

SENATE BILL No. 505

By Committee on Public Health and Welfare

2-2

9 AN ACT concerning consumer nutritional information on the menu in
10 food service establishments.

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12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. As used in this act:

14 (a) "Calorie content information" means the total number of calories
15 per standard menu item, as that item is usually prepared and offered for
16 sale.

17 (b) "Drive-through" means an area where a customer may provide
18 an order for and receive standard menu items while occupying a motor
19 vehicle.

20 (c) "Food service establishment" shall have the meaning as defined
21 in K.S.A. 36-501, and amendments thereto, and which is part of a chain
22 with 10 or more locations in Kansas doing business under the same name,
23 regardless of the type of ownership of the locations, and offering for sale
24 substantially the same menu items, except that a "food service establish-
25 ment" does not include the following:

26 (1) Farmer's markets;

27 (2) commissaries;

28 (3) retail food stores, except for separately owned food facilities to
29 which this section applies that are located in the store. For purposes of
30 this paragraph, "retail food store" means a store primarily engaged in the
31 retail sale of canned food, dry goods, fresh fruits and vegetables, and fresh
32 meats, fish, and poultry. "Retail food store" includes convenience stores;

33 (4) licensed health care facilities;

34 (5) mobile support units;

35 (6) public and private school cafeterias;

36 (7) restricted food service facilities;

37 (8) retail stores in which a majority of sales are from a pharmacy; and

38 (9) food vending machine as defined in K.S.A. 36-501, and amend-
39 ments thereto.

40 (d) "Menu board" or "menu" means a posted list or pictorial display
41 of food or beverage items offered for sale by a food service establishment.

42 (e) "Nutritional information" includes, but is not limited to, all of the
43 following, per standard menu item, as that item is usually prepared and

1 offered for sale:

- 2 (1) Total number of calories;
- 3 (2) total number of grams of carbohydrates;
- 4 (3) total number of grams of saturated fat; and
- 5 (4) total number of milligrams of sodium.

6 (f) "Point of sale" means the location where a customer makes a purchase or order.

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8 (g) "Reasonable basis" means any reasonable means recognized by
9 the federal food and drug administration of determining nutritional information, for a standard menu item, as usually prepared and offered for
10 sale, including, but not limited to, nutrient databases and laboratory
11 analyses.

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13 (h) "Secretary" means the secretary of health and environment.

14 (i) "Standard menu item" means a food or beverage item offered for
15 sale by a food service establishment through a menu, menu board, or
16 display tag at least 180 days per calendar year, except that "standard menu
17 item" does not include any of the following:

- 18 (1) A food item that is customized on a case-by-case basis in response
19 to an unsolicited customer request;
- 20 (2) an alcoholic beverage, the labeling of which is not regulated by
21 the federal food and drug administration;
- 22 (3) a packaged food otherwise subject to the nutrition labeling
23 requirements of the federal nutrition labeling and education act of 1990;
- 24 (4) a food item when served at a consumer self-service salad bar; or
- 25 (5) a food or beverage item when served at a consumer self-service
26 buffet.

27 Sec. 2. (a) A food service establishment shall disclose in a clear and
28 conspicuous manner:

29 (1) Adjacent to the name of the standard menu item, calorie content
30 information: (A) On the menu listing the item for sale; or (B) on the
31 menu board, including a drive-through menu board; and

32 (2) a succinct statement concerning suggested daily calorie intake to
33 enable the public to understand, in the context of a total daily diet, the
34 significance of the calorie content information that is provided on the
35 menu.

36 (b) The nutritional information shall be made available upon request
37 in the form of a pamphlet, poster or other means as specified by the rules
38 and regulations.

39 (c) The nutritional information required by this section shall be determined on a reasonable basis. A reasonable basis determination of nutritional information shall be required only once per standard menu item, provided that portion size is reasonably consistent and the food service establishment follows a standardized recipe and pertains to a consistent
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1 method of preparation.

2 (d) The calorie content information shall not be required to be dis-
3 played for:

4 (1) Items that are not listed on a menu or menu board, such as con-
5 diments and other items placed on the table or counter for general use;

6 (2) such other food that is part of a customary market test appearing
7 on the menu for less than 90 days, under terms and conditions established
8 by the secretary; and

9 (3) menus and menu boards that include a disclaimer that indicates
10 there may be variations in nutritional content across servings, based on
11 variations in overall size and quantities of ingredients, and based on spe-
12 cial ordering.

13 (e) This act shall not be construed to create or enhance any claim,
14 right of action, or civil liability that did not previously exist under state
15 law or limit any claim, right of action, or civil liability that otherwise exists
16 under state law. The secretary of health and environment shall have au-
17 thority to enforce this act.

18 (f) This act shall not be construed to preclude any food service es-
19 tablishment from voluntarily providing nutritional information in addition
20 to the requirements of this act.

21 (g) The secretary may assess a civil penalty, after proper notice and
22 an opportunity to be heard pursuant to the Kansas administrative proce-
23 dure act, of not less than \$50 nor more than \$500 against a food service
24 establishment that violates this act. However, a food service establishment
25 may not be found to violate this act more than once during an inspection
26 visit.

27 (h) No later than one year after the date of enactment of this act the
28 secretary shall promulgate regulations to carry out this act. In promul-
29 gating regulations, the secretary shall:

30 (1) Consider standardization of recipes and methods of food prepa-
31 ration, reasonable variation in serving size and formulation of menu items,
32 space on menus and menu boards, inadvertent human error, training of
33 food service workers, variations in ingredients, and other factors as de-
34 termined by the secretary; and

35 (2) specify the format and manner of the nutrient content disclosure
36 requirements under this act.

37 Sec. 3. This act shall take effect and be in force from and after its
38 publication in the statute book.