director of the Nutrition Sciences Program at the University of Washington in Seattle as saying that “Obesity is a toxic result of a failing economic environment.”³ Providing nutrition information on menus and menu boards will allow people to choose healthier options as they turn to fast-food and value menus to feed themselves and their families during this recession.

As other businesses struggle in this economy, many fast-food restaurants experience increased earnings. McDonald’s, Chic-Fil-A, and Yum! Brands all reported increased profits last quarter. McDonald’s Chief Executive, Jim Skinner, was quoted in the *Chicago Tribune* as saying “today’s market conditions play to our strengths.” In addition, menu labeling has not posed a significant financial burden in New York City where its menu labeling policy has been in effect since last July. There is no reason to expect that menu labeling will be a financial burden in Hawaii either.

A recent survey conducted in New York City by Technomic, Inc., a food industry research group, showed that 89% of those surveyed are in favor of the menu labeling policy there. Furthermore, 82% report that menu labeling has impacted their food choices. The survey concluded that "The negative impact of failing to adequately respond to consumer demands is obviously lost business and market share."⁴ Considering the overwhelming public support for menu labeling, not posting nutrition information on the menu as the public wants could lead to a loss of business; not the contrary.

Menu labeling is an affordable way to address the growing obesity problem. Restaurants change their menus regularly for marketing purposes. Most chain restaurants are already required to provide nutrition information in New York City, California, or other jurisdictions that have passed menu labeling policies. For those that are not, software to estimate the caloric and other nutritional content of menu items is available for as little as \$500.

Contrary to what the restaurant industry has claimed, menu labeling is simple and modest in cost. More importantly, it is crucial to the public's health. Nutrition labeling in restaurants is needed because eating out is no longer an infrequent, special occasion. Americans are eating out twice as much as in the 1970s. Away-from-home foods now provide one-third of adults' and children's calorie intake, on average.

People have grown accustomed to having nutrition information on packaged foods in supermarkets and they want it on menus. National polls show that 78% of Americans want restaurants to provide calorie information on menus and menu boards. Menu labeling policies have been introduced in over 20 states and localities across the country, as well as in the U.S. Congress. Federal menu labeling legislation will soon be reintroduced by Senator Harkin and Representative DeLauro, and is supported by the public health community. This legislation, the MEAL Act, will not preempt existing state policies. As you may know, federal legislation takes a very long time to move through Congress. Hawaii state policy makers should not wait for federal action.

I encourage you to act now to help address obesity in Hawaii, and oppose HB1526, HD1 in its current form. The bill should be amended to transform it into a real menu labeling bill. Nutrition information must be on the menu to be useful.

¹ Hector Munoz, Burger King Corporation. Declaration in *New York State Restaurant Association v. New York City Board of Health* (S.D. NY), p. 2.

² Ludwig D. Pollack H. "Obesity and the Economy: From Crisis to Opportunity." *Journal of the American Medical Association* 2009, vol.301, no. 5, pp. 533-535.

³ Stoddard E. "Will Americans put on 'recession-pounds'?" *Reuters.com* 9 Jan 2009.

< <http://www.reuters.com/article/lifestyleMolt/idUSTRE50805W20090109> >

⁴ Technomic, Inc. *Executive Summary, UPDATE: Consumer Reaction to Calorie Disclosure on Menus/Menu Boards in New York City*. February 2009. On-line survey conducted January 30-February 3, 2009 with 755 consumers who live in the five New York City boroughs.