
A BILL FOR AN ACT

RELATING TO HEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. According to the Centers for Disease Control
2 and Prevention, two-thirds of adults in the United States are
3 overweight or obese. The rate of obesity has tripled among
4 children and teens since 1980. Obesity increases the risk of
5 diabetes, heart disease, stroke, and other health problems and
6 costs families, businesses, and governments millions of dollars
7 each year.

8 Research continues to reveal a strong link between diet and
9 health. Increased calorie intake is a key contributor to the
10 alarming increase in obesity. Excess saturated fat intake is a
11 major risk factor for heart disease. Increased sodium intake is
12 associated with an increased risk of high blood pressure or
13 hypertension, a condition that can lead to cardiovascular
14 problems and stroke.

15 There is an upward trend in calorie and sodium intake that
16 coincides with a significant increase in the number of meals
17 prepared and eaten outside the home in the past two decades. It
18 is estimated that half of the money consumers spend on food goes



1 toward food from restaurants and other food service
2 establishments, which is also where one-third of their calories
3 are consumed.

4 The legislature finds that improving the availability of
5 nutritional information about food from food service
6 establishments will help curb unhealthy food consumption.
7 Three-quarters of American adults report using the information
8 found on nutritional labels required by the federal Nutrition
9 Labeling and Education Act of 1990, but while nutrition labeling
10 is currently required on most packaged foods, labeling for
11 restaurant foods is only required when nutrient content or
12 health claims are made. Given the lack of nutritional
13 information for most restaurant foods, it is difficult for
14 restaurant-goers to make decisions that limit their calorie and
15 sodium intake.

16 The purpose of this Act, which shall be known as the "Menu
17 Education and Labeling Act," is to require a franchise retail
18 food establishment to maintain nutritional information on each
19 of its standard menu items and have that information readily
20 available to provide to the public upon request.



1 SECTION 2. Chapter 321, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§321- Franchise retail food establishments;
5 nutritional information. (a) From January 1, 2012, a franchise
6 retail food establishment shall maintain nutritional information
7 on each standard menu item on the menu and provide this
8 nutritional information to customers; provided that:

9 (1) If the franchise retail food establishment does not
10 provide sit-down service, the franchise retail food
11 establishment shall disclose the information in a
12 clear and conspicuous manner in a brochure or booklet
13 that is made available at the point of sale prior to
14 or during the placement of an order;

15 (2) If the franchise retail food establishment provides
16 sit-down service, the franchise retail food
17 establishment shall provide the nutritional
18 information in a clear and conspicuous size and
19 typeface in at least one of the following:

- 20 (A) A brochure available on the table;
21 (B) A menu next to each standard menu item;



1 (C) A menu, under an index section that is separate
2 from the listing of standard menu items;

3 (D) A menu insert; or

4 (E) A table tent on the table;

5 (3) If the franchise retail food establishment serves a
6 standard menu item in a self-serve capacity, such as
7 in a salad bar, buffet line, or cafeteria service, it
8 may limit the nutritional information maintained and
9 provided to the total number of calories per standard
10 serving per item; and

11 (4) If the franchise retail food establishment has a
12 drive-through, for purposes of the drive-through area
13 only, nutritional information shall be provided upon
14 customer request; provided further that a notice shall
15 be clearly and conspicuously displayed at the point of
16 sale that reads: "Nutrition information is available
17 upon request."

18 (b) From January 1, 2012, a franchise retail food
19 establishment that provides a menu shall disclose calorie
20 content information for a standard menu item next to the item on
21 the menu in a size and typeface that is clear and conspicuous.



1 (c) From January 1, 2012, a franchise retail food
2 establishment that uses an indoor menu board shall disclose
3 calorie content information for a standard menu item next to the
4 item on the menu board in a size and typeface that is clear and
5 conspicuous.

6 (d) From January 1, 2012, every franchise retail food
7 establishment that uses a display tag as an alternative to a
8 menu or menu board to describe a standard menu item that is
9 displayed for sale in a display case within the franchise retail
10 food establishment shall disclose calorie content information
11 for that standard menu item on the display tag for that item in
12 a size and typeface that is clear and conspicuous.

13 (e) For purposes of subsections (b), (c), and (d), the
14 disclosure of calorie content information on a menu, menu board,
15 or display tag next to a standard menu item that is a
16 combination of at least two standard menu items on the menu or
17 menu board, shall, based upon all possible combinations for that
18 standard menu item, include both the minimum amount of calories
19 for the calorie count information and the maximum amount of
20 calories for the calorie count information. If there is only
21 one possible total amount of calories, then this total shall be
22 disclosed.



1 (f) For purposes of subsections (b), (c), and (d), the
2 disclosure of calorie content information on a menu, menu board,
3 or display tag next to a standard menu item that is not an
4 appetizer or dessert, but is intended to serve more than one
5 individual, shall include the following:

6 (1) The number of individuals intended to be served by the
7 standard menu item; and

8 (2) The calorie content information per individual
9 serving.

10 (g) The nutritional information and calorie content
11 information required by this section shall be determined on a
12 reasonable basis. A reasonable basis determination of
13 nutritional and calorie content information shall be required
14 only once per standard menu item; provided that portion size is
15 reasonably consistent and the franchise retail food
16 establishment follows a standardized recipe and trains to a
17 consistent method of preparation.

18 (h) Menus and menu boards may include a disclaimer that
19 indicates that there may be variations in nutritional content
20 across servings based on variations in overall size and
21 quantities of ingredients, and based on special ordering.



1 (i) This section shall not be construed to create or
2 enhance any claim, right of action, or civil liability that did
3 not previously exist under state law or limit any claim, right
4 of action, or civil liability that otherwise exists under state
5 law. No private right of action shall arise out of this
6 section.

7 (j) This section shall not be construed to preclude any
8 franchise retail food establishment from voluntarily providing
9 nutritional information in addition to the requirements of this
10 section.

11 (k) To the extent consistent with federal law, no county
12 shall enact any ordinance or adopt any rule on any matters
13 covered by this section, including the disclosure of nutritional
14 information and content required to be posted on menus, menu
15 boards, and food tags by a franchise retail food establishment.
16 Any county ordinance or rule that violates this prohibition is
17 void and shall have no force or effect.

18 (l) A franchise retail food establishment that violates
19 this section shall be punishable by a fine of not less than \$50
20 or more than \$500, which may be assessed by the department of
21 health. A franchise retail food establishment shall not be



1 found to violate this section more than once during an
2 inspection visit.

3 (m) The department of health shall enforce this section.

4 The director of health shall adopt rules pursuant to chapter 91
5 to implement this section.

6 (n) This section shall not apply to:

7 (1) Farmers' markets;

8 (2) Commissaries;

9 (3) Health care facilities as defined in section 323D-2
10 and licensed by the department of health;

11 (4) Mobile support units;

12 (5) Restricted food service facilities;

13 (6) Retail stores in which a majority of sales are from a
14 pharmacy, as defined in section 461-1; and

15 (7) Vending machines.

16 (o) For the purposes of this section:

17 "Appetizer" means a food item that is generally served
18 prior to a food item that is generally regarded as the primary
19 food item in a meal or identified as an appetizer on the menu,
20 menu board, or display tag. An "appetizer" includes a first
21 course, starter, or small plate.



1 "Calorie content information" means the total number of
2 calories per standard menu item, as that item is usually
3 prepared and offered for sale.

4 "Dessert" means a food item that is generally served after
5 a food item that is generally regarded as the primary food item
6 in a meal or identified as a dessert on the menu, menu board, or
7 display tag. "Dessert" includes cakes, pastries, pies, ice
8 cream, and food items that contain ice cream, confections, and
9 other sweets.

10 "Drive-through" means an area where a customer may provide
11 an order for and receive standard menu items while occupying a
12 motor vehicle.

13 "Franchise retail food establishment" means a retail food
14 establishment that is owned, controlled, or franchised by an
15 entity whose business includes the franchising of retail food
16 establishments under one or more franchise brands or trade names
17 in at least fifteen states in the United States, regardless of
18 the ownership of the individual establishments.

19 "Menu board" means a posted list or pictorial display of
20 standard menu items offered for sale by a franchise retail food
21 establishment. "Menu board" does not include printed or
22 pictorial materials for the purpose of marketing.



1 "Nutritional information" means information that includes
2 the number of:

- 3 (1) Calories;
4 (2) Grams of saturated fat;
5 (3) Grams of carbohydrates; and
6 (4) Milligrams of sodium.

7 "Reasonable basis" means any reasonable means recognized by
8 the federal Food and Drug Administration of determining
9 nutritional information, and calorie content information for a
10 standard menu item, as usually prepared and offered for sale,
11 including nutrient databases and laboratory analyses.

12 "Standard menu items" means food offered for sale that
13 appears on the menu, menu board, or display tag for more than
14 one hundred eighty days per year, except for condiments,
15 customized orders, packaged food otherwise subject to the
16 nutrition labeling requirements of the federal Nutrition
17 Labeling and Education Act of 1990, items placed on counters or
18 tables for use without charge to customers, and daily specials."

19 SECTION 3. If any provision of this section or the
20 application thereof is for any reason held invalid, ineffective,
21 or unconstitutional by a court of competent jurisdiction, the



1 remainder of this section shall not be affected thereby, and to
2 this end, the provisions of this section are severable.

3 SECTION 4. New statutory material is underscored.

4 SECTION 5. This Act shall take effect on July 1, 2020.



Report Title:

Obesity; Menu Education and Labeling Act

Description:

Requires a franchise retail food establishment to include nutritional information about each standard menu item. Establishes a penalty for violation. Takes effect July 1, 2020. (HB1526 HD2)

