



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0249

Introduced 1/14/2005, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

New Act
410 ILCS 620/11

from Ch. 56 1/2, par. 511

Creates the Menu Education and Labeling Act of 2004. Provides that restaurants and similar retail food establishments shall obtain nutritional information from an independent nutrition testing laboratory and shall use analytic methods and express nutrient content in a manner consistent with the Illinois Food, Drug, and Cosmetic Act. Provides that menu items that come in different flavors and varieties but are listed as a single menu item shall be listed on menus and menu boards. Requires the Department of Public Health to issue regulations to implement the Act. Provides that the regulations shall require information to be conveyed to the public in a manner that enables the public to readily observe and comprehend the information and understand its relative significance in the context of a total daily diet. Provides that nothing in the Act shall preclude restaurants and similar food establishments from voluntarily providing additional nutritional information. Amends the Illinois Food, Drug, and Cosmetic Act. Provides that a food shall be misbranded if it is a standard menu item offered by a restaurant or similar food establishment, unless the menu lists next to each item, in a size and typeface similar to other information about each item, nutritional information, including, but not limited to, the total number of: (1) calories; (2) grams of saturated fat plus trans fat; (3) grams of carbohydrates; and (4) milligrams of sodium per serving, as usually prepared and offered for sale. Limits the nutritional information required to be made available if the restaurant or similar retail food establishment uses only a menu board, provides a salad bar, buffet line, cafeteria service, or similar self-serve arrangement.

LRB094 04314 RXD 34343 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Menu
5 Education and Labeling Act of 2004.

6 Section 5. Legislative findings.

7 (a) Research continues to reveal the strong link between
8 diet and health, and that diet related diseases start early in
9 life.

10 (b) Increased caloric intake is a key factor contributing
11 to the alarming increase in obesity in the United States.
12 According to the Centers for Disease Control and Prevention,
13 two-thirds of American adults are overweight or obese, and the
14 rates of obesity have doubled in children and tripled in teens
15 since 1980. Obesity increases the risk of diabetes, heart
16 disease, stroke, and other health problems. Each year obesity
17 costs families, businesses, and the government \$117 billion.

18 (c) Excess saturated fat intake is a major risk factor for
19 heart disease, which is the leading cause of death in the
20 United States. While it is often thought to primarily affect
21 men and older people, cardiovascular disease is the leading
22 killer of women and kills 61,000 people between the ages of 45
23 and 64 each year. Heart disease is also a leading cause of
24 disability among working adults and its impact on the U.S.
25 economy is significant, estimated in 2004 to cost \$368 billion
26 in health care expenditures and lost productivity.

27 (d) Increased sodium intake is associated with increased
28 risk of high blood pressure, or hypertension, a condition that
29 can lead to cardiovascular disease, especially stroke. The
30 proportion of Americans with high blood pressure is 45% at age
31 50, 60% at age 60, and over 70% at age 70.

32 (e) Over the past two decades there has been a significant

1 increase in the number of meals prepared and eaten outside the
2 home, with an estimated one-third of calories and almost half
3 (46%) of total food dollars being spent on food purchased from
4 and eaten at restaurants and other food-service
5 establishments.

6 (f) While nutrition labeling is currently required on most
7 processed foods, such information is required only for
8 restaurant foods for which nutrient content or health claims
9 are made.

10 (g) Three-quarters of American adults report using food
11 labels on packaged foods, which are required by the federal
12 Nutrition Labeling and Education Act of 1990. Using food labels
13 is associated with eating a more healthy diet, and
14 approximately half (48%) of people report that the nutrition
15 information on food labels has caused them to change their
16 minds about buying a food product.

17 (h) It is difficult for consumers to limit their intake of
18 calories at restaurants, given the limited availability of
19 nutrition information, as well as the popular practice by many
20 restaurants of providing foods in larger-than-standard
21 servings and super-sized portions. Studies show that people eat
22 greater quantities of food when they are served more.

23 Section 10. Nutritional label information.

24 (a) Restaurants and similar retail food establishments
25 shall obtain nutritional information from an independent
26 nutrition testing laboratory and shall use analytic methods and
27 express nutrient content in a manner consistent with the
28 Illinois Food, Drug, and Cosmetic Act. A label is out of
29 compliance with this Act if the label declaration is more than
30 20% lower than nutrient analysis shows as the content of the
31 menu item.

32 (b) For menu items that come in different flavors and
33 varieties but that are listed as a single menu item, such as
34 soft drinks, ice cream, pizza, and doughnuts, the median value
35 for calories or other nutrients for all flavors or varieties

1 shall be listed on menus and menu boards if the calorie or
2 other nutrient values for all flavors or varieties are within
3 20% of the median. If the calories or other nutrient values are
4 not within 20% of the median, then the range for all the
5 flavors or varieties of that menu item shall be listed from the
6 lowest to the highest value. If a menu item that comes in
7 different varieties is on display with a name placard or
8 similar signage, the calories per serving as-offered-for sale
9 shall be listed on the placard along with the name. If a menu
10 item is not on display, nutrition information for each
11 individual flavor or variety shall be provided by means of an
12 in-store brochure, booklet, kiosk, or other device that is
13 easily accessible to customers. Signage should alert customers
14 to the availability of such information.

15 Section 15. Content of label information; regulations.

16 (a) Within 12 months after the effective date of this Act,
17 the Department of Public Health shall issue proposed
18 regulations to implement this Act. The regulations shall
19 require information to be conveyed to the public in a manner
20 that enables the public to readily observe and comprehend the
21 information and understand its relative significance in the
22 context of a total daily diet. The regulations shall take
23 effect 6 months after being completed. If the Department of
24 Public Health does not promulgate final regulations within 24
25 months after the effective date of this Act, the following
26 regulations shall be final:

27 (1) The bottom of each page of a menu must include, in
28 a clear and conspicuous manner, the following statement:
29 "Recommended limits for a 2,000 calorie diet are 20 grams
30 of saturated fat and 2,400 milligrams of sodium. Saturated
31 fat numbers include trans fat.

32 (2) When used by chain restaurants, menu boards must
33 include, in a clear and conspicuous manner, the following
34 statement: "Daily values are based on a 2,000 calorie
35 diet".

1 (b) Nothing in this Act precludes restaurants and similar
2 food establishments from voluntarily providing additional
3 nutritional information.

4 Section 90. The Illinois Food, Drug and Cosmetic Act is
5 amended by changing Section 11 as follows:

6 (410 ILCS 620/11) (from Ch. 56 1/2, par. 511)

7 Sec. 11. A food is misbranded - (a) If its labeling is
8 false or misleading in any particular.

9 (b) If it is offered for sale under the name of another
10 food.

11 (c) If it is an imitation of another food other than honey,
12 unless its label bears, in type of uniform size and prominence,
13 the word "imitation" and, immediately thereafter, the name of
14 the food imitated.

15 (d) If its container is so made, formed or filled as to be
16 misleading.

17 (e) If in package form, unless it bears a label containing
18 (1) the name and place of business of the manufacturer, packer
19 or distributor; and (2) an accurate statement of the quantity
20 of the contents in terms of weight, measure or numerical count.
21 However, under paragraph (2) of this subsection reasonable
22 variations shall be permitted and exemptions as to small
23 packages which shall be established by regulations prescribed
24 by the Director.

25 (f) If any word, statement or other information required by
26 or under authority of this Act to appear on the label or
27 labeling is not prominently placed thereon with such
28 conspicuousness (as compared with other words, statements,
29 designs or devices, in the labeling) and in such terms as to
30 render it likely to be read and understood by the ordinary
31 individual under customary conditions of purchase and use.

32 (g) If it purports to be or is represented as a food for
33 which a definition and standard of identity has been prescribed
34 by regulations as provided by Section 9, unless (1) it conforms

1 to such definition and standard, and (2) its label bears the
2 name of the food specified in the definition and standard and,
3 in so far as may be required by such regulations, the common
4 names of optional ingredients (other than spices, flavoring and
5 coloring) present in such food.

6 (h) If it purports to be or is represented as:

7 (1) a food for which a standard of quantity has been
8 prescribed by regulations as provided by Section 9 and its
9 quantity falls below such standard unless its label bears, in
10 such manner and form as such regulations specify, a statement
11 that it falls below such standard; or

12 (2) a food for which a standard or standards of fill of
13 container have been prescribed by regulation as provided by
14 Section 9 and it falls below the standard of fill of container
15 applicable thereto, unless its label bears, in such manner and
16 form as such regulations specify, a statement that it falls
17 below such standard.

18 (i) If it is not subject to subsection (g) of this Section,
19 unless it bears labeling clearly giving (1) the common or usual
20 name of the food, if any there be, and (2) in case it is
21 fabricated from 2 or more ingredients, the common or usual name
22 of each such ingredient; except that spices, flavorings and
23 colorings, other than those sold as such, may be designated as
24 spices, flavorings and colorings, without naming each.
25 However, to the extent that compliance with the requirements of
26 paragraph (2) of this subsection is impractical or results in
27 deception or unfair competition, exemptions shall be
28 established by regulations promulgated by the Director.

29 (j) If it purports to be or is represented for special
30 dietary uses, unless its label bears such information
31 concerning its vitamin, mineral and other dietary properties as
32 the Director determines to be, and by regulations prescribes as
33 necessary in order to fully inform purchasers as to its value
34 for such uses.

35 (k) If it bears or contains any artificial flavoring,
36 artificial coloring or chemical preservative, unless it bears

1 labeling stating that fact. However, to the extent that
2 compliance with the requirements of this paragraph is
3 impracticable, exemptions shall be established by regulations
4 promulgated by the Director. This subsection and subsections
5 (g) and (i) with respect to artificial coloring do not apply to
6 butter, cheese or ice cream. This subsection with respect to
7 chemical preservatives does not apply to a pesticide chemical
8 when used in or on a raw agricultural commodity which is the
9 produce of the soil.

10 (l) If it is a raw agricultural commodity for direct human
11 consumption which is the produce of the soil, bearing or
12 containing a pesticide chemical applied after harvest, unless
13 the shipping container of such commodity bears labeling which
14 declares the presence of such chemical in or on such commodity
15 and the common usual name and the function of such chemical;
16 provided, however, that no such declaration shall be required
17 while such commodity, having been removed from the shipping
18 container, is being held or displayed for sale at retail out of
19 such container in accordance with the custom of the trade.

20 (m) If it is a product intended as an ingredient of another
21 food and when used according to the directions of the purveyor
22 will result in the final food product being adulterated or
23 misbranded.

24 (n) If it is a color additive unless its packaging and
25 labeling are in conformity with such packaging and labeling
26 requirements applicable to such color additive prescribed
27 under Section 706 of the Federal Act.

28 (o) If a meat or meat food product or poultry or poultry
29 food product has been frozen prior to sale unless when offered
30 for sale, the package, container or wrapping bears, in type of
31 uniform size and prominence, the words "previously frozen" so
32 as to be readable and understood by the general public except
33 that this subsection does not apply to products mentioned
34 herein which are precooked and packaged in hermetically sealed
35 containers.

36 (p) If its labeling includes the word "honey" or the term

1 "imitation honey" and the product is not pure honey
2 manufactured by honeybees.

3 (q) If it contains saccharin, unless its label and labeling
4 and retail display comply with the requirements of Sections
5 403(o) and 403(p) of the Federal Act.

6 (r) If it contains saccharin and is offered for sale, but
7 not for immediate consumption, at a retail establishment,
8 unless such retail establishment displays prominently, where
9 such food is held for sale, notice (provided by the
10 manufacturer of such food pursuant to the Federal Act) for
11 consumers respecting the information required by subsection
12 (q) to be on food labels and labeling.

13 (s) If it is a standard menu item offered by a restaurant
14 or similar food establishment, which is identified with a chain
15 having 10 or more locations nationally, doing business under
16 the same trade name, regardless of the type of ownership of the
17 individual restaurant locations, and offering predominantly
18 the same types of meals, foods or menus, unless the menu lists
19 next to each item, in a size and typeface similar to other
20 information about each item, nutritional information
21 including, but not limited to, the total number of: (1)
22 calories; (2) grams of saturated fat plus trans fat; (3) grams
23 of carbohydrates; and (4) milligrams of sodium per serving, as
24 usually prepared and offered for sale. "Standard menu items" do
25 not include: (1) temporary menu items, such as specials that
26 appear on the menu for less than 30 days per year; or (2)
27 condiments and other items placed on the table or counter for
28 general use without charge.

29 (1) If the restaurant or similar retail food
30 establishment uses only a menu board, it may limit the
31 nutritional information listed on the menu board to the
32 total number of calories per serving, per item, in a size
33 and typeface similar to other information about the item;
34 provided that additional information shall be made
35 available to customers in writing upon request.

36 (2) If a restaurant or similar retail food

1 establishment provides a salad bar, buffet line, cafeteria
2 service, or similar self-serve arrangement, it may limit
3 the nutritional information provided for items offered in
4 such an arrangement to the total number of calories per
5 standard serving, per item, in a size and typeface similar
6 to other information provided about the item; provided that
7 additional information about the item shall be made
8 available to customers in writing upon request.

9 (Source: P.A. 84-891.)