

**94TH GENERAL ASSEMBLY****State of Illinois****2005 and 2006****SB0520**

Introduced 2/17/2005, by Sen. Iris Y. Martinez

SYNOPSIS AS INTRODUCED:New Act
410 ILCS 620/11

from Ch. 56 1/2, par. 511

Creates the Menu Education and Labeling Act of 2005. 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 rules to implement the Act. Provides that the rules 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.

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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 2005.

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; rules.

16 (a) The Department of Public Health shall issue rules to
17 implement this Act. The rules shall require information to be
18 conveyed to the public in a manner that enables the public to
19 readily observe and comprehend the information and understand
20 its relative significance in the context of a total daily diet.

21 (b) Nothing in this Act precludes restaurants and similar
22 food establishments from voluntarily providing additional
23 nutritional information.

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

26 (410 ILCS 620/11) (from Ch. 56 1/2, par. 511)

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

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

31 (c) If it is an imitation of another food other than honey,
32 unless its label bears, in type of uniform size and prominence,
33 the word "imitation" and, immediately thereafter, the name of

1 the food imitated.

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

4 (e) If in package form, unless it bears a label containing
5 (1) the name and place of business of the manufacturer, packer
6 or distributor; and (2) an accurate statement of the quantity
7 of the contents in terms of weight, measure or numerical count.
8 However, under paragraph (2) of this subsection reasonable
9 variations shall be permitted and exemptions as to small
10 packages which shall be established by regulations prescribed
11 by the Director.

12 (f) If any word, statement or other information required by
13 or under authority of this Act to appear on the label or
14 labeling is not prominently placed thereon with such
15 conspicuousness (as compared with other words, statements,
16 designs or devices, in the labeling) and in such terms as to
17 render it likely to be read and understood by the ordinary
18 individual under customary conditions of purchase and use.

19 (g) If it purports to be or is represented as a food for
20 which a definition and standard of identity has been prescribed
21 by regulations as provided by Section 9, unless (1) it conforms
22 to such definition and standard, and (2) its label bears the
23 name of the food specified in the definition and standard and,
24 in so far as may be required by such regulations, the common
25 names of optional ingredients (other than spices, flavoring and
26 coloring) present in such food.

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

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

33 (2) a food for which a standard or standards of fill of
34 container have been prescribed by regulation as provided by
35 Section 9 and it falls below the standard of fill of container
36 applicable thereto, unless its label bears, in such manner and

1 form as such regulations specify, a statement that it falls
2 below such standard.

3 (i) If it is not subject to subsection (g) of this Section,
4 unless it bears labeling clearly giving (1) the common or usual
5 name of the food, if any there be, and (2) in case it is
6 fabricated from 2 or more ingredients, the common or usual name
7 of each such ingredient; except that spices, flavorings and
8 colorings, other than those sold as such, may be designated as
9 spices, flavorings and colorings, without naming each.
10 However, to the extent that compliance with the requirements of
11 paragraph (2) of this subsection is impractical or results in
12 deception or unfair competition, exemptions shall be
13 established by regulations promulgated by the Director.

14 (j) If it purports to be or is represented for special
15 dietary uses, unless its label bears such information
16 concerning its vitamin, mineral and other dietary properties as
17 the Director determines to be, and by regulations prescribes as
18 necessary in order to fully inform purchasers as to its value
19 for such uses.

20 (k) If it bears or contains any artificial flavoring,
21 artificial coloring or chemical preservative, unless it bears
22 labeling stating that fact. However, to the extent that
23 compliance with the requirements of this paragraph is
24 impracticable, exemptions shall be established by regulations
25 promulgated by the Director. This subsection and subsections
26 (g) and (i) with respect to artificial coloring do not apply to
27 butter, cheese or ice cream. This subsection with respect to
28 chemical preservatives does not apply to a pesticide chemical
29 when used in or on a raw agricultural commodity which is the
30 produce of the soil.

31 (l) If it is a raw agricultural commodity for direct human
32 consumption which is the produce of the soil, bearing or
33 containing a pesticide chemical applied after harvest, unless
34 the shipping container of such commodity bears labeling which
35 declares the presence of such chemical in or on such commodity
36 and the common usual name and the function of such chemical;

1 provided, however, that no such declaration shall be required
2 while such commodity, having been removed from the shipping
3 container, is being held or displayed for sale at retail out of
4 such container in accordance with the custom of the trade.

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

9 (n) If it is a color additive unless its packaging and
10 labeling are in conformity with such packaging and labeling
11 requirements applicable to such color additive prescribed
12 under Section 706 of the Federal Act.

13 (o) If a meat or meat food product or poultry or poultry
14 food product has been frozen prior to sale unless when offered
15 for sale, the package, container or wrapping bears, in type of
16 uniform size and prominence, the words "previously frozen" so
17 as to be readable and understood by the general public except
18 that this subsection does not apply to products mentioned
19 herein which are precooked and packaged in hermetically sealed
20 containers.

21 (p) If its labeling includes the word "honey" or the term
22 "imitation honey" and the product is not pure honey
23 manufactured by honeybees.

24 (q) If it contains saccharin, unless its label and labeling
25 and retail display comply with the requirements of Sections
26 403(o) and 403(p) of the Federal Act.

27 (r) If it contains saccharin and is offered for sale, but
28 not for immediate consumption, at a retail establishment,
29 unless such retail establishment displays prominently, where
30 such food is held for sale, notice (provided by the
31 manufacturer of such food pursuant to the Federal Act) for
32 consumers respecting the information required by subsection
33 (q) to be on food labels and labeling.

34 (s) If it is a standard menu item offered by a restaurant
35 or similar food establishment, which is identified with a chain
36 having 10 or more locations nationally, doing business under

1 the same trade name, regardless of the type of ownership of the
2 individual restaurant locations, and offering predominantly
3 the same types of meals, foods or menus, unless the menu lists
4 next to each item, in a size and typeface similar to other
5 information about each item, nutritional information
6 including, but not limited to, the total number of: (1)
7 calories; (2) grams of saturated fat plus trans fat; (3) grams
8 of carbohydrates; and (4) milligrams of sodium per serving, as
9 usually prepared and offered for sale. "Standard menu items"
10 means usual options that appear on a menu for 30 days or more
11 per year. "Standard menu items" does not include: (1) temporary
12 menu items, such as specials that appear on the menu for less
13 than 30 days per year; or (2) condiments and other items placed
14 on the table or counter for general use without charge.

15 (1) If the restaurant or similar retail food
16 establishment uses only a menu board, it may limit the
17 nutritional information listed on the menu board to the
18 total number of calories per serving, per item, in a size
19 and typeface similar to other information about the item;
20 provided that additional information shall be made
21 available to customers in writing upon request.

22 (2) If a restaurant or similar retail food
23 establishment provides a salad bar, buffet line, cafeteria
24 service, or similar self-serve arrangement, it may limit
25 the nutritional information provided for items offered in
26 such an arrangement to the total number of calories per
27 standard serving, per item, in a size and typeface similar
28 to other information provided about the item; provided that
29 additional information about the item shall be made
30 available to customers in writing upon request.

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