

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1259

H.P. 878

House of Representatives, March 31, 2009

An Act To Increase Access to Nutrition Information

Reference to the Committee on Health and Human Services suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Speaker PINGREE of North Haven.
Cosponsored by Senator BRANNIGAN of Cumberland and
Representatives: JONES of Mount Vernon, MARTIN of Orono, MILLER of Somerville,
PERRY of Calais, RANKIN of Hiram, SANBORN of Gorham, Senators: MARRACHÉ of
Kennebec, MILLS of Somerset.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 22 MRSA §2491, sub-§2-A** is enacted to read:

3 2-A. Chain restaurant. "Chain restaurant" means an eating establishment that does
4 business under the same trade name in 15 or more locations nationwide that offer
5 predominantly the same type of meals, food, beverages or menus, regardless of the type
6 of ownership of an individual location. "Chain restaurant" does not include a grocery
7 store.

8 **Sec. 2. 22 MRSA §2491, sub-§7-A** is enacted to read:

9 7-A. Food display tag. "Food display tag" means a written or printed description of
10 a food or beverage item, such as a label or placard, placed in the vicinity of the food or
11 beverage item identifying the type or price of the food or beverage.

12 **Sec. 3. 22 MRSA §2491, sub-§7-B** is enacted to read:

13 7-B. Grocery store. "Grocery store" means a store primarily engaged in the retail
14 sale of canned food, dry goods, fresh fruits and vegetables, fresh meats, fish and poultry.
15 "Grocery store" includes a convenience store, but does not include a separately owned
16 eating establishment located within a grocery store.

17 **Sec. 4. 22 MRSA §2491, sub-§7-C** is enacted to read:

18 7-C. Menu. "Menu" means a written or printed list describing food or beverage
19 items offered for sale at an eating establishment that may be distributed on or off the
20 premises, but does not include a menu board.

21 **Sec. 5. 22 MRSA §2491, sub-§7-D** is enacted to read:

22 7-D. Menu board. "Menu board" means a list of food or beverage items offered for
23 sale at an eating establishment that is posted in a public area for viewing by multiple
24 customers, including a backlit marquee sign, chalkboard or drive-through menu sign.

25 **Sec. 6. 22 MRSA §2500-A** is enacted to read:

26 **§2500-A. Menu labeling for chain restaurants**

27 **1. Caloric information.** A chain restaurant shall state on a food display tag, menu
28 or menu board the total amount of calories per serving as usually prepared and offered for
29 sale of each food and beverage item listed for sale on the food display tag, menu or menu
30 board. The statement of calories required in this subsection must be:

31 A. Clear and conspicuous;

32 B. Adjacent to or in close proximity and clearly associated with the item to which the
33 statement refers; and

34 C. Printed in a font and format at least as prominent in size and appearance as the
35 name or the price of the item to which the statement refers.

1 Information required by this subsection must be based upon scientific methods, and the
2 information must be expressed in a manner consistent with United States Food and Drug
3 Administration regulations. A chain restaurant violates this subsection if the chain
4 restaurant displays the information required by this subsection if the amount of the
5 calories listed for a food or beverage item varies more than 20% from the amount of
6 calories found through a nutrient analysis of a representative sample of the food or
7 beverage item.

8 **2. Required statement.** A menu or menu board or written nutrition information
9 provided to a customer by a chain restaurant must contain the following statement in a
10 clear and conspicuous manner and in a prominent location: "To maintain a healthy
11 weight, a typical adult should consume approximately 2,000 calories per day; however,
12 individual calorie needs may vary." A menu, menu board or written nutrition information
13 provided to a customer by a chain restaurant may include the following statement or a
14 statement similar to the following: "Nutrition information is based upon standard recipes
15 and product formulations; however, modest variations may occur due to differences in
16 preparation, serving sizes, ingredients or special orders."

17 **3. Different varieties.** For a food or beverage item that is listed as a single item but
18 includes more than one variety, the caloric information required under subsection 1 for
19 that item must be the median value of calories for all varieties offered for that item if the
20 caloric information for each variety of the item is within 20% of the median for that item.
21 If the caloric information required by subsection 1 for a variety of a food or beverage
22 item is not within 20% of the median for that item, then the caloric information must be
23 stated for each variety of that item. If a food display tag is used to identify a specific
24 variety of a food or beverage item, the caloric information required by subsection 1 must
25 be for that specific variety of the item.

26 **4. Exceptions.** A chain restaurant is not required to provide information pursuant to
27 subsection 1 for:

28 A. An item offered for a limited time that appears on a menu, menu board or food
29 display tag for less than 30 days per year;

30 B. A condiment or other item offered to a customer for general use without charge;

31 C. An item sold to a customer in a manufacturer's original sealed package that
32 contains nutrition information as required by federal law; or

33 D. A custom order for a food or beverage item that does not appear on a menu, menu
34 board or food display tag.

35 **5. Enforcement.** The department or an agent authorized to inspect an eating
36 establishment under section 2499 shall enforce the provisions of this section but is not
37 required to verify the accuracy of the information required by this section. The Maine
38 Center for Disease Control and Prevention may request that a franchisor or corporate
39 owner of a chain restaurant provide documentation of the accuracy of the information
40 required by subsection 1.

41 **Sec. 7. Effective date.** This Act takes effect May 1, 2010.

SUMMARY

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This bill requires a chain restaurant, which is a restaurant with the same trade name and the same type of food, meals and menus as 15 or more restaurants nationwide, to provide accurate calorie information on its menus, menu boards and food display labels for the food and beverage items it regularly sells, not including limited-time offers, condiments, items in sealed manufacturer's packaging with nutrition information or custom orders. The bill also requires a chain restaurant to state on its menu and menu boards: "To maintain a healthy weight, a typical adult should consume approximately 2,000 calories per day; however, individual calorie needs may vary." This bill allows a chain restaurant to state on its menu and menu boards: "Nutrition information is based upon standard recipes and product formulations; however, modest variations may occur due to differences in preparation, serving sizes, ingredients or special orders."